



Oregon

Kate Brown, Governor

Water Resources Department

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Salem, OR 97301

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June 8, 2022

VIA CERTIFIED MAIL AND E-MAIL

NEW FOOTHILLS PROPERTIS LLC
JAY BALES, MANAGER
PO BOX 189 ECHO, OR 97826

SUBJECT: Water Right Transfer Application T-13830

Please find enclosed the Preliminary Determination indicating that, based on the information available, the Department intends to approve application T-13830. 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.

Please do not hesitate to contact me at tamera.l.smith@water.oregon.gov or 503-979-9607 if I may be of assistance.

Kindest regards,



Transfer Caseworker
Transfer and Conservation Section

cc: Transfer Application T-13830
Gregory M. Silbernagel, District 5 Watermaster (*via e-mail*)
Molly Reid, Agent for the applicant (*via e-mail*)

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6. On March 29, 2022, the Department mailed a copy of the draft Preliminary Determination proposing to approve Transfer Application T-13830 to the applicant. The draft Preliminary Determination cover letter set forth a deadline of April 28, 2022, 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.
7. The portion of the right to be transferred is as follows:

Certificate: 81319 in the name of RON HOLEMAN (perfected under Permit G-8369)
Use: IRRIGATION of 71.4 ACRES
Priority Date: OCTOBER 20, 1978
Rate: 0.89 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, and shall be further limited to appropriation of water only to the extent that it does not impair or substantially interfere with existing surface water rights of others.
Source: WELLS #1 and #2, within the UMATILLA RIVER basin

Authorized Points of Appropriation:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
3 N	29 E	WM	21	SE SE	WELL 1 - 720 FEET NORTH AND 530 FEET WEST FROM SE CORNER, SECTION 21

Authorized Place of Use:

IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
3 N	29 E	WM	21	NE SW	0.6
3 N	29 E	WM	21	SE SW	4.8
3 N	29 E	WM	21	NW SE	18.8
3 N	29 E	WM	21	SW SE	38.5
3 N	29 E	WM	21	SE SE	7.2
3 N	29 E	WM	28	NW NE	1.5
TOTAL					71.4

8. Transfer Application T-13830 proposes to change the place of use of the right to:

IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
3 N	29 E	WM	21	NE SW	0.4
3 N	29 E	WM	21	SE SW	2.1
3 N	29 E	WM	21	NW SE	27.5
3 N	29 E	WM	21	SW SE	34.6
3 N	29 E	WM	21	SE SE	6.8
TOTAL					71.4

Transfer Review Criteria (OAR 690-380-4010)

9. 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 right is subject to forfeiture under ORS 540.610.
10. A pump, pipeline, and sprinkler system sufficient to use the full amount of water allowed under the existing right were present within the five-year period prior to submittal of Transfer Application T-13830.
11. The proposed change would not result in enlargement of the right.
12. The proposed change would not result in injury to other water rights.

Determination and Proposed Action

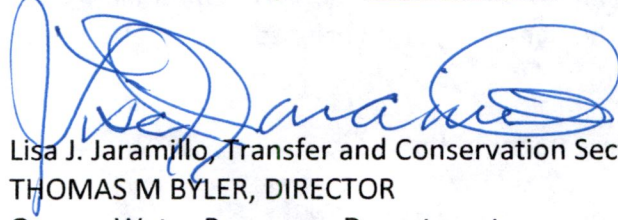
The change in place of use proposed in Transfer Application T-13830 appears to be consistent with the requirements of ORS 537.705 and 540.505 to 540.580 and OAR 690-380-5000. If protests are not filed pursuant to OAR 690-380-4030, the application will be approved.

If Transfer Application T-13830 is approved, the final order will include the following:

1. *The change in place of use proposed in Transfer Application T-13830 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 Certificate 81319, the Stipulated Order for Dismissal with Prejudice, dated June 7, 2004, and any related decree.*
3. *Water right Certificate 81319 is cancelled. A new certificate will be issued describing that portion of the right not affected by this transfer.*
4. *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.*
5. *The former place of use of the transferred right shall no longer receive water under the right.*
6. *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.*
7. *After satisfactory proof of beneficial use is received, a new certificate confirming the right transferred will be issued.*

Dated in Salem, Oregon on **JUN 08 2022**



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

This Preliminary Determination was prepared by: Tamera Smith. If you have any questions about the information in this document, you may reach me at 503-979-9607 or tamera.l.smith@water.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.

Notice Regarding Service Members: Active duty service members have a right to stay these proceedings under the federal Service Members 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.