

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

In the Matter of Transfer Application	)	PRELIMINARY DETERMINATION
T-13757, Umatilla County	)	PROPOSING APPROVAL OF CHANGES IN
	)	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**

PENDLETON LAND LLC  
C/O ALTERNATIVE EQUITY ADVISORS LLC  
DAVID MUTH  
12119 STRATFORD DR. SUITE B  
CLIVE, IA 50325

**Findings of Fact**

1. On June 28, 2021, PENDLETON LAND LLC C/O ALTERNATIVE EQUITY ADVISORS LLC (DAVE MUTH) filed an application to change the points of appropriation under Certificates 30636, 42976, 95919, AND 95268. The Department assigned the application number T-13757.
2. Notice of the application for transfer was published on July 13, 2021, pursuant to OAR 690-380-4000. No comments were filed in response to the notice.
3. On March 1, 2022, the Department mailed a copy of the draft Preliminary Determination proposing to deny Transfer Application T-13757 to the applicant. The draft Preliminary Determination cover letter set forth a deadline of March 31, 2022, for the applicant 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.
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4. On March 22, 2022, the agent for the applicant requested revisions to tables 1 and 2 of the application for Certificates 30636 and 95919, and agreeing to rate reduction of 50%, based on the basalt aquifer only, along with the necessary information to demonstrate that the applicant is authorized to pursue the transfer. The applicant requested that the completion date be extended to October 1, 2025, because of the length of time it will take due to supply chain issues and well construction back log. The Department grants the longer time for completion per OAR 690-380-5140(3).
5. On August 10, 2022, the Department mailed a copy of the REVISED draft Preliminary Determination proposing to approve Transfer Application T-13757 to the applicant. The draft Preliminary Determination cover letter set forth a deadline of September 9, 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.
6. The portion of the first right to be transferred is as follows:

**Certificate:** 30636 in the name of DOROTHY KELLY COCKBURN (perfected under Permit U-269)

**Use:** IRRIGATION OF 58.4 ACRES and SUPPLEMENTAL IRRIGATION OF 254.1 ACRES

**Priority Date:** MARCH 7, 1949

**Rate:** 1.85 CUBIC FEET 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, 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:** A WELL, a tributary of PINE CREEK (WALLA WALLA RIVER)

**Authorized Point of Appropriation:**

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
6 N	34 E	WM	35	NW NW	11 CHAINS SOUTH AND ¼ CHAIN EAST FROM THE NW CORNER OF SECTION 35

**Authorized Place of Use:**

IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
6 N	34 E	WM	26	NE NW	14.3
6 N	34 E	WM	26	NW NW	3.8
6 N	34 E	WM	26	SW NW	4.7
6 N	34 E	WM	26	SE NW	20.9

IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
6 N	34 E	WM	26	NE SW	8.2
6 N	34 E	WM	26	SW SW	0.5
6 N	34 E	WM	27	SE NE	3.7
6 N	34 E	WM	35	NW NW	2.3
TOTAL					58.4

SUPPLEMENTAL IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
6 N	34 E	WM	26	NE NW	18.9
6 N	34 E	WM	26	NW NW	35.8
6 N	34 E	WM	26	SW NW	24.5
6 N	34 E	WM	26	SE NW	12.0
6 N	34 E	WM	26	NE SW	7.0
6 N	34 E	WM	26	NW SW	36.8
6 N	34 E	WM	26	SW SW	36.5
6 N	34 E	WM	27	NE NE	35.8
6 N	34 E	WM	27	SE NE	34.7
6 N	34 E	WM	35	NW NW	12.1
TOTAL					254.1

7. Transfer Application T-13757 proposes to move the authorized point of appropriation approximately 141.9 feet from the existing point of appropriation to:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
6 N	34 E	WM	35	NW NW	WILLIAMS WELL #1 REPLACEMENT (WWR1 WELL) – 715 FEET SOUTH AND 161 FEET EAST FROM THE NW CORNER OF SECTION 35

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

**Certificate:** 42976 in the name of EUGENE M. KEY (perfected under Permit U-452)  
**Use:** IRRIGATION AND SUPPLEMENTAL IRRIGATION OF 80.0 ACRES  
**Priority Date:** MARCH 27, 1952  
**Rate:** 1.0 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 shall be 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 acre feet per acre for each acre irrigated during the irrigation season of each year.  
**Source:** WELL No. 1, a tributary of PINE CREEK (Walla Walla River)

