

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

In the Matter of Transfer Application)	FINAL ORDER APPROVING TEMPORARY
T-14289, Lane County)	CHANGES IN PLACES OF USE AND POINTS
)	OF APPROPRIATION

Authority

Oregon Revised Statute (ORS) 537.705 and 540.505 to 540.580 establish the process in which a water right holder may submit a request to temporarily transfer the place of use and, if necessary to convey the water to the temporary place of use, the point of appropriation authorized under an existing water right. Oregon Administrative Rule (OAR) Chapter 690, Division 380 implements the statutes and provides the Department's procedures and criteria for evaluating transfer applications.

Applicant

RONALD MAJOR DEFOE
90751 PRAIRIE RD
EUGENE, OR 97402

Findings of Fact

1. On July 31, 2023, Ronald Major Defoe filed an application to temporarily change the place of use and change the points of appropriation to serve the proposed place of use under Certificate 38463 for a period of 5 years. The Department assigned the application number T-14289.
2. Notice of the application for transfer was published on August 8, 2023, pursuant to OAR 690-380-4000.
3. The portion of the right to be transferred is as follows:

Certificate:	38463 in the name of GORDON ELLIOTT (perfected under Permit G-3413)
Use:	IRRIGATION of 53.0 ACRES
Priority Date:	APRIL 5, 1967
Rate:	0.66 CUBIC FOOT PER SECOND BEING 0.52 CUBIC FOOT PER SECOND FROM WELL NO. 1 AND 0.14 CUBIC FOOT PER SECOND FROM WELL NO. 2

This is a final order in other than a contested case. This order is subject to judicial review under ORS 183.484. Any petition for judicial review must be filed within the 60-day time period specified by ORS 183.484(2). Pursuant to ORS 536.075 and OAR 137-004-0080, 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.

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 2.5 acre feet per acre for each acre irrigated during the irrigation season of each year.

Source: TWO WELLS, a tributary of WILLAMETTE RIVER

Authorized Points of Appropriation:

TwP	Rng	Mer	Sec	Q-Q	Measured Distances
17 S	4 W	WM	3	NW NE	WELL 1 - 1030 FEET SOUTH AND 1980 FEET WEST FROM THE NE CORNER OF M. SCOTT DLC 40
17 S	4 W	WM	3	NE NW	WELL 2 - 1030 FEET SOUTH AND 1160 FEET WEST FROM THE NE CORNER OF M. SCOTT DLC 40

Authorized Place of Use:

IRRIGATION								
TwP	Rng	Mer	Sec	Q-Q	GLot	DLC	Acres Well 1	Acres Well 2
16 S	4 W	WM	34	SE SW		40	11.5	
17 S	4 W	WM	3	NW NE		56		11.5
17 S	4 W	WM	3	NE NW		56	29.7	
17 S	4 W	WM	3	NE NW	4		0.3	
						Sub-Total	41.5	11.5
						Total	53.0	

4. Temporary Transfer Application T-14289 proposes to temporarily change the place of use of the right to:

IRRIGATION							
TwP	Rng	Mer	Sec	Q-Q	DLC	Acres	POA
16 S	4 W	WM	34	SE NE	43	5.9	WELL H
16 S	4 W	WM	34	NE SW	41	3.8	WELL G
16 S	4 W	WM	34	NE SE	43	16.1	WELL H
16 S	4 W	WM	35	SW NW	43	8.3	WELL H
16 S	4 W	WM	35	NW SW	43	11.6	WELL H
17 S	4 W	WM	4	NE NE		7.3	WELL O
					Total	53.0	

5. A change in points of appropriation is necessary to convey the water to the proposed temporary place of use. Temporary Transfer Application T-14289 proposes to move the authorized points of appropriation with approximate distances as described below:

TwP	Rng	Mer	Sec	Q-Q	DLC	Measured Distances	Distance from Authorized Well in Miles (mi.)
16 S	4 W	WM	34	NE SW	41		W1 – 0.45 mi. N

Twp	Rng	Mer	Sec	Q-Q	DLC	Measured Distances	Distance from Authorized Well in Miles (mi.)
						WELL G – 1400 FEET NORTH AND 220 FEET WEST FROM THE SOUTH 1/4 CORNER OF SECTION 34	W2 – 0.48 mi. NW
16 S	4 W	WM	35	NW SW	43	WELL H – 790 FEET SOUTH AND 590 FEET EAST FROM THE WEST 1/4 CORNER OF SECTION 35	W1 – 0.87 mi. NE
							W2 – 0.76 mi. NE
17 S	4 W	WM	4	NE NE		WELL O – 320 FEET SOUTH AND 350 FEET WEST FROM THE NE CORNER OF SECTION 4	W1 – 0.52 mi. W
							W2 – 0.68 mi. W

Temporary Transfer Review Criteria

6. Water has been used within the last five years according to the terms and conditions of the right. There is no evidence available that would demonstrate that the right is subject to forfeiture under ORS 540.610.
7. A pump, pipeline, and sprinkler system sufficient to use the full amount of water allowed under the existing right are present.
8. The proposed changes would prevent the lands from which the water right is removed during the period of the temporary transfer from receiving water under the transferred right, as required by ORS 540.523(7).
9. The proposed changes would not result in injury to other water rights. This finding is made through an abbreviated review recognizing that the transfer may be revoked under ORS 540.523(5) if the Department later finds that the transfer is causing injury to any existing water right.

Conclusions of Law

The temporary changes in place of use and points of appropriation to serve the temporary place of use proposed in Temporary Transfer Application T-14289 are consistent with the requirements of ORS 540.523 and OAR 690-380-8000.

Now, therefore, it is ORDERED:

1. The temporary changes in place of use and change in points of appropriation to serve the temporary place of use proposed in Temporary Transfer Application T-14289 are approved.
2. The former place of use **shall not** be irrigated as part of this water right during the 2024, 2025, 2026, 2027 and 2028 irrigation seasons.
3. The use shall revert to the authorized place of use at the end of the 2028 irrigation season. The authorization to use the temporary points of appropriation shall be terminated concurrently.

4. The approval of this temporary transfer may be revoked or modified if the Department finds the changes cause injury to any existing water right.
5. The quantity of water diverted at the proposed temporary points of appropriation (Wells G, H, and O) shall not exceed the quantity of water lawfully available at the original points of appropriation (Wells 1 and 2).
6. A subsequent application for permanent transfer of Certificate 38463 shall be subject to a full and complete review to determine consistency with the requirements of OAR Chapter 690, Division 380. Approval of this temporary transfer does not establish a precedent for approval of a subsequent application filed for a permanent transfer.
7. The use of water at the temporary place of use authorized by this transfer shall be in accordance with the terms and conditions of Certificate 38463.
8. The time during which water is used under this approved temporary transfer does not apply toward a finding of forfeiture under ORS 540.610.
9. 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 with the exception that water rights issued to the Bureau of Reclamation or an irrigation district (or similar entity) are not subject to this condition.
 - 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.
10. The use of the remaining water right described by Certificate 38463 shall continue to be in accordance with the terms and conditions of Certificate 38463.

Dated in Salem, Oregon on **APR 12 2024**



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

Mailing Date: **APR 15 2024**