

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

In the Matter of Transfer Application)
T-13950, Deschutes County) PRELIMINARY DETERMINATION
) 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

OREGON WATER UTILITIES - CLINE BUTTE INC.
JORGE LOPEZ, PE
1325 N GRAND AVE, SUITE 100
COVINA, CA 91724-4044

Findings of Fact

1. On March 23, 2022, OREGON WATER UTILITIES - CLINE BUTTE INC. / JORGE LOPEZ, PE, filed an application for an additional point of appropriation under Certificate 96053. The Department assigned the application number T-13950.
2. Notice of the application for transfer was published on April 5, 2022, pursuant to OAR 690-380-4000. No comments were filed in response to the notice.
3. On January 5, 2023, the Department sent a copy of the draft Preliminary Determination proposing to approve Transfer Application T-13950 to the applicant. The draft Preliminary Determination cover letter set forth a deadline of February 4, 2023, 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.

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. The right to be transferred is as follows:

Certificate: 96053 in the name of OREGON WATER UTILITIES CLINE BUTTE, INC.
(perfected under Permit G-11762)

Use: QUASI-MUNICIPAL USE

Priority Date: MAY 4, 1992

Rate: 3.0 CUBIC FEET PER SECOND

Source: FOUR WELLS (WELLS 6, 7, 8 AND 9) in the DESCHUTES BASIN

Authorized Points of Appropriation:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
15 S	12 E	WM	14	NW SW	WELL 8 - 1404 FEET NORTH AND 281 FEET EAST FROM THE SW CORNER OF SECTION 14
15 S	12 E	WM	15	SW SE	WELL 6 - 966 FEET NORTH AND 1817 FEET WEST FROM THE SE CORNER OF SECTION 15
15 S	12 E	WM	15	SW SE	WELL 7 - 930 FEET NORTH AND 1819 FEET WEST FROM THE SE CORNER OF SECTION 15
15 S	12 E	WM	16	NE NE	WELL 9 - 204 FEET SOUTH AND 476 FEET WEST FROM THE NE CORNER OF SECTION 16

Authorized Place of Use:

QUASI-MUNICIPAL USE				
Twp	Rng	Mer	Sec	Q-Q
15 S	12 E	WM	13	SW SW
15 S	12 E	WM	14	NE NW
15 S	12 E	WM	14	NW NW
15 S	12 E	WM	14	SW NW
15 S	12 E	WM	14	SE NW
15 S	12 E	WM	14	NE SW
15 S	12 E	WM	14	NW SW
15 S	12 E	WM	14	SW SW
15 S	12 E	WM	14	SE SW
15 S	12 E	WM	14	NE SE
15 S	12 E	WM	14	NW SE
15 S	12 E	WM	14	SW SE
15 S	12 E	WM	14	SE SE
15 S	12 E	WM	15	SW NE
15 S	12 E	WM	15	SE NE
15 S	12 E	WM	15	NE SE
15 S	12 E	WM	15	NW SE
15 S	12 E	WM	15	SW SE

QUASI-MUNICIPAL USE				
Twp	Rng	Mer	Sec	Q-Q
15 S	12 E	WM	15	SE SE
15 S	12 E	WM	22	NE NE
15 S	12 E	WM	22	NW NE
15 S	12 E	WM	22	SE NE
15 S	12 E	WM	23	NE NE
15 S	12 E	WM	23	NW NE
15 S	12 E	WM	23	SW NE
15 S	12 E	WM	23	SE NE
15 S	12 E	WM	23	NE NW
15 S	12 E	WM	23	NW NW
15 S	12 E	WM	23	SW NW
15 S	12 E	WM	23	SE NW
15 S	12 E	WM	23	NE SE
15 S	12 E	WM	23	NW SE
15 S	12 E	WM	24	NW NW
15 S	12 E	WM	24	SW NW
15 S	12 E	WM	24	NW SW
15 S	12 E	WM	24	SW SW

5. Transfer Application T-13950 proposes an additional point of appropriation with approximate distances as described below:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances	Distance from Authorized Wells in Feet (ft.)	
15 S	12 E	WM	16	NE NE	WELL 10 - 247 FEET SOUTH AND 476 FEET WEST FROM THE NE CORNER OF SECTION 16	WELL 6	5600 ft.
						WELL 7	5600 ft.
						WELL 8	5700 ft.
						WELL 9	40 ft.

Transfer Review Criteria (OAR 690-380-4010)

6. 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.
7. A pump and pipeline 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-13950.
8. The proposed change would not result in enlargement of the right.
9. The proposed change would not result in injury to other water rights.
10. All other application requirements are met.

Determination and Proposed Action

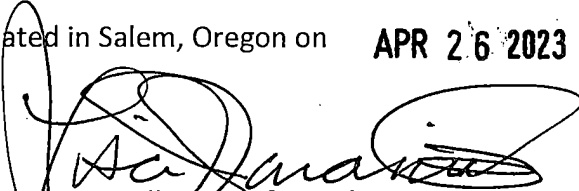
The additional point of appropriation proposed in Transfer Application T-13950 appears to be consistent with the requirements of ORS 537.705 and 540.505 to 540.580 and OAR 690-380-5000. If protests are not filed pursuant to OAR 690-380-4030, the application will be approved.

If Transfer Application T-13950 is approved, the final order will include the following:

1. *The additional point of appropriation proposed in Transfer Application T-13950 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 96053 and any related decree.*
3. *Water right Certificate 96053 is cancelled.*
4. *The quantity of water diverted at the additional point of appropriation (Well 10), together with that diverted at the original points of appropriation (Wells 6, 7, 8, and 9), shall not exceed the quantity of water lawfully available at the original points of appropriation (Wells 6, 7, 8, and 9).*

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.*
 - 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. *Full beneficial use of the water shall be made, consistent with the terms of this order, on or before **October 1, 2028**. 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.*
8. *After satisfactory proof of beneficial use is received, a new certificate confirming the right transferred will be issued.*

Dated in Salem, Oregon on **APR 26 2023**


Lisa J. Jaramillo, Transfer and Conservation Section Manager, for
DOUGLAS E. WOODCOCK, ACTING DIRECTOR
Oregon Water Resources Department

This Preliminary Determination was prepared by Scott Grew. If you have questions about the information in this document, you may reach him at scott.a.grew@water.oregon.gov or 503-986-0890.

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.



Oregon

Tina Kotek, Governor

April 26, 2023

VIA CERTIFIED MAIL AND E-MAIL

Water Resources Department

North Mall Office Building

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Applicant

OREGON WATER UTILITIES - CLINE BUTTE INC.

JORGE LOPEZ, PE

1325 N GRAND AVE, SUITE 100

COVINA, CA 91724-4044

SUBJECT: Water Right Transfer Application T-13950

Please find enclosed the Preliminary Determination indicating that, based on the information available, the Department intends to approve application T-13950. 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 contact me at scott.a.grew@water.oregon.gov or 503-986-0890 if I may be of assistance.

Sincerely,

Scott Grew

Transfer Specialist

cc: T-13950
Jeremy T. Giffin, District 11 Watermaster (via e-mail)
Niall Boggs, Agent for the applicant (via e-mail)

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