**Authorized Point of Appropriation:**

Twp	Rng	Mer	Sec	Q-Q
6 N	34 E	WM	21	SE SW

**Authorized Place of Use:**

IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
6 N	34 E	WM	21	NE SW	16.2
6 N	34 E	WM	21	SE SW	2.1
TOTAL					18.3

SUPPLEMENTAL IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
6 N	34 E	WM	21	NE SW	23.8
6 N	34 E	WM	21	SE SW	37.9
TOTAL					61.7

9. Transfer Application T-13757 proposes to move the authorized point of appropriation approximately 918.4 feet from the existing point of appropriation to:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
6 N	34 E	WM	21	SW SE	REPLACEMENT WELL U-452 – 107 FEET NORTH AND 282 FEET EAST FROM THE 3/4 CORNER OF SECTION 21

10. The portion of the third right to be transferred is as follows:

**Certificate:** 95919 in the name of T.O. WILLIAMS AND ASSOCIATES C/O RAY WILLIAMS AND JOHN C. AND LINDA K. VANDREE (perfected under Permit G-13697)

**Use:** IRRIGATION of 195.6 ACRES, SUPPLEMENTAL IRRIGATION FROM BOTH AQUIFERS OF 33.0 ACRES, SUPPLEMENTAL IRRIGATION from the BASALT AQUIFER OF 91.8 ACRES, and SUPPLEMENTAL IRRIGATION TO MAKE UP A DEFICIENCY IN RATE OF 317.6 ACRES FROM BASALT AQUIFER

**Priority Date:** APRIL 20, 1998

**Rate/Duty:** 8.975 CUBIC FEET PER SECOND (CFS) measured at the wells as follows: 2.27 CFS FOR IRRIGATION, 0.412 CFS FOR SUPPLEMENTAL IRRIGATION FROM EITHER AQUIFER, 1.15 CFS SUPPLEMENTAL IRRIGATION FROM THE BASALT AQUIFER, AND 0.248 CFS FOR SUPPLEMENTAL IRRIGATION TO MAKE UP A DEFICIENCY IN RATE FROM THE BASALT AQUIFER. (FOR DEFICIENT RATE FROM THE BASALT AQUIFER DEFICIENCY SEE CERTIFICATES 30636 AND 30638) FURTHER LIMITED TO A MAXIMUM RATE OF 3.4025 CFS FROM BASALT WELLS: WILLIAMS WELLS 1, 3, AND 4

**Period of Use:** MARCH 1 THROUGH OCTOBER 31

**Source:** THREE WELLS in the SWARTZ SPRING CANYON AND PINE CREEK BASINS

**Authorized Points of Appropriation:**

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
6 N	34 E	WM	27	SE SE	WILLIAMS WELL 3 (UMAT 53567) – BASALT 970 FEET NORTH AND 5 FEET EAST FROM THE SW CORNER OF SECTION 26
6 N	34 E	WM	35	NW NW	WILLIAMS WELL 1 (UMAT 4178) – BASALT 670 FEET SOUTH AND 35 FEET EAST FROM THE NW CORNER OF SECTION 35

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
6 N	34 E	WM	35	SE NW	WILLIAMS WELL 4 (UMAT 4177) – BASALT 1290 FEET SOUTH AND 1710 FEET EAST FROM THE NW CORNER OF SECTION 35

**Authorized Place of Use:**

IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
6 N	34 E	WM	22	NE NE	24.9
6 N	34 E	WM	22	NW NE	15.0
6 N	34 E	WM	22	SW NE	15.9
6 N	34 E	WM	22	SE NE	16.8
6 N	34 E	WM	22	NE SE	20.7
6 N	34 E	WM	22	NW SE	9.1
6 N	34 E	WM	23	NE NW	13.4
6 N	34 E	WM	23	NW NW	15.5
6 N	34 E	WM	23	SW NW	36.7
6 N	34 E	WM	23	NW SW	5.6
6 N	34 E	WM	26	NE NW	1.6
6 N	34 E	WM	26	SW NW	4.8
6 N	34 E	WM	26	SE NW	2.2
6 N	34 E	WM	26	NE SW	7.4
6 N	34 E	WM	26	NW SW	4.5
6 N	34 E	WM	26	SW SW	1.0
6 N	34 E	WM	35	NW NW	0.5
TOTAL					195.6

SUPPLEMENTAL IRRIGATION FROM EITHER AQUIFER					
Twp	Rng	Mer	Sec	Q-Q	Acres
6 N	34 E	WM	22	NW NE	23.0
6 N	34 E	WM	22	SW NE	10.0
TOTAL					33.0

