



Oregon

Kate Brown, Governor

Water Resources Department

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August 3, 2022

VIA CERTIFIED MAIL AND E-MAIL

TIMOTHY C. AND MELODY A. REED
4450 NORTH BANK RD.
CRESCENT CITY, CA 95531

SUBJECT: Water Right Transfer Application T-13806

Please find enclosed the Preliminary Determination indicating that, based on the information available, the Department intends to approve application T-13806. 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 Bend Bulletin newspaper, 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 503-986-0886 or Patrick.K.Starnes@wrd.state.or.us if I may be of assistance.

Kindest regards,



Tamera Smith
Transfer Caseworker
Transfer and Conservation Section

cc: Transfer Application file T-13806
Jeremy T. Giffin, District 11 Watermaster (*via e-mail*)
John A. Short, Agent for the applicant (*via e-mail*)

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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 the completion date be extended to October 1, 2027, siting the time it will take to develop the irrigation system and screening and metering. The Department grants the longer time for completion per OAR 690-380-5140(3).

- The portion of the right to be transferred is as follows:

Certificate: 95746 in the name of LA PINE COOPERATIVE WATER ASSOCIATION
(confirmed by Deschutes River (F))

Use: IRRIGATION of 7.0 ACRES

Priority Date: 1897

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, FROM MAY 23 TO AUGUST 20, and ONE-EIGHTIETH of one cubic foot per second, or its equivalent for each acre irrigated, FROM APRIL 1 TO MAY 23 AND FROM AUGUST 20 TO NOVEMBER 1, 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. The use shall conform to such reasonable rotation system as may be ordered by the proper state officer. The right to the use of the water for the above purpose is restricted to beneficial use on the lands or place of use described.

Source: LITTLE DESCHUTES RIVER, a tributary to the DESCHUTES RIVER

Authorized Point of Diversion:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
23 S	9 E	WM	34	SW SW	550 FEET NORTH AND 1150 FEET EAST FROM THE SW CORNER OF SECTION 34

Authorized Place of Use:

IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
22 S	10 E	WM	27	SW SE	5.6
22 S	10 E	WM	34	NE SW	1.4
TOTAL					7.0

- Transfer Application T-13806 proposes to move the authorized point of diversion approximately 9.62 miles downstream to:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
23 S	9 E	WM	25	NE NW	560 FEET SOUTH AND 50 FEET WEST FROM THE NORTH ¼ CORNER OF SECTION 25

8. Transfer Application T-13806 also proposes to change the place of use of the right to:

IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
22 S	9 E	WM	25	NE NW	7.0

9. The Oregon Department of Fish and Wildlife (ODFW) has determined that a fish screening and/or by-pass device is necessary at the new point of diversion to prevent fish from entering the diversion and/or safely transport fish back to the body of water from which the fish were diverted and that the diversion is not currently equipped with an appropriate fish screening and/or by-pass device. This diversion may be eligible for screening cost share funds.

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

10. 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.
11. 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-13806.
12. The proposed change would not result in enlargement of the right.
13. The proposed changes would not result in injury to other water rights.
14. All other application requirements are met.

Determination and Proposed Action

The change in point of diversion and change in place of use proposed in Transfer Application T-13806 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.

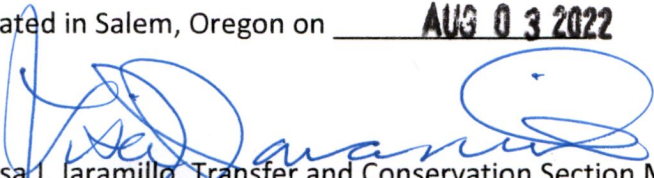
If Transfer Application T-13806 is approved, the final order will include the following:

- 1. The change in point of diversion and change in place of use proposed in Transfer Application T-13806 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 95746 and any related decree.*
- 3. Water Right Certificate 95746 is modified and will be cancelled upon approval or denial of T-13764 and T-13857. A new certificate will be issued describing that portion of the right not affected by this transfer, and T-13764, and T-13857.*

4. *The quantity of water diverted at the new point of diversion (New POD), shall not exceed the quantity of water lawfully available at the original point of diversion (Authorized POD).*
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 appropriation (new).*
 - 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. *Prior to diverting water, the water user shall install a fish screening and/or by-pass device, as appropriate, at the new point of diversion consistent with the Oregon Department of Fish and Wildlife's (ODFW) design and construction standards. Prior to installation, the water user shall obtain written approval from ODFW that the required screen and/or by-pass device meets ODFW's criteria. Prior to submitting a Claim of Beneficial Use, the water user must obtain written approval from ODFW that the required screening and/or by-pass device was installed to the state's criteria. The water user shall maintain and operate the fish screen and/or by-pass device, as appropriate, at the point of diversion consistent with ODFW's operational and maintenance standards.*
7. *The former place of use of the transferred right shall no longer receive water under the right.*
8. *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.*

9. *After satisfactory proof of beneficial use is received, a new certificate confirming the right transferred will be issued.*

Dated in Salem, Oregon on AUG 03 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 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.