



Oregon

Kate Brown, Governor

Water Resources Department

725 Summer St NE, Suite A

Salem, OR 97301

(503) 986-0900

Fax (503) 986-0904

February 16, 2022

VIA CERTIFIED MAIL AND E-MAIL

Applicant

BUCK CHURCH

CHURCH FAMILY FARMS, INC.

PO BOX 751

CHRISTMAS VALLEY, OR 97641

SUBJECT: Water Right Transfer Application T-13371

Please find enclosed the Preliminary Determination indicating that, based on the information available, the Department intends to approve application T-13371. 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 and in the Lake County Examiner newspaper, 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 last date of newspaper publication.

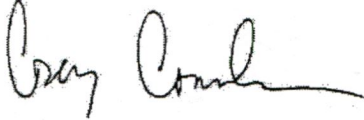
If no protest is filed, the Department will issue a Final Order consistent with the Preliminary Determination. You should receive a copy of the Final Order about 30 days after the close of the protest period.

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 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: T-13371
Jeremy T. Giffin, District 11 Watermaster (*via e-mail*)
Scott D. Montgomery, Agent for the applicant (*via e-mail*)

encs

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

In the Matter of Transfer Application)	PRELIMINARY DETERMINATION
T-13371, Lake County)	PROPOSING APPROVAL FOR AN
)	ADDITIONAL POINT OF APPROPRIATION,
)	AND CHANGES IN POINTS OF
)	APPROPRIATION, AND PLACES OF USE

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.

Applicant

BUCK CHURCH
CHURCH FAMILY FARMS, INC.
PO BOX 751
CHRISTMAS VALLEY, OR 97641

Findings of Fact

1. On February 14, 2020, BUCK CHURCH, CHURCH FAMILY FARMS, INC. filed an application for an additional point of appropriation, to change the point of appropriation, and to change the place of use under Certificate 52784, to change the point of appropriation under Certificate 94834, and to change the point of appropriation and place of use under Certificate 94835. The Department assigned the application number T-13371.
2. Notice of the application for transfer was published on February 25, 2020, pursuant to OAR 690-380-4000. No comments were filed in response to the notice.
3. On July 30, 2021, the Department contacted the applicant by written correspondence to notify the applicant and the applicant's agent of deficiencies in the application. The application proposed to make changes under Certificate 52784. On May 4, 2021, the Department issued a Final Order (Special Order Volume 120, Page 140), approving 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.

Application T-13122, cancelling Certificate 52784, and issuing superseding Certificate 95680. The acres in Table 2 under Certificate 52784 (Certificate 95680), did not match the acres on the map, and the location for Well A in Table 1 under Certificate 94835, did not match the location identified on the map. The Department requested that the deficiencies be resolved by August 30, 2021. The applicant's agent submitted revised tables and maps the same day, resolving the deficiencies.

4. On September 8, 2021, the Department mailed a copy of the draft Preliminary Determination proposing to approve Transfer Application T-13371 to the applicant. The draft Preliminary Determination cover letter set forth a deadline of October 8, 2021, for the applicant to respond. The applicant 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.

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

Certificate: 94834 in the name of CHURCH FAMILY FARMS, INC. (perfected under Permit G-9015)
Use: IRRIGATION of 5.1 ACRES
Priority Date: AUGUST 7, 1980
Rate: 0.06 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, shall be limited to ONE-EIGHTIETH of one cubic foot per second per acre, 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: A WELL, a tributary of CHRISTMAS LAKE

Authorized Point of Appropriation:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
26 S	18 E	WM	29	SW SW	WELL B - 1290 FEET NORTH AND 1260 FEET EAST FROM THE SW CORNER OF SECTION 29

Authorized Place of Use:

IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
26 S	18 E	WM	32	NW NW	5.1

6. Transfer Application T-13371 proposes to move the authorized point of appropriation approximately 0.7 mile from the existing point of appropriation to:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
26 S	18 E	WM	31	NE NE	WELL A - 1410 FEET NORTH AND 1320 FEET EAST FROM THE C1/4 CORNER OF SECTION 31

7. The portion of the second right to be transferred is as follows:

Certificate: 94835 in the name of CHURCH FAMILY FARMS, INC. (perfected under Permit G-10172)
Use: IRRIGATION of 35.48 ACRES
Priority Date: OCTOBER 4, 1983
Rate: 0.44 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, shall be limited to ONE-EIGHTIETH of one cubic foot per second per acre, 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; provided further that in an event of a request for change in point of appropriation, an additional point of appropriation or repair of this well, the quantity of water allowed herein together with the right perfected under Permit G-9015 shall not exceed 2.97 cfs, the capacity of this well at the time of perfection of this right.
Source: A WELL, a tributary of CHRISTMAS LAKE

Authorized Point of Appropriation:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
26 S	18 E	WM	29	SW SW	WELL B - 1290 FEET NORTH AND 1260 FEET EAST FROM THE SW CORNER OF SECTION 29

Authorized Place of Use:

IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
26 S	18 E	WM	32	NW NW	35.48

8. Transfer Application T-13371 proposes to move the authorized point of appropriation for a 28.78 acre portion approximately 0.7 mile from the existing point of appropriation to:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
26 S	18 E	WM	31	NE NE	WELL A - 1410 FEET NORTH AND 1320 FEET EAST FROM THE C1/4 CORNER OF SECTION 31

9. Transfer Application T-13371 proposes to move the authorized point of appropriation for a 6.70 acre portion approximately 9.9 miles from the existing point of appropriation to:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
27 S	17 E	WM	31	SW SW	WELL - 1398 FEET SOUTH AND 1277 FEET EAST FROM THE W1/4 CORNER OF SECTION 31

10. Transfer Application T-13371 also proposes to change the place of use for a portion of the right to:

IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
27 S	17 E	WM	31	SE SW	6.70

11. The third right to be transferred is as follows:

Certificate: 95680 in the name of JOE OXENFORD, JR. (perfected under Permit G-8199)

Use: IRRIGATION of 205.2 ACRES

Priority Date: APRIL 27, 1978

Rate: 2.56 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, shall be limited to ONE-EIGHTIETH of one cubic foot per second per acre, or its equivalent for each acre irrigated, and shall be further limited to a diversion of not to exceed 3 acre-feet per acre for each acre irrigated during the irrigation season of each year and shall conform to such reasonable rotation system as may be ordered by the proper state officer.