SUPPLEMENTAL IRRIGATION FROM BASALT AQUIFER					
Twp	Rng	Mer	Sec	Q-Q	Acres
6 N	34 E	WM	23	NW NW	1.6
6 N	34 E	WM	23	SW SW	37.3
6 N	34 E	WM	23	SE SW	38.4
6 N	34 E	WM	26	NE NW	8.0
6 N	34 E	WM	26	NE SW	3.5
6 N	34 E	WM	26	NW SW	0.4
6 N	34 E	WM	27	NE NE	2.2
6 N	34 E	WM	27	SE NE	0.4
TOTAL					91.8

SUPPLEMENTAL IRRIGATION FOR A DEFICIENCY FROM BASALT AQUIFER					
Twp	Rng	Mer	Sec	Q-Q	Acres
6 N	34 E	WM	26	NE NW	33.2
6 N	34 E	WM	26	NW NW	39.6
6 N	34 E	WM	26	SW NW	29.2
6 N	34 E	WM	26	SE NW	32.9
6 N	34 E	WM	26	NE SW	15.2
6 N	34 E	WM	26	NW SW	36.8
6 N	34 E	WM	26	SW SW	37.1
6 N	34 E	WM	27	NE NE	35.8
6 N	34 E	WM	27	SE NE	38.4
6 N	34 E	WM	35	NW NW	19.4
TOTAL					317.6

11. Transfer Application T-13757 proposes to move the point of appropriation of Williams Well 1 approximately 150.3 feet as follows:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
6 N	34 E	WM	35	NW NW	WILLIAMS WELL 1 REPLACEMENT (WW1R) BASALT – 715 FEET SOUTH AND 161 FET EAST FROM THE NW CORNER OF SECTION 35

12. The fourth water right to be transferred is as follows:

**Certificate:** 95268 in the name of PENDLETON LAND LLC (perfected under Permit G-15272)

**Use:** PRIMARY IRRIGATION OF 4.6 ACRES AND SUPPLEMENTAL IRRIGATION OF 1197.8 ACRES

**Priority Date:** AUGUST 10, 2001

**Rate:** 10.98 CUBIC FEET PER SECOND (CFS), BEING NO MORE THAN 3.79 CFS FROM WELL 1, 2.10 CFS FROM WELL 4, 3.75 CFS FROM WELL 8, AND 1.34 CFS FROM WELL U 452

**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 for each acre irrigated during the irrigation season of each year.

**Period of Use:** MARCH 1 THROUGH OCTOBER 31

**Source:** FOUR WELLS IN PINE CREEK BASIN

**Authorized Points of Appropriation:**

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
6 N	34 E	WM	21	SE NW	WELL 4 - 85 FEET NORTH AND 40 FEET WEST FROM THE C1/4 CORNER OF SECTION 21
6 N	34 E	WM	21	SW NW	WELL 8 - 125 FEET NORTH AND 90 FEET EAST FROM THE W1/4 CORNER OF SECTION 21
6 N	34 E	WM	21	SE SW	WELL U-452 - 690 FEET NORTH AND 420 FEET WEST FROM THE S1/4 CORNER OF SECTION 21

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
6 N	34 E	WM	28	SW NE	WELL 1 - 2130 FEET SOUTH AND 2930 FEET EAST FROM THE NW CORNER OF SECTION 28

**Authorized Place of Use:**

IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
6 N	34 E	WM	28	SW NE	4.6

SUPPLEMENTAL IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
6 N	34 E	WM	20	SW NW	0.2
6 N	34 E	WM	20	SE NW	0.2
6 N	34 E	WM	20	NE SW	25.2
6 N	34 E	WM	20	NW SW	35.5
6 N	34 E	WM	20	SW SW	39.1
6 N	34 E	WM	20	SE SW	35.1
6 N	34 E	WM	20	NW SE	5.1
6 N	34 E	WM	20	SW SE	36.0
6 N	34 E	WM	20	SE SE	15.8
6 N	34 E	WM	21	NE SW	40.0
6 N	34 E	WM	21	NW SW	40.0
6 N	34 E	WM	21	SW SW	37.4
6 N	34 E	WM	21	SE SW	38.2
6 N	34 E	WM	21	NW SE	1.4
6 N	34 E	WM	21	SW SE	4.9
6 N	34 E	WM	28	NW NE	6.9
6 N	34 E	WM	28	SW NE	4.3
6 N	34 E	WM	28	NE NW	39.0
6 N	34 E	WM	28	NW NW	36.1
6 N	34 E	WM	28	SW NW	39.8
6 N	34 E	WM	28	SE NW	37.3
6 N	34 E	WM	28	NE SW	41.1
6 N	34 E	WM	28	NW SW	26.9
6 N	34 E	WM	28	SW SW	27.9
6 N	34 E	WM	28	SE SW	31.7
6 N	34 E	WM	28	NW SE	10.2
6 N	34 E	WM	28	SW SE	10.9
6 N	34 E	WM	29	NE NE	29.2
6 N	34 E	WM	29	NW NE	39.1
6 N	34 E	WM	29	SW NE	38.9
6 N	34 E	WM	29	SE NE	34.2
6 N	34 E	WM	29	NE NW	39.1
6 N	34 E	WM	29	SW NW	14.0
6 N	34 E	WM	29	SE NW	38.8
6 N	34 E	WM	29	NE SW	40.7
6 N	34 E	WM	29	NW SW	40.0
6 N	34 E	WM	29	SW SW	39.1
6 N	34 E	WM	29	SE SW	39.3
6 N	34 E	WM	29	NE SE	31.9

