

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

In the Matter of Transfer Application)	PRELIMINARY DETERMINATION
T-13572, Umatilla County)	PROPOSING APPROVAL FOR ADDITIONAL
)	POINTS OF APPROPRIATION

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

WALLA WALLA VALLEY APPELLATION, LLC
52108 SEVEN HILLS ROAD
MILTON FREEWATER, OR 97862

Findings of Fact

1. On December 7, 2020, WALLA WALLA VALLEY APPELLATION, LLC filed an application for additional points of appropriation under Certificate 89449. The Department assigned the application number T-13572.
2. Notice of the application for transfer was published on December 22, 2020, pursuant to OAR 690-380-4000. One timely comment was filed in response to the notice.
3. The issues raised by the commenter do not address the criteria for review of a water right transfer as per OAR 690-380-4010 and approval of a transfer application under OAR 690-380-5000. The statutory basis for approving a water right transfer application is relatively narrow and confined to the department finding or determining:
 - a) The water right proposed for transfer is a water use subject to transfer;
 - b) The portion of the water right proposed for transfer is not cancelled due to forfeiture for non-use pursuant to ORS 540.610;

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.

- c) The proposed transfer would not result in enlargement of the water right proposed for transfer; and
 - d) The proposed transfer would not result in injury to other water rights.
4. On April 1, 2022, the Department mailed a copy of the draft Preliminary Determination proposing to approve Transfer Application T-13572 to the applicant. The draft Preliminary Determination cover letter set forth a deadline of May 2, 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.
5. The right to be transferred is as follows:

Certificate: 89449 in the name of WALLA WALLA VALLEY APPELLATION, LLC (perfected under Permit G-13727)

Use: IRRIGATION of 7.10 ACRES, AND SUPPLEMENTAL IRRIGATION of 21.66 ACRES

Priority Date: DECEMBER 15, 1998

Rate: 0.36 CUBIC FOOT PER SECOND (CFS), being 0.089 CFS for IRRIGATION and 0.271 CFS for SUPPLEMENTAL IRRIGATION

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) and 3.0 acre-feet per acre for each acre irrigated during the irrigation season of each year.

Period of Use: APRIL 1 THROUGH SEPTEMBER 30 OF EACH YEAR

Source: A WELL in the WALLA WALLA RIVER BASIN

Authorized Point of Appropriation:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
5 N	35 E	WM	4	NE NW	WWVA 1 - 930 FEET SOUTH AND 1355 FEET EAST FROM THE NW CORNER OF SECTION 4

Authorized Place of Use:

IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
5 N	35 E	WM	4	NW NW	4.3
6 N	35 E	WM	33	SW SW	2.8
Total					7.1

SUPPLEMENTAL IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
6 N	35 E	WM	33	SE SW	13.10
6 N	35 E	WM	33	SW SE	8.56
Total					21.66

6. Transfer Application T-13572 proposes additional points of appropriation as follows:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances	Approximate distance from original point of appropriation in feet (ft.)
5 N	35 E	WM	4	NE SW	WELL 4A (SEVEIN 1) - 415 FEET SOUTH AND 500 FEET WEST FROM THE C1/4 CORNER OF SECTION 4	0.4 mi. SE
5 N	35 E	WM	4	NE SW	WELL 4D (SEVEIN 3) - 375 FEET SOUTH AND 940 FEET WEST FROM THE C1/4 CORNER OF SECTION 4	0.4 mi. SE
5 N	35 E	WM	5	NW SE	WEST POND (SEVEIN 4) - 1360 FEET NORTH AND 1575 FEET WEST FROM THE SE CORNER OF SECTION 5	0.8 mi. SW

Transfer Review Criteria (OAR 690-380-4010)

7. 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.
8. 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-13572.
9. The proposed change would not result in enlargement of the right.
10. The proposed change would not result in injury to other water rights.
11. All other application requirements are met.

Determination and Proposed Action

The additional points of appropriation proposed in Transfer Application T-13572 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.

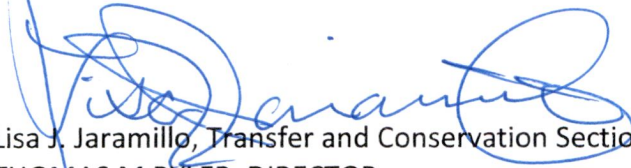
If Transfer Application T-13572 is approved, the final order will include the following:

1. *The additional points of appropriation proposed in Transfer Application T-13572 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 89449 and any related decree.*

3. *Water right Certificate 89449 is cancelled.*
4. *The quantity of water diverted at the new additional points of appropriation (Well 4A (SeVein 1), Well 4D (SeVein 3), and West Pond (SeVein 4), together with that diverted at the original point of appropriation (WWVA 1), shall not exceed the quantity of water lawfully available at the original point of appropriation (WWVA 1).*
5. *Water shall be acquired from the same aquifer (water source) as the original point of appropriation.*
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 change 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.*

JUL 27 2022

Dated in Salem, Oregon on



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@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.