Source: A WELL, a tributary of FORT ROCK BASIN

Authorized Point of Appropriation:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
27 S	17 E	WM	32	NE SW	WELL #1 - 1320 FEET NORTH AND 2640 FEET EAST FROM THE SW CORNER OF SECTION 32

Authorized Place of Use:

IRRIGATION						
Twp	Rng	Mer	Sec	Q-Q	Acres	Proposed changes
27 S	17 E	WM	32	NE SW	30.8	APOA
27 S	17 E	WM	32	NE SW	2.5	POU/POA
27 S	17 E	WM	32	NW SW	2.5	POU/POA
27 S	17 E	WM	32	NW SW	30.3	APOA
27 S	17 E	WM	32	SW SW	2.5	POU/POA
27 S	17 E	WM	32	SW SW	30.3	APOA
27 S	17 E	WM	32	SE SW	2.5	POU/POA
27 S	17 E	WM	32	SE SW	29.3	APOA
27 S	17 E	WM	32	NE SE	15.2	APOA
27 S	17 E	WM	32	NW SE	34.7	APOA
27 S	17 E	WM	32	SW SE	17.0	APOA
27 S	17 E	WM	32	SE SE	7.6	APOA
Total					205.2	

12. Transfer Application T-13371 proposes to move the authorized point of appropriation for a 10.0 acre portion approximately 1.2 miles from the existing point of appropriation to:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
27 S	17 E	WM	31	SE SW	WELL - 1398 FEET SOUTH AND 1277 FEET EAST FROM THE W1/4 CORNER OF SECTION 31

13. Transfer Application T-13371 proposes an additional point of appropriation for the remaining 195.2 acres approximately 0.3 mile from the existing point of appropriation to:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
27 S	17 E	WM	32	SE SW	WELL #2 - 1305 FEET NORTH AND 1320 FEET EAST FROM THE SW CORNER OF SECTION 32

14. Transfer Application T-13371 also proposes to change the place of use of the right to:

IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
27 S	17 E	WM	31	SW SW	10.0

Transfer Review Criteria (OAR 690-380-4010)

15. Water has been used within the last five years according to the terms and conditions of the right. There is no information in the record that would demonstrate that the rights are subject to forfeiture under ORS 540.610.
16. 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-13371.
17. The proposed changes would not result in enlargement of the rights.
18. The proposed change would not result in injury to other water rights.
19. All other application requirements are met.

Determination and Proposed Action

The change in points of appropriation, additional point of appropriation, and change in places of use proposed in Transfer Application T-13371 appear 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-13371 is approved, the final order will include the following:

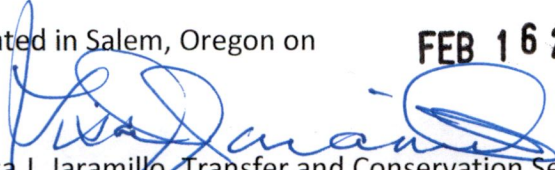
1. *The change in points of appropriation, additional point of appropriation, and change in places of use proposed in Transfer Application T-13371 are approved.*
2. *The right to the use of the water is restricted to beneficial use at the place of use described, and is subject to all other conditions and limitations contained in Certificates 94834, 94835, and 95680, and any related decree.*
3. *Water right Certificates 94834, 94835, and 95680 are cancelled. A new certificate will be issued describing that portion of Certificate 94835 not affected by this transfer.*

4. *The quantity of water, as authorized under Certificate 94834, diverted at the new point of appropriation (Well A), shall not exceed the quantity of water lawfully available at the original point of appropriation (Well B).*
5. *The quantity of water, as authorized under Certificate 94835, diverted at the new points of appropriation (Well and Well A), shall not exceed the quantity of water lawfully available at the original point of appropriation (Well B).*
6. *The quantity of water, as authorized under Certificate 95680, diverted at the new point of appropriation (Well), shall not exceed the quantity of water lawfully available at the original point of appropriation (Well #1).*
7. *The quantity of water, as authorized under Certificate 95680, diverted at the new additional point of appropriation (Well #2), together with that diverted at the original point of appropriation (Well #1), shall not exceed the quantity of water lawfully available at the original point of appropriation (Well #1).*
8. *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 new point of appropriation.*
 - 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.*
9. *Water shall be acquired from the same aquifer (water source) as the original points of appropriation.*
10. *The former places of use of the transferred rights shall no longer receive water under the rights.*
11. *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 changes and full beneficial use of the water.*

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

Dated in Salem, Oregon on

FEB 16 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

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 service members have a right to stay proceedings under the federal Service Members Civil Relief Act. 50 U.S.C. App. §§501-597b. You may contact the Oregon State Bar or the Oregon Military Department for more information. The toll-free telephone number for the Oregon State Bar is: 1 (800) 452-8260. The toll-free telephone number of the Oregon Military Department is: 1 (800) 452-7500. The Internet address for the United States Armed Forces Legal Assistance Legal Services Locator website is: <http://legalassistance.law.af.mil>