



Oregon

Kate Brown, Governor

Water Resources Department

725 Summer St NE, Suite A

Salem, OR 97301

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August 30, 2022

VIA CERTIFIED MAIL AND E-MAIL

JOHN AND DENISE OWEN
PO BOX E
PILOT ROCK, OR 97868-0080

SUBJECT: Water Right Transfer Application T-13870

Please find enclosed the Preliminary Determination indicating that, based on the information available, the Department intends to approve application T-13870. 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 503-979-3129 or arla.l.davis@water.oregon.gov if I may be of assistance.

Sincerely,

Arla L Davis

Arla L Davis
Transfer Specialist
Transfer and Conservation Section

cc: T-13870
Gregory M. Silbernagel, District 5 Watermaster (*via e-mail*)
William Porfily, 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-13870, Umatilla County)	PROPOSING APPROVAL OF AN
)	ADDITIONAL POINT 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

JOHN AND DENISE OWEN
PO BOX E
PILOT ROCK, OR 97868-0080

Findings of Fact

1. On December 6, 2021, JOHN AND DENISE OWEN filed an application for an additional point of appropriation under Certificate 42342. The Department assigned the application number T-13870.
2. Notice of the application for transfer was published on December 21, 2021, pursuant to OAR 690-380-4000. No comments were filed in response to the notice.
3. On April 8, 2022, the Department mailed a copy of the draft Preliminary Determination proposing to approve Transfer Application T-13749 to the applicant. The draft Preliminary Determination cover letter set forth a deadline of May 8, 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.
4. The portion of the right to be transferred is as follows:
Certificate: 42342 in the name of GEORGE W. JOHNSTON (perfected under Permit G-5047)
Use: IRRIGATION of 7.1 ACRES
Priority Date: MARCH 17, 1972
Rate: 0.04 CUBIC FOOT PER SECOND

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.

Limit/Duty: The amount of water used for irrigation, together with the amount secured under any other right existing for the same lands, shall be limited to 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: JOHNSTON WELL, a tributary of EAST BIRCH CREEK

Authorized Point of Appropriation:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
1 S	32 E	WM	21	SW NW	2050 FEET SOUTH AND 490 FEET EAST FROM THE NW CORNER OF SECTION 21

Authorized Place of Use:

IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
1 S	32 E	WM	21	SW NW	7.1

- Transfer Application T-13870 an additional point of appropriation approximately 200 feet from the existing point of appropriation to:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
1 S	32 E	WM	21	SW NW	1970 FEET SOUTH AND 515 FEET EAST FROM THE NW CORNER OF SECTION 21

- The Department Groundwater Section and the Watermaster require the following condition to prevent injury to surrounding wells and develop the same source:

Any well drilled under this water right shall be open to a single aquifer in the Columbia River Basalt Group and shall meet applicable well construction standards (OAR 690-200 and OAR 690-210). The open interval in the well shall be limited to water-bearing zones with hydraulic head elevations similar to the zones developed by the authorized POA on water right Certificate 42342 (UMAT 105). If a water-bearing zone with a distinct and different head is encountered, it shall be sealed off during drilling. Transfer Review Criteria (OAR 690-380-4010)

- Water has been used within the last five years.
- 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-13870.
- The proposed change as conditioned would not result in enlargement of the right.
- The proposed change as conditioned would not result in injury to other water right.
- All other application requirements are met.

Determination and Proposed Action

The additional point of appropriation proposed in Transfer Application T-13870 appears 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.

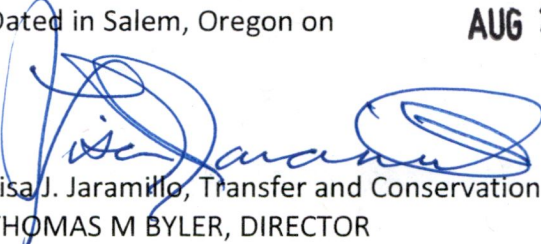
If Transfer Application T-13870 is approved, the final order will include the following:

1. *The additional point of appropriation proposed in Transfer Application T-13870 is 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 42342 and any related decree.*
3. *Water right Certificate 42342 is cancelled. A new certificate will be issued describing that portion of the right not affected by this transfer.*
4. *The quantity of water diverted at the additional point of appropriation, together with that diverted at the original point of appropriation, shall not exceed the quantity of water lawfully available at the original point of appropriation.*
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 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. *Water shall be acquired from the same aquifer (water source) as the original point of appropriation.*
7. *Any well drilled under this water right shall be open to a single aquifer in the Columbia River Basalt Group and shall meet applicable well construction standards (OAR 690-200 and OAR 690-210). The open interval in the well shall be limited to water-bearing zones with hydraulic head elevations similar to the zones developed by the authorized POA on water right certificate 42342 (UMAT 105). If a water-bearing zone with a distinct and different head is encountered, it shall be sealed off during drilling.*
8. *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.*

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 30 2022


Lisa J. Jaramillo, Transfer and Conservation Section Manager, for
THOMAS M BYLER, DIRECTOR
Oregon Water Resources Department

This Preliminary Determination was prepared by Arla L Davis. If you have any questions about the information in this document, you may reach me by email at arla.l.davis@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.