SUPPLEMENTAL IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
6 N	34 E	WM	29	NW SE	41.3
6 N	34 E	WM	29	SW SE	33.5
6 N	34 E	WM	29	SE SE	32.5
TOTAL					1197.8

13. Transfer Application T-13757 proposes to move the authorized points of appropriation of Well 4 and U-452 to:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances	Approximate Distance from Authorized Points of Appropriation in Miles (mi.), except where noted, in Feet (ft.)			
						WELL 4	WELL 8	WELL U-452	WELL 1
6 N	34 E	WM	21	SW NE	REPLACEMENT WELL 4 (R-4) - 147 FEET NORTH AND 179 FEET WEST FROM THE C1/4 CORNER OF SECTION 21	214.3 ft.	0.54 mi.	0.43 mi.	0.96 mi.
6 N	34 E	WM	21	SW NE	REPLACEMENT WELL U-452 (R-U-452) - 107 FEET NORTH AND 282 FEET EAST FRO THE SOUTH ¼ CORNER OF SECTION 21	0.52 mi.	0.77 mi.	0.18 mi.	0.42 mi.

14. On January 5, 2022, the Department determined the proposed points of appropriation (POA) under Certificates 30636 and 95919 will not develop the same aquifers (sources) as the existing authorized POA UMAT 4178, Williams Well 1.

UMAT 4178 commingles multiple aquifers, while the other wells in this transfer have a single aquifer completion. The well log for UMAT 4178 reports casing to 60 feet and the presence of a seal is unknown. Top of basalt is reported at 75 feet and basalt extends to the bottom of the well. The amended application proposes a replacement well for UMAT 4178 that is continuously cased and continuously sealed into a single basalt aquifer. A portion of UMAT 4178 accesses the same aquifer.



Basalt wells produce from one or more water-bearing zones in the Columbia River Basalt Group (CRBG), a series of lava flows with a composite thickness greater than 10,000 feet in the Columbia Plateau. Each flow is characterized by a series of internal features, which generally include a thin rubble zone at the contact between flows and a thick, dense, low porosity and low permeability interior zone. In some cases, sedimentary layers were deposited during the time between basalt flow emplacements. A flow top, sedimentary interbed (if present) and flow bottom are collectively referred to as an interflow zone. Unconfined groundwater occurs near the weathered top of the basalts, but most water occurs in interflow zones under confining conditions at the contacts between lava flows. CRBG flow features result in a series of stacked, thin aquifers that are confined by dense flow interiors. The low permeability of the basalt flow interiors usually results in little connection between stacked aquifers, which results in tabular aquifers with unique water level heads (Reidel et al., 2002).

Constructing a well that is open to multiple water-bearing zones with distinct water level heads commingles multiple aquifers. When the pump is off, water migrates through the well bore from an aquifer of higher pressure to an aquifer of lower pressure. Over time, this can depressurize the aquifer and exacerbates water level decline. Well construction conditions are specified to protect the resource and other existing users.

The water level at UMAT 4178 increases on the order of 50 feet in elevation when there is water in Pine Creek, which is located within 20 feet of this well. Other nearby basalt wells show a total seasonal range of 20 feet between annual highs and low (see UMAT 4179, UMAT 58119, UMAT 4167, UMAT 5529). The large increase in water level elevation at UMAT 4178 and the presence of gravel below the bottom of the casing indicates there is an efficient connection between this well and both a sedimentary and basalt aquifer.

15. Because UMAT 4178 develops at least two aquifers, it will need to be abandoned and replaced by a basalt well that meets current well construction standards. 50% of the water right and annual volume associated with UMAT 4178 is transferrable to the new basalt point of appropriation.

