

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

In the Matter of Transfer Application)
T-12401, Deschutes County)
)
)
)

FINAL ORDER APPROVING A
CHANGE IN POINT OF
APPROPRIATION AND A CHANGE IN
PLACE OF USE

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

JIM AND KELLY LANZAROTTA
2930 SUMMIT SKY BLVD
EUGENE, OR 97405

Findings of Fact

1. On May 31, 2016, JIM AND KELLY LANZAROTTA filed an application to change the point of appropriation and place of use under Certificate 89498. The Department assigned the application number T-12401.
2. Notice of the application for transfer was published on June 7, 2016, pursuant to OAR 690-380-4000. No comments were filed in response to the notice.
3. On September 16, 2016, Transfer Application T-12478 was filed. This transfer modifies the same right, described by Certificate 89498, that has been proposed to be modified in T-12478. Certificate 89498 shall be cancelled after both transfer applications are processed.
4. On March 8, 2017, the Department sent a copy of the draft Preliminary Determination proposing to approve Transfer Application T-12401 to the applicants. The draft Preliminary Determination cover letter set forth a deadline of April 7, 2017, for the applicants to respond. The applicants requested that the Department proceed with issuance of a Preliminary Determination on March 15, 2017, and provided the necessary information to demonstrate that the applicants are authorized to pursue the transfer.

This final order is subject to judicial review by the Court of Appeals under ORS 183.482. Any petition for judicial review must be filed within the 60-day time period specified by ORS 183.482(1). Pursuant to ORS 536.075 and OAR 137-003-0675, you may petition for judicial review or petition the Director for reconsideration of this order. A petition for reconsideration may be granted or denied by the Director, and if no action is taken within 60 days following the date the petition was filed, the petition shall be deemed denied.

5. On April 11, 2017, the Department issued a Preliminary Determination proposing to approve Transfer T-12401 and mailed a copy to the applicant. Additionally, notice of the Preliminary Determination for the transfer application was published on the Department's weekly notice on April 18, 2017, and in the Bend Bulletin newspaper on April 15 and 22, 2017 pursuant to ORS 540.520 and OAR 690-380-4020. No protests were filed in response to the notice.
6. The portion of the right to be transferred is as follows:

Certificate: 89498 in the name of ERIC VETTERLEIN/DESERT SPRINGS RANCH LIMITED PARTNERSHIP (perfected under Permit G-8846)
Use: IRRIGATION OF 8.0 ACRES
Priority Date: MARCH 4, 1980
Rate: 0.1 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, is limited to a diversion of ONE-EIGHTIETH of one cubic foot per second, 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 within the DEEP CANYON BASIN

Authorized Point of Appropriation:

Twp	Rng	Mer	Sec	Q-Q	GLot	Measured Distances
15 S	11 E	WM	19	SW SW	4	1200 FEET NORTH AND 450 FEET EAST FROM THE SW CORNER OF SECTION 19

Authorized Place of Use:

IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
15 S	11 E	WM	20	NW SE	8.0

7. Transfer Application T-12401 proposes to move the authorized point of appropriation approximately 3.6 miles from the existing point of appropriation to:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
15 S	11 E	WM	5	SE NW	355 FEET NORTH AND 276 FEET WEST FROM THE C1/4 CORNER OF SECTION 5

8. Transfer Application T-12401 also proposes to change the place of use of the right to:

IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
15 S	11 E	WM	5	SW NE	4.1
15 S	11 E	WM	5	SE NW	2.7
15 S	11 E	WM	5	SE NW	0.1
15 S	11 E	WM	5	NE SW	0.6
15 S	11 E	WM	5	NW SE	0.5
Total					8.0

Transfer Review Criteria (OAR 690-380-4010)

9. 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.
10. 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-12401.
11. The proposed changes would not result in enlargement of the right.
12. The proposed changes would not result in injury to other water rights.
13. All other application requirements are met.

Conclusions of Law

The change in point of appropriation and change in place of use proposed in Transfer Application T-12401 are consistent with the requirements of ORS 537.705 and 540.505 to 540.580 and OAR 690-380-5000.

Now, therefore, it is ORDERED:

1. The change in point of appropriation and change in place of use proposed in Transfer Application T-12401 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 89498 and any related decree.
3. Water right Certificate 89498 is modified and will be cancelled upon approval or denial of T-12478. 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 new 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 new point of appropriation.
 - b. The water user shall maintain the meter or measuring device in good working order.
 - c. The water user shall allow the Watermaster access to the meter or measuring device; provided however, where the meter or measuring device is 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. 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, 2022**. 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 at Salem, Oregon this 24 day of May 2017.



Dwight French, Water Right Services Administrator, for
Thomas M. Byler, Director
Oregon Water Resources Department

Mailing date: MAY 27 2017