



**Oregon**  
Kate Brown, Governor

**Water Resources Department**  
725 Summer St NE, Suite A  
Salem, OR 97301  
(503) 986-0900  
Fax (503) 986-0904

February 2, 2022

VIA CERTIFIED MAIL AND E-MAIL

**Applicants**

RONALD AND LINDA WHITING  
PO BOX 716  
BURNS, OR 97720

JOEL RICHARD AND DIANA L. DAVIS  
67271 HWY 205  
BURNS, OR 97720

DONALD AND KATHERINE DOVERSPIKE  
PO BOX 481  
HINES, OR 97738

**SUBJECT: Water Right Transfer Application T-13748**

Please find enclosed the Preliminary Determination indicating that, based on the information available, the Department intends to approve application T-13748. This document is an intermediate step in the approval process; water may not be used legally as proposed in the transfer application until a Final Order has been issued by the Department. Please read this entire letter carefully to determine your responsibility for additional action.

A public notice is being published in the Department's weekly publication, simultaneously with issuance of the Preliminary Determination. The notice initiates a period in which any person may file either a protest opposing the decision proposed by the Department in the Preliminary Determination or a standing statement supporting the Department's decision. The protest period will end 30 days after the Department's notice.

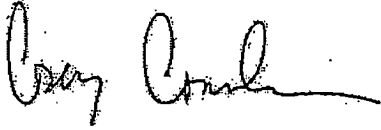
If no protest is filed, the Department will issue a Final Order consistent with the Preliminary Determination. You should receive a copy of the Final Order about 30 days after the close of the protest period.

If a protest is filed, the application may be referred to a contested case proceeding. A contested case provides an opportunity for the proponents and opponents of the decision proposed in the Preliminary Determination to present information and arguments supporting their position in a quasi-judicial proceeding.

**IMPORTANT:** Due to COVID-19, the Department's office is closed to walk-in services. The Department encourages the submission of protests by U.S. mail. Please consider mailing early to ensure the Department receives the protest by the deadline specified above.

Please do not hesitate to contact me, at [corey.a.courchane@oregon.gov](mailto:corey.a.courchane@oregon.gov) or (503) 979-3917, if I may be of assistance.

Sincerely,

A handwritten signature in black ink, appearing to read "Corey Courchane". The signature is fluid and cursive, with a long horizontal stroke at the end.

Corey Courchane  
Transfer Specialist  
Transfer and Conservation Section

cc: Transfer Application file T-13748  
J R. Johnson, District 10 Watermaster (*via e-mail*)

encs

**BEFORE THE WATER RESOURCES DEPARTMENT  
OF THE  
STATE OF OREGON**

In the Matter of Transfer Application	)	PRELIMINARY DETERMINATION
T-13748, Harney County	)	PROPOSING APPROVAL FOR ADDITIONAL
	)	POINTS OF APPROPRIATION

**Authority**

Oregon Revised Statutes (ORS) 537.705 and 540.505 to 540.580 establish the process in which a water right holder may submit a request to transfer the point of appropriation, place of use, or character of use authorized under an existing water right. Oregon Administrative Rules (OAR) Chapter 690, Division 380 implement the statutes and provides the Department's procedures and criteria for evaluating transfer applications.

**Applicants**

RONALD AND LINDA WHITING  
PO BOX 716  
BURNS, OR 97720

JOEL RICHARD AND DIANA L. DAVIS  
67271 HWY 205  
BURNS, OR 97720

DONALD AND KATHERINE DOVERSPIKE  
PO BOX 481  
HINES, OR 97738

**Findings of Fact**

1. On June 23, 2021, RONALD AND LINDA WHITING, JOEL RICHARD AND DIANA L. DAVIS, and DONALD AND KATHERINE DOVERSPIKE filed an application for an additional point of appropriation under Certificates 94766 and 94767. The Department assigned the application number T-13748.
2. Notice of the application for transfer was published on July 13, 2021, pursuant to OAR 690-380-4000. No comments were filed in response to the notice.
3. On October 20, 2021, the Department mailed a copy of the draft Preliminary Determination proposing to approve Transfer Application T-13748 to the applicants. The draft Preliminary Determination cover letter set forth a deadline of November 22, 2021, for the applicants to respond. The applicants requested that the Department proceed with issuance of a Preliminary Determination and provided the necessary information to demonstrate that the applicant is authorized to pursue the transfer.