***Transfer Review Criteria (OAR 690-380-4010)***

16. 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.
17. 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-12425.
18. The proposed change would not result in enlargement of the rights.
19. The proposed change would not result in injury to other water rights.
20. All other application requirements are met.

## **Determination and Proposed Action**

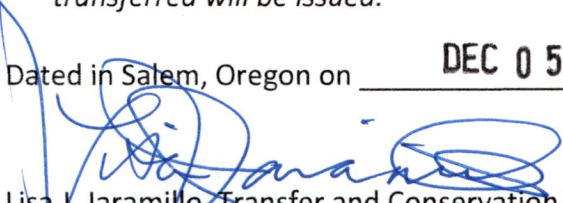
The changes in points of appropriation proposed in Transfer Application T-13757 appear to be consistent with the requirements of ORS 537.705 and 540.505 to 540.580 and OAR 690-380-5000. If protests are not filed pursuant to OAR 690-380-4030, the application will be approved.

*If transfer Application T-13757 is approved, the final order will include the following:*

- 1) The changes in points of appropriation proposed in Transfer Application T-13757 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 30636, 42976, 95919, 95268, and any related decree.*
- 3) Water right Certificates 30636, 42976, 95919, and 95268 are cancelled. New certificates will be issued describing those portions of the rights, Certificates 30636 and 95919, not affected by this transfer.*
- 4) Under Certificate 30636, the quantity of water diverted at the new point of appropriation (WWR1), shall not exceed 50% of the quantity of water lawfully available at the original point of appropriation (WW1).*
- 5) Under Certificate 42976, the quantity of water diverted at the new point of appropriation (Well R-U-452), shall not exceed the quantity of water lawfully available at the original point of appropriation (Well U-452).*
- 6) Under Certificate 95919, the quantity of water diverted at the new point of appropriation (WW1R), shall not exceed 50% of the quantity of water lawfully available at the original point of appropriation (WW1).*
- 7) Under Certificate 95268, the quantity of water diverted at the new points of appropriation (R-4 and R-U-452), shall not exceed the quantity of water lawfully available at the original points of appropriation (Well 4 and Well U-452).*
- 8) A basalt well drilled to replace UMAT 4178 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 may be approved by the Department if the applicant can demonstrate to the satisfaction of the Department that each well is only open to a single aquifer. Following well completion, the well shall be thoroughly developed to remove cuttings and drilling fluids. Substantial evidence of a single aquifer completion may be collected by video log, downhole flowmeter, water chemistry and temperature, or other downhole geophysical methods approved by the Department. These methods shall characterize the basalt rock and assess whether water is moving in the borehole. Any discernable movement of water within the well bore when the well is not being pumped shall be assumed as evidence of the presence of multiple aquifers in the open interval.*

- 9) *Drill cuttings shall be collected at 10-foot intervals and at changes in formation in the well and a split of each sampled interval shall be provided to the Department.*
- 10) *The water user shall only obtain water from the basalt source.*
- 11) *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.*
- 12) *Water shall be acquired from the same aquifer (water source) as the original points of appropriation.*
- 13) *Under the right described by Certificate 95919, water shall be acquired only from the basalt aquifer.*
- 14) *Full beneficial use of the water shall be made, consistent with the terms of this order, on or before **October 1, 2025**. 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.*
- 15) *After satisfactory proof of beneficial use is received, new certificates confirming the rights transferred will be issued.*

Dated in Salem, Oregon on DEC 05 2022

  
Lisa J. Jaramillo, Transfer and Conservation Section Manager, for  
DOUGLAS E. WOODCOCK, ACTING 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](mailto:tamera.l.smith@water.oregon.gov)

*Protests should be addressed to the attention of Water Rights 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.



**Oregon**  
Kate Brown, Governor

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

December 5, 2022

VIA CERTIFIED MAIL AND E-MAIL

PENDLETON LAND LLC  
C/O ALTERNATIVE EQUITY ADVISORS LLC  
DAVID MUTH  
12119 STRATFORD DR. SUITE B  
CLIVE, IA 50325

SUBJECT: Water Right Transfer Application T-13757

Please find enclosed the Preliminary Determination indicating that, based on the information available, the Department intends to approve application T-13757. 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 East Oregonian 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 [tamera.l.smith@water.oregon.gov](mailto:tamera.l.smith@water.oregon.gov) if I may be of assistance.

Kindest regards,



Transfer Caseworker  
Transfer and Conservation Section

cc: Transfer application file T-13757  
Greg Silbernagel, District 23 Watermaster (*via e-mail*)  
Molly Reid, Agent for the applicant (*via e-mail*)

encs