

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

In the Matter of Transfer Application) FINAL ORDER APPROVING
T-13642, Douglas County) AN ADDITIONAL POINT OF DIVERSION

Authority

Oregon Revised Statutes (ORS) 540.505 to 540.580 establish the process in which a water right holder may submit a request to transfer the point of diversion, 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

RICK NEAL
PO BOX 861
WINCHESTER, OR 97495

Findings of Fact

1. On February 25, 2021, RICK NEAL filed an application for an additional point of diversion under Certificate 87856. The Department assigned the application number T-13642.
2. Notice of the application for transfer was published on March 23, 2021, pursuant to OAR 690-380-4000. No comments were filed in response to the notice.
3. On April 11, 2022, the Department mailed a copy of the draft Preliminary Determination proposing to approve Transfer Application T-13642 to the applicant. The draft Preliminary Determination cover letter set forth a deadline of May 11, 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. On September 22, 2022, the Department issued a Preliminary Determination proposing to approve Transfer T-13642 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 September 27, 2022, pursuant to ORS 540.520 and OAR 690-380-4020. No protests were filed in response to the notice.

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. The right to be transferred is as follows:

Certificate: 87856 in the name of PETER J. PON (perfected under Permit S-24057)
Use: IRRIGATION of 43.48 ACRES
Priority Date: FEBRUARY 15, 1956
Rate: 0.545 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 2.5 acre-feet per acre for each acre irrigated during the irrigation season of each year.
Source: NORTH UMPQUA RIVER, a tributary to the UMPQUA RIVER

Authorized Point of Diversion:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
26 S	6 W	WM	27	SW NE	AS PROJECTED WITH HANNON DLC 42

Authorized Place of Use:

Twp	Rng	Mer	Sec	Q-Q	DLC	Acres
26 S	6 W	WM	27	SW NE	42	8.0
26 S	6 W	WM	27	SE NW	42	20.68
26 S	6 W	WM	27	NE SW	42	14.0
26 S	6 W	WM	27	NW SE	42	0.8
Total						43.48

6. Certificate 87856 does not describe the measured distance of the location of the authorized point of diversion; however, the applicant provided information in Transfer Application T-13642 that describes the measured distance as follows:

Twp	Rng	Mer	Sec	Q-Q	DLC	Measured Distances
26 S	6 W	WM	27	SW NE	42	POD #1 - 2610 FEET SOUTH AND 400 FEET EAST FROM THE N1/4 CORNER OF SECTION 27

7. Transfer Application T-13642 proposes an additional point of diversion approximately 275 feet downstream to:

Twp	Rng	Mer	Sec	Q-Q	DLC	Measured Distances
26 S	6 W	WM	27	SW NE	42	POD #2 - 2540 FEET NORTH AND 2947 FEET EAST FROM THE SW CORNER OF SECTION 27

8. The Oregon Department of Fish and Wildlife (ODFW) has determined that a fish screen is necessary at the new point of diversion to prevent fish from entering the diversion and that the diversion is not currently equipped with an appropriate fish screen. This diversion may be eligible for screening cost-share funds.

Transfer Review Criteria [OAR 690-380-4010(2)]

9. Water has been used within the last five years
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-13642.
11. The proposed change would not result in enlargement of the right.
12. The proposed change would not result in injury to other water right.
13. All other application requirements are met.

Determination and Proposed Action

The additional point of diversion proposed in Transfer Application T-13642 is consistent with the requirements of ORS 540.505 to 540.580 and OAR 690-380-5000.

Now, therefore, it is ORDERED:

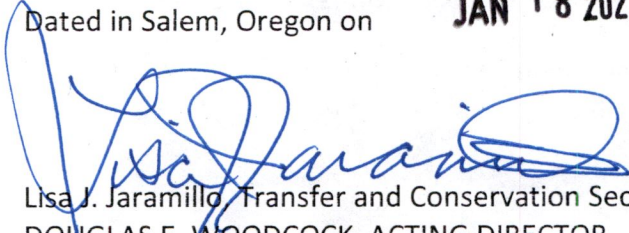
1. The additional point of diversion proposed in Transfer Application T-13642 is approved.
2. The right to the use of the water is restricted to beneficial use at the place of use described and is subject to all other conditions and limitations contained in Certificate 87856 and any related decree.
3. Water right Certificate 87856 is cancelled.
4. The quantity of water diverted at the additional point of diversion (POD #2), together with that diverted at the original point of diversion (POD #1), shall not exceed the quantity of water lawfully available at the original point of diversion (new and existing).
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 diversion.
 - 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. Prior to diverting water, the water user shall install an approved fish screen at the new point of diversion and shall provide to the OWRD a written statement from Oregon Department of Fish and Wildlife (ODFW) that the installed screen meets the state's criteria, or that ODFW has determined a screen is not necessary.

The water user shall operate and maintain the fish screen at the new point of diversion consistent with ODFW's operational and maintenance standards. If ODFW determines the screen is not functioning properly and is unsuccessful in working with the water user to meet ODFW standards, ODFW may request that OWRD regulate the use of water until OWRD receives notification from ODFW that the fish screen is functioning properly.

7. Full beneficial use of the water shall be made, consistent with the terms of this order, on or before **October 1, 2024**. 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 **JAN 18 2023**



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

Mailing date: **JAN 18 2023**