Pursuant to OAR 690-380-4030, any person may file a protest or standing statement within 30 days after the last date of publication of notice of this preliminary determination.

4. The first right to be transferred is as follows:

**Certificate:** 94766 in the name of WHITING AND SON (perfected under Permit G-2089)  
**Use:** SUPPLEMENTAL IRRIGATION of 43.6 ACRES  
**Priority Date:** AUGUST 29, 1961  
**Rate:** 0.55 CUBIC FOOT PER SECOND  
**Limit/Duty:** The amount of water used for irrigation, together with the amount secured under any other right existing for the same lands, is limited to a diversion of ONE-EIGHTIETH of one cubic foot per second, or its equivalent for each acre irrigated and shall be further limited to a diversion of not to exceed 3.0 acre-feet per acre for each acre irrigated during the irrigation season of each year.  
**Source:** WHITING WELL NO. 1, WHITING WELL NO. 2 and WHITING WELL NO. 3 in the FOLEY SLOUGH (SILVIES RIVER) BASIN

**Authorized Points of Appropriation:**

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
23 S	31 E	WM	9	NW SE	WHITING WELL NO. 1 - 29 FEET SOUTH AND 83 FEET EAST FROM THE C1/4 CORNER OF SECTION 9
23 S	31 E	WM	9	NW SE	WHITING WELL NO. 2 - 1292 FEET SOUTH AND 687 FEET EAST FROM THE C1/4 CORNER OF SECTION 9
23 S	31 E	WM	9	NW SE	WHITING WELL NO. 3 - 17 FEET SOUTH AND 757 FEET EAST FROM THE C1/4 CORNER OF SECTION 9

**Authorized Place of Use:**

SUPPLEMENTAL IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
23 S	31 E	WM	9	NE NE	6.6
23 S	31 E	WM	9	SE NE	37.0
Total					43.6

5. The second right to be transferred is as follows:

**Certificate:** 94767 in the name of WHITING AND SON (perfected under Permit G-2089)  
**Use:** SUPPLEMENTAL IRRIGATION of 148.8 ACRES  
**Priority Date:** AUGUST 29, 1961  
**Rate:** 1.86 CUBIC FEET PER SECOND  
**Limit/Duty:** The amount of water used for irrigation, together with the amount secured under any other right existing for the same lands, is limited to a diversion of ONE-EIGHTIETH of one cubic foot per second, or its equivalent for each acre irrigated and shall be further limited to a diversion of not to exceed 3.0 acre-feet per acre for each acre irrigated during the irrigation season of each year.  
**Source:** WHITING WELL NO. 1, WHITING WELL NO. 2 and WHITING WELL NO. 3 in the FOLEY SLOUGH (SILVIES RIVER) BASIN

**Authorized Points of Appropriation:**

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
23 S	31 E	WM	9	NW SE	WHITING WELL NO. 1 - 29 FEET SOUTH AND 83 FEET EAST FROM THE C1/4 CORNER OF SECTION 9
23 S	31 E	WM	9	NW SE	WHITING WELL NO. 2 - 1292 FEET SOUTH AND 687 FEET EAST FROM THE C1/4 CORNER OF SECTION 9
23 S	31 E	WM	9	NW SE	WHITING WELL NO. 3 - 17 FEET SOUTH AND 757 FEET EAST FROM THE C1/4 CORNER OF SECTION 9

**Authorized Place of Use:**

SUPPLEMENTAL IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
23 S	31 E	WM	9	NE SE	40.0
23 S	31 E	WM	9	NW SE	38.2
23 S	31 E	WM	9	SW SE	35.2
23 S	31 E	WM	9	SE SE	35.4
Total					148.8

6. Transfer Application T-13748 proposes an additional point of appropriation as follows:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
23 S	31 E	WM	9	NW SE	WHITING WELL NO. 4 - 230 FEET SOUTH AND 23 FEET EAST FROM THE C1/4 CORNER OF SECTION 9

Approximate distance from original points of appropriation in feet (ft.)			
Proposed Well	WHITING WELL NO. 1	WHITING WELL NO. 2	WHITING WELL NO. 3
WHITING WELL NO. 4	210 ft.	1251 ft.	764 ft.

