



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

JAMES A. AND JESSE R. WARKENTIN
PO BOX 52
CHRISTMAS VALLEY, OR 97641

SUBJECT: Water Right Transfer Application T-13896

Please find enclosed the Preliminary Determination indicating that, based on the information available, the Department intends to approve application T-13896. 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 (applicant listed Frontier Advertiser in application, however this is not on the OWRD approved newspapers list), 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.

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
Transfer and Conservation Section

cc: Transfer Application file T-13896
Jeremy T. Giffin, District 11 Watermaster (*via e-mail*)
John A. Short, 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-13896, Lake County)	PROPOSING APPROVAL OF 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

JAMES A. AND JESSE R. WARKENTIN
PO BOX 52
CHRISTMAS VALLEY, OR 97641

Findings of Fact

1. On January 19, 2022, JAMES A. AND JESSE R. WARKENTIN filed an application to change the points of appropriation and to change the places of use under Certificates 81514 and 87757. The Department assigned the application number T-13896.
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 April 25, 2022, the Department mailed a copy of the draft Preliminary Determination proposing to approve Transfer Application T-13896 to the applicants. The draft Preliminary Determination cover letter set forth a deadline of May 25, 2022, for the applicants to respond.

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.

4. On April 27, 2022, the agent for the applicants 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 applicants requested a completion date five years out, to allow time to develop the remaining well, pipeline, and pivot.

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

Certificate: 81514 in the name of GOLDEN RULE FARMS INC. (perfected under Permit G-6320)

Use: IRRIGATION of 5.0 ACRES

Priority Date: FEBRUARY 20, 1975

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, 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.

Source: A WELL in the FORT ROCK BASIN

Authorized Point of Appropriation:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
27 S	17 E	WM	22	SE SW	(WELL #4) - 1300 FEET NORTH AND 1310 FEET WEST FROM THE S1/4 CORNER OF SECTION 22

Authorized Place of Use:

IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
27 S	17 E	WM	22	NE SW	1.2
27 S	17 E	WM	22	NW SW	1.3
27 S	17 E	WM	22	SW SW	1.3
27 S	17 E	WM	22	SE SW	1.2
TOTAL					5.0

6. Transfer Application T-13896 proposes to move the authorized points of appropriation as follows:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances	Approximate Distance from Authorized Point of Appropriation in Miles (mi.)
26 S	18 E	WM	7	NE SE	WELL #2 – 340 FEET SOUTH AND 1280 FEET WEST FROM THE E1/4 CORNER OF SECTION 7	8.89 mi.
26 S	18 E	WM	7	NE SE	WELL #3 – 610 FEET SOUTH AND 880 FEET WEST FROM THE E1/4 CORNER OF SECTION 7	8.91 mi.
26 S	18 E	WM	8	NW SW	WELL #1 - 1380 FEET NORTH AND 1270 FEET EAST FROM THE SW CORNER OF SECTION 8	8.92 mi.

7. Transfer Application T-13896 also proposes to change the place of use of the right to:

IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
26 S	18 E	WM	7	NE SE	5.0

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

Certificate: 87757 in the name of GOLDEN RULE FARMS (perfected under Permit G-8888)

Use: IRRIGATION of 5.0 ACRES

Priority Date: JULY 10, 1980

Rate: 0.063 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.

Source: A WELL within the FORT ROCK BASIN

Authorized Point of Appropriation:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
27 S	17 E	WM	21	SW SE	80 FEET NORTH AND 40 FEET EAST FROM THE S1/4 CORNER OF SECTION 21

Authorized Place of Use:

IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
27 S	17 E	WM	21	NE SE	1.3
27 S	17 E	WM	21	NW SE	1.3
27 S	17 E	WM	21	SW SE	1.2
27 S	17 E	WM	21	SE SE	1.2
TOTAL					5.0

9. Transfer Application T-13896 proposes to move the authorized points of appropriation as follows:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances	Approximate Distance from Authorized Point of Appropriation in Miles (mi.)
26 S	18 E	WM	7	NE SE	WELL #2 – 340 FEET SOUTH AND 1280 FEET WEST FROM THE E1/4 CORNER OF SECTION 7	9.51 mi.
26 S	18 E	WM	7	NE SE	WELL #3 – 610 FEET SOUTH AND 880 FEET WEST FROM THE E1/4 CORNER OF SECTION 7	9.39 mi.
26 S	18 E	WM	8	NW SW	WELL #1 - 1380 FEET NORTH AND 1270 FEET EAST FROM THE SW CORNER OF SECTION 8	9.45 mi.

10. Transfer Application T-13896 also proposes to change the place of use of the right to:

IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
26 S	18 E	WM	7	NE SE	5.0

Transfer Review Criteria (OAR 690-380-4010)

11. 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.
12. 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-13896.
13. The proposed change, as conditioned, would not result in enlargement of the rights.
14. The proposed change would not result in injury to other water rights.
15. All other application requirements are met.

Determination and Proposed Action

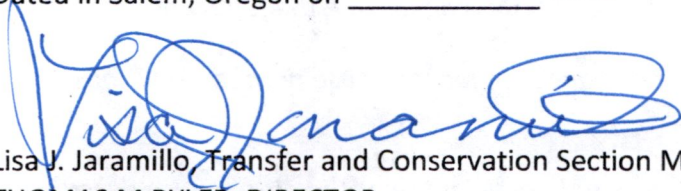
The changes in points of appropriation and changes in places of use proposed in Transfer Application T-13896 appear to be consistent with the requirements of ORS 537.705 and 540.505 to 540.580 and OAR 690-380-5000. If protests are not filed pursuant to OAR 690-380-4030, the application will be approved.

If Transfer Application T-13896 is approved, the final order will include the following:

- 1. The changes in points of appropriation and changes in places of use proposed in Transfer Application T-13896 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 81514, 87757, and any related decree.*
- 3. Water right Certificates 81514 and 87757 are cancelled. New certificates will be issued describing those portions of the rights not affected by this transfer.*
- 4. Under Certificate 81514, the quantity of water diverted at the new points of appropriation (Well #1, Well #2, and Well #3), shall not exceed the quantity of water lawfully available at the original point of appropriation (Well #5).*
- 5. Under Certificate 87757, the quantity of water diverted at the new points of appropriation (Well #1, Well #2, and Well #3), shall not exceed the quantity of water lawfully available at the original point of appropriation (Well #5).*
- 6. 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.*
- 7. Water shall be acquired from the same aquifer (water source) as the original point of appropriation.*
- 8. The former place of use of the transferred right shall no longer receive water under the right.*
- 9. 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.*

10. 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

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.