



Oregon

Kate Brown, Governor

Water Resources Department

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JUNE 15, 2022

VIA CERTIFIED MAIL AND E-MAIL

SHOTGUN CREEK RANCH, LLC
ATTN: JOE PAPINEAU
40791 SE SHOTGUN RD.
POST, OR 97752

SUBJECT: Water Right Transfer Application T-13890

Please find enclosed the Preliminary Determination indicating that, based on the information available, the Department intends to approve application T-13890. 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 file T-13890
Bill D. Nashem, District 24 Watermaster (*via e-mail*)
Shonee D. Langford, Agent for the applicant (*via e-mail*)

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

In the Matter of Transfer Application)	PRELIMINARY DETERMINATION
T-13890, Crook County)	PROPOSING APPROVAL OF CHANGES IN
)	PLACES OF USE

Authority

Oregon Revised Statutes (ORS) 540.505 to 540.580 establish the process in which a water right holder may submit a request to transfer the point of diversion, 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

SHOTGUN CREEK RANCH, LLC
ATTN: JOE PAPINEAU
40791 SE SHOTGUN RD.
POST, OR 97752

Findings of Fact

1. On January 7, 2022, SHOTGUN CREEK RANCH, LLC, ATTN: JOE PAPINEAU filed an application to change the places of use under Certificates 94456, 95554, and 95555. The Department assigned the application number T-13890.
2. Notice of the application for transfer was published on January 25, 2022, pursuant to OAR 690-380-4000. No comments were filed in response to the notice.
3. On March 29, 2022, the Department contacted the agent for the applicant, requesting the listed lands for the Land Use Information Form. The agent for the applicant replied with the list on the same day.
4. On April 18, 2022, the Department mailed a copy of the draft Preliminary Determination proposing to approve Transfer Application T-13890 to the applicant. The draft Preliminary Determination cover letter set forth a deadline of May 18, 2022, for the applicant to respond.
5. On May 9, 2022, the agent for the applicant requested an additional year for completion of the transfer, citing the need for an extra irrigation season to implement the changes.

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.

6. On May 17, 2022, 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 first right to be transferred is as follows:

Certificate: 94456 in the name of SHOTGUN CREEK RANCH, LLC (confirmed by Crooked River Decree, Volume 1, Page 449)
Use: IRRIGATION of 4.8 ACRES
Priority Date: 1889
Rate: 0.06 CUBIC FOOT PER SECOND
Limit/Duty: The amount of water to which this right is entitled is limited to an amount actually beneficially used from February 1st to December 1st of each year, and shall not exceed 0.06 cubic foot per second or its equivalent in case of rotation, measured at the point of diversion on Shotgun Creek.
Source: SHOTGUN CREEK, tributary of CROOKED RIVER

Authorized Point of Diversion:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
17 S	20 E	WM	9	SW SW	SHOTGUN CREEK #1 NEW – 2040 FEET SOUTH AND 920 FEET EAST FROM THE W1/4 CORNER OF SECTION 9

Authorized Place of Use:

IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
17 S	20 E	WM	8	NW NW	4.8

8. The agent has provided measured distances to better describe the authorized points of diversion:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
17 S	20 E	WM	9	SW SW	SHOTGUN CREEK #1 NEW – 2150 FEET SOUTH AND 1030 FEET EAST FROM THE W1/4 CORNER OF SECTION 9

9. Transfer Application T-13890 proposes to change the place of use of the right to:

IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
17 S	20 E	WM	8	NW NW	4.8

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

Certificate: 95554 in the name of CROOKED RIVER EAST LLC (confirmed by Crooked River Decree, Volume 1, Page 449)
Use: IRRIGATION of 10.0 ACRES
Priority Date: 1889
Rate: 0.115 CUBIC FOOT PER SECOND

Limit/Duty: The amount of water to which this right is entitled is limited to an amount actually beneficially used from February 1st to December 1st of each year, and shall not exceed 0.115 cubic foot per second or its equivalent in case of rotation, measured at the point of diversion on Shotgun Creek.