**Transfer Review Criteria (OAR 690-380-4010)**

7. Water has been used within the last five years according to the terms and conditions of the rights. There is no information in the record that would demonstrate that the rights are subject to forfeiture under ORS 540.610.
8. A pump, pipeline, and sprinkler system sufficient to use the full amount of water allowed under the existing rights were present within the five-year period prior to submittal of Transfer Application T-13748.
9. The proposed change would not result in enlargement of the rights.
10. The proposed change would not result in injury to other water rights.
11. All other application requirements are met.

### **Determination and Proposed Action**

The additional point of appropriation proposed in Transfer Application T-13748 appears to be consistent with the requirements of ORS 537.705 and 540.505 to 540.580 and OAR 690-380-5000. If protests are not filed pursuant to OAR 690-380-4030, the application will be approved.

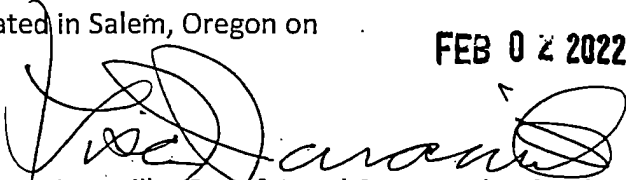
*If Transfer Application T-13748 is approved, the final order will include the following:*

1. *The additional point of appropriation proposed in Transfer Application T-13748 is approved.*
2. *The right to the use of the water is restricted to beneficial use at the place of use described and is subject to all other conditions and limitations contained in Certificates 94766 and 94767, and any related decree.*
3. *Water right Certificates 94766 and 94767 are cancelled.*
4. *The quantity of water diverted at the new additional point of appropriation (Whiting Well No. 4), together with that diverted at the original points of appropriation (Whiting Well No. 1, Whiting Well No. 2, and Whiting Well No. 3), shall not exceed the quantity of water lawfully available at the original points of appropriation (Whiting Well No. 1, Whiting Well No. 2, and Whiting Well No. 3).*
5. *Water use measurement conditions:*
  - a. *Before water use may begin under this order, the water user shall install a totalizing flow meter, or, with prior approval of the Director, another suitable measuring device, at each point of appropriation (new and existing).*
  - b. *The water user shall maintain the meters or measuring devices in good working order.*
  - c. *The water user shall allow the Watermaster access to the meters or measuring devices; provided however, where the meters or measuring devices are located within a private structure, the Watermaster shall request access upon reasonable notice.*
6. *Water shall be acquired from the same aquifer (water source) as the original points of appropriation.*
7. *Full beneficial use of the water shall be made, consistent with the terms of this order, on or before **October 1, 2023**. A Claim of Beneficial Use prepared by a Certified Water Right Examiner shall be submitted by the applicant to the Department within one year after the deadline for completion of the change and full beneficial use of the water.*

8. After satisfactory proof of beneficial use is received, new certificates confirming the rights transferred will be issued.

Dated in Salem, Oregon on

FEB 02 2022



Lisa J. Jaramillo, Transfer and Conservation Section Manager, for  
THOMAS M BYLER, DIRECTOR  
Oregon Water Resources Department

This Preliminary Determination was prepared by Corey Courchane. If you have questions about the information in this document, you may reach me at 503-979-3917 or [corey.a.courchane@oregon.gov](mailto:corey.a.courchane@oregon.gov)

*Protests should be addressed to the attention of Water Rights Services Division, Water Resources Department, 725 Summer St. NE, Suite A, Salem, OR 97301-1266.*

**IMPORTANT:** Due to COVID-19, the Department's office is closed to walk-in services. The Department encourages the submission of protests by U.S. mail. Please consider mailing early to ensure the Department receives the protest by the deadline specified above.

**Notice Regarding Service Members:** Active duty servicemembers have a right to stay these proceedings under the federal Servicemembers Civil Relief Act. For more information contact the Oregon State Bar at 800-452-8260, the Oregon Military Department at 503-584-3571, or the nearest United States Armed Forces Legal Assistance Office through <http://legalassistance.law.af.mil>. The Oregon Military Department does not have a toll free number.

934

935

936