



# Oregon

Kate Brown, Governor

**Water Resources Department**  
725 Summer St NE, Suite A  
Salem, OR 97301  
(503) 986-0900  
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March 21, 2022

VIA CERTIFIED MAIL AND E-MAIL

**Applicant**

TOR S FARMS LLC  
6459 OAK HILL ROAD  
ROSEBURG, OR 97471

**SUBJECT:** Water Right Transfer Application T-13327

Please find enclosed the Preliminary Determination indicating that, based on the information available, the Department intends to approve application T-13327. 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 Burns Times Herald 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.

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

|                                       |   |                                   |
|---------------------------------------|---|-----------------------------------|
| In the Matter of Transfer Application | ) | PRELIMINARY DETERMINATION         |
| T-13327, Harney County                | ) | PROPOSING APPROVAL OF A CHANGE IN |
|                                       | ) | POINTS OF APPROPRIATION AND PLACE |
|                                       | ) | 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.

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**Findings of Fact**

1. On December 20, 2019, TOR S FARMS LLC filed an application to change the points of appropriation and to change the place of use under Certificate 94683. The Department assigned the application number T-13327.
2. Notice of the application for transfer was published on December 31, 2019, pursuant to OAR 690-380-4000. No comments were filed in response to the notice.
3. On November 17, 2021, the Department mailed a copy of the draft Preliminary Determination proposing to approve Transfer Application T-13327 to the applicant. The draft Preliminary Determination cover letter set forth a deadline of December 20, 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.

|                                                                                                                                                                                  |
|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 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. |
|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|

| Twp  | Rng  | Mer | Sec | Q-Q   | GLot | Measured Distances                                                                         |
|------|------|-----|-----|-------|------|--------------------------------------------------------------------------------------------|
| 23 S | 34 E | WM  | 19  | SW SW |      | WELL 2 (ORIGINAL)- 1320 FEET NORTH AND 1300 FEET EAST FROM THE SW CORNER OF SECTION 19     |
| 23 S | 34 E | WM  | 19  | SE SW |      | WELL 5 (ADDITIONAL) - 250 FEET NORTH AND 1340 FEET EAST FROM THE SW CORNER OF SECTION 19   |
| 23 S | 34 E | WM  | 19  | NW SE |      | WELL 9 (ADDITIONAL) - 1420 FEET NORTH AND 2690 FEET EAST FROM THE SW CORNER OF SECTION 19  |
| 23 S | 34 E | WM  | 19  | SE SE |      | WELL 1 (ORIGINAL) - 1320 FEET NORTH AND 1320 FEET WEST FROM THE SE CORNER OF SECTION 19    |
| 23 S | 34 E | WM  | 19  | SE SE |      | WELL 11 (ADDITIONAL) - 1220 FEET NORTH AND 1250 FEET WEST FROM THE SE CORNER OF SECTION 19 |

**Authorized Place of Use:**

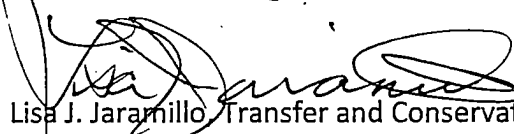
| IRRIGATION |      |     |     |       |      |       |
|------------|------|-----|-----|-------|------|-------|
| Twp        | Rng  | Mer | Sec | Q-Q   | GLot | Acres |
| 23 S       | 34 E | WM  | 19  | NE NE |      | 3.9   |
| 23 S       | 34 E | WM  | 19  | NW NE |      | 10.9  |
| 23 S       | 34 E | WM  | 19  | SW NE |      | 11.9  |
| 23 S       | 34 E | WM  | 19  | SE NE |      | 4.4   |
| 23 S       | 34 E | WM  | 19  | NE NW |      | 7.5   |
| 23 S       | 34 E | WM  | 19  | NW NW | 1    | 7.8   |
| 23 S       | 34 E | WM  | 19  | SW NW | 2    | 9.3   |
| 23 S       | 34 E | WM  | 19  | SE NW |      | 8.4   |
| 23 S       | 34 E | WM  | 19  | NE SW |      | 5.7   |
| 23 S       | 34 E | WM  | 19  | NW SW | 3    | 6.6   |
| 23 S       | 34 E | WM  | 19  | SW SW | 4    | 5.4   |
| 23 S       | 34 E | WM  | 19  | SE SW |      | 6.9   |
| 23 S       | 34 E | WM  | 19  | NE SE |      | 6.0   |
| 23 S       | 34 E | WM  | 19  | NW SE |      | 8.5   |
| 23 S       | 34 E | WM  | 19  | SW SE |      | 9.9   |
| 23 S       | 34 E | WM  | 19  | SE SE |      | 6.9   |
| Total      |      |     |     |       |      | 120.0 |

5. Transfer Application T-13327 proposes to move the authorized points of appropriation from the existing points of appropriation to:

| Twp  | Rng  | Mer | Sec | Q-Q   | Measured Distances                                                           |
|------|------|-----|-----|-------|------------------------------------------------------------------------------|
| 23 S | 34 E | WM  | 30  | NE NE | WELL 2 - 1320 FEET SOUTH AND 1320 FEET WEST FROM THE NE CORNER OF SECTION 30 |
| 23 S | 34 E | WM  | 30  | SE NE | WELL 3 - 1680 FEET SOUTH AND 1210 FEET WEST FROM THE NE CORNER OF SECTION 30 |
| 23 S | 34 E | WM  | 30  | NE NW | WELL 1 - 1430 FEET SOUTH AND 3930 FEET WEST FROM THE NE CORNER OF SECTION 30 |

3. *Water right Certificate 94683 is cancelled. A new certificate will be issued describing that portion of the right not affected by this transfer.*
4. *The quantity of water diverted at the new points of appropriation (Well 1, 2, and 3), shall not exceed the quantity of water lawfully available at the original points of appropriation (Wells 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, and 11).*
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. *The former place of use of the transferred right shall no longer receive water under the right.*
8. *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.*
9. *After satisfactory proof of beneficial use is received, a new certificate confirming the rights transferred will be issued.*

Dated in Salem, Oregon on **MAR 21 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.