



Oregon
Kate Brown, Governor

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

JULY 14, 2022

VIA CERTIFIED MAIL

NOMARCO, INC.
PO BOX 704
CRANE, OR 97732

SUBJECT: Water Right Transfer Application T-13895

Please find enclosed the Preliminary Determination indicating that, based on the information available, the Department intends to approve application T-13895. 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 503-979-9607503-986-0886 or Patrick.K.Starnes@wrdd.state.or.us if I may be of assistance.

Kindest regards,



Transfer Caseworker
Transfer and Conservation Section

cc: Transfer Application file T-13895
Dally Swindlehurst, District 10 Watermaster (*via e-mail*)
John A. Short, 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-13895, Harney 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

NOMARCO, INC.
PO BOX 704
CRANE, OR 97732

Findings of Fact

1. On January 18, 2022, NOMARCO, INC. filed an application to change the places of use under Certificates 6879, 6881, and 64251. The Department assigned the application number T-13895.
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 May 16, 2022, the Department mailed a copy of the draft Preliminary Determination proposing to approve Transfer Application T-13895 to the applicant. The draft Preliminary Determination cover letter set forth a deadline of June 15, 2022, for the applicant to respond.
4. On June 1, 2022, the agent for 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. The agent for the applicant also requested the completion date be extended five years to complete the changes for the irrigation and metering systems.

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.

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

Certificate: 6879 in the name of GEO W CLARK; NANCY E CLARK & IRA B CLARK
(confirmed by Malheur River Decree, Volume 8, Page 228)

Use: IRRIGATION of 24.5 ACRES

Priority Date: 1885

Rate: 1.225 CUBIC FEET PER SECOND

Limit/Duty: The amount of water to which such right is entitled, for the purposes aforesaid, is limited to an amount actually beneficially used for said purposed, and shall not exceed 1.5 acre feet per acre in any 30-day period prior to June 1st, 1 acre foot per acre in any 30-day period after June 1st, of each year, or 3.0 acre feet per acre during any season, diverted at a rate not to exceed ONE-TWENTIETH of a cubic foot per second per acre

Source: CRANE CREEK

Authorized Point of Diversion:

Measured Distances
CLARK NO. 1 DITCH – NOT PROVIDED

Authorized Place of Use:

IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
25 S	34 E	WM	14	SW NW	3.0
25 S	34 E	WM	14	NE SW	5.5
25 S	34 E	WM	14	NW SW	16.0
TOTAL					24.5

6. The agent for the applicant has provided measured distances to better describe the authorized point of diversion:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
25 S	34 E	WM	14	SW SW	POD #1 (CLARK NO. 1 DITCH) – 460 FEET NORTH AND 320 FEET EAST FROM THE SW CORNER OF SECTION 11

7. Transfer Application T-13895 proposes to change the place of use of the right to:

IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
25 S	34 E	WM	14	NE SW	6.9
25 S	34 E	WM	14	NW SW	6.1
25 S	34 E	WM	14	SW SW	5.4
25 S	34 E	WM	14	SE SW	6.1
TOTAL					24.5

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

Certificate: 6881 in the name of THOS. R. CLARK and NANCY E. CLARK (confirmed by Malheur River Decree, Volume 8, Page 228)

Use: IRRIGATION of 23.5 ACRES

Priority Date: 1887

Rate: 1.175 CUBIC FEET PER SECOND

Limit/Duty: The amount of water to which such right is entitled, for the purposes aforesaid, is limited to an amount actually beneficially used for said purposes, and shall not exceed 1.5 acre feet per acre in any 30-day period prior to June 1st, 1 acre foot per acre in any 30-day period after June 1st, of each year; or 3.0 acre feet per acre during any season, diverted at a rate not to exceed ONE-TWENTIETH of a cubic foot per second per acre.

Source: CRANE CREEK

Authorized Point of Diversion:

Measured Distances
CLARK NO. 2 DITCH – NOT PROVIDED

Authorized Place of Use:

IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
25 S	34 E	WM	14	NW SW	10.5
25 S	34 E	WM	14	SW SW	13.0
TOTAL					23.5

9. The agent for the applicant has provided measured distances to better describe the authorized point of diversion:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
25 S	34 E	WM	15	SE NE	POD #2 (CLARK NO. 2 DITCH) – 100 FEET NORTH AND 60 FEET WEST FROM THE W1/4 CORNER OF SECTION 14

10. Transfer Application T-13895 proposes to change the place of use of the right to:

IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
25 S	34 E	WM	14	NE SW	6.2
25 S	34 E	WM	14	NW SW	6.1
25 S	34 E	WM	14	SW SW	5.6
25 S	34 E	WM	14	SE SW	5.6
TOTAL					23.5

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

Certificate: 64251 in the name of CANEVARI TIMBER CO. INC. (perfected under Permit G-9813)

Use: IRRIGATION of 59.6 ACRES and the SUPPLEMENTAL IRRIGATION of 13.1 ACRES

Priority Date: APRIL 22, 1982

Rate: 0.91 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 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 in the CRANE CREEK BASIN

Authorized Point of Appropriation:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
25 S	34 E	WM	14	SW SW	200 FEET NORTH AND 1150 FEET EAST FROM THE SW CORNER OF SECTION 14

Authorized Place of Use:

IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
25 S	34 E	WM	14	NE SW	25.0
25 S	34 E	WM	14	SW SW	5.0
25 S	34 E	WM	14	SE SW	29.6
TOTAL					59.6

SUPPLEMENTAL IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
25 S	34 E	WM	14	NE SW	5.5
25 S	34 E	WM	14	NW SW	7.6
TOTAL					13.1

12. Transfer Application T-13895 proposes to change the place of use of the right to:

IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
25 S	34 E	WM	14	NE SW	19.1
25 S	34 E	WM	14	NW SW	14.5
25 S	34 E	WM	14	SW SW	11.2
25 S	34 E	WM	14	SE SW	14.8
TOTAL					59.6

SUPPLEMENTAL IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
25 S	34 E	WM	14	NE SW	3.7
25 S	34 E	WM	14	NW SW	3.3
25 S	34 E	WM	14	SW SW	2.8
25 S	34 E	WM	14	SE SW	3.3
TOTAL					13.1

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

13. 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.
14. 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-13895.
15. The proposed changes would not result in enlargement of the rights.
16. The proposed changes would not result in injury to other water rights.
17. All other application requirements are met.

Determination and Proposed Action

The changes in places of use proposed in Transfer Application T-13895 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-13895 is approved, the final order will include the following:

1. *The changes in places of use proposed in Transfer Application T-13895 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 6879, 6881, 64251, and any related decree.*
3. *Water right Certificate 6879 is cancelled. A new certificate will be issued describing those portions of the right not affected by this transfer.*
4. *Water right Certificates 6881 and 64251 are 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.*
 - 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, 2027**. 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 JUL 14 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 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.