Source: SHOTGUN CREEK, a tributary of CROOKED RIVER

Authorized Points of Diversion:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
17 S	20 E	WM	9	SE NW	SHOTGUN CREEK – POD 5 (ORIGINAL) - 1940 FEET SOUTH AND 100 FEET WEST FROM THE N1/4 CORNER OF SECTION 9
17 S	20 E	WM	9	SW SW	POD 6 (ADDITIONAL) - 2150 FEET SOUTH AND 1030 FEET EAST FROM THE W1/4 CORNER OF SECTION 9

Authorized Place of Use:

IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
17 S	20 E	WM	7	NE NE	4.3
17 S	20 E	WM	8	NW NW	5.7
TOTAL					10.0

11. Transfer Application T-13890 proposes to change the place of use of the right to:

IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
17 S	20 E	WM	7	NE NE	4.2
17 S	20 E	WM	7	SE NE	0.1
17 S	20 E	WM	8	NW NW	5.7
TOTAL					10.0

12. The portion of the third right to be transferred is as follows:

Certificate: 95555 in the name of CROOKED RIVER EAST LLC (perfected under Permit S-27410)

Use: SUPPLEMENTAL IRRIGATION of 10.0 ACRES

Priority Date: MAY 23, 1961

Rate: 0.13 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-FORTIETH 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 4.0 acre-feet per acre for each acre irrigated during the irrigation season of each year.

Source: CROOKED RIVER, tributary to the DESCHUTES RIVER

Authorized Point of Diversion:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
17 S	20 E	WM	4	NE SW	POD 3 NEW - 140 FEET SOUTH AND 2270 FEET EAST FROM THE W1/4 CORNER OF SECTION 4

Authorized Place of Use:

SUPPLEMENTAL IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
17 S	20 E	WM	7	NE NE	4.3
17 S	20 E	WM	8	NW NW	5.7
TOTAL					10.0

13. Transfer Application T-13890 proposes to change the place of use of the right to:

SUPPLEMENTAL IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
17 S	20 E	WM	7	NE NE	4.2
17 S	20 E	WM	7	SE NE	0.1
17 S	20 E	WM	8	NW NW	5.7
TOTAL					10.0

Transfer Review Criteria [OAR 690-380-4010(2)]

14. 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.
15. 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-13890.
16. The proposed changes would not result in enlargement of the rights.
17. The proposed changes would not result in injury to other water rights.
18. All other application requirements are met.

Determination and Proposed Action

The changes in places of use proposed in Transfer Application T-13890 appear to be consistent with the requirements of ORS 540.505 to 540.580 and OAR 690-380-5000. If protests are not filed pursuant to OAR 690-380-4030, the transfer application will be approved.

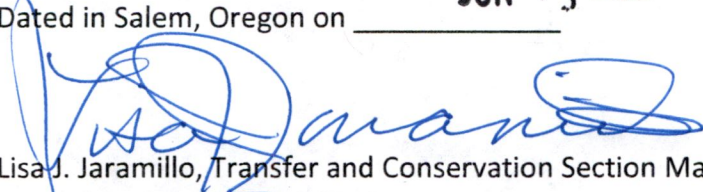
If Transfer Application T-13890 is approved, the final order will include the following:

1. *The changes in places of use proposed in Transfer Application T-13890 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 94456, 95554, and 95555, and any related decree.*
3. *Water right Certificates 94456 and 95555 are cancelled. New certificates will be issued describing those portions of the rights not affected by this transfer.*
4. *Water right Certificate 95554 is cancelled.*
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 diversion (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. *The former places of use of the transferred rights shall no longer receive water under the rights.*
7. *Full beneficial use of the water shall be made, consistent with the terms of this order, on or before **October 1, 2024**. 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.*

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

Dated in Salem, Oregon on JUN 15 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.