

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

| | | |
|---------------------------------------|---|-------------------------------------|
| In the Matter of Transfer Application |) | FINAL ORDER APPROVING A CHANGE IN |
| T-13404, Malheur County |) | POINTS OF DIVERSION AND A CHANGE IN |
| |) | PLACES OF USE |

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

CHRISTOPHER JAMES RAY AND ANNA R. RAY
6144 MOLTHAN RANCH RD
IRONSIDE, OR 97908

Findings of Fact

1. On April 6, 2020, CHRISTOPHER JAMES RAY AND ANNA R. RAY filed an application to change the places of use under Certificates 33312 and 56243, and for additional points of diversion and to change the places of use under Certificates 48389 and 56242. The Department assigned the application number T-13404.
2. Notice of the application for transfer was published on April 28, 2020, pursuant to OAR 690-380-4000. No comments 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.

3. On December 10, 2020, the Department mailed a copy of the draft Preliminary Determination proposing to deny Transfer Application T-13404 to the applicant. The draft Preliminary Determination cover letter set forth a deadline of January 11, 2021, for the applicant to respond.
4. On December 29, 2020, the Department identified a condition requiring a headgate was not included in the draft Preliminary Determination issued on December 10, 2020. The Department determined that a revised draft Preliminary Determination should be issued.
5. On January 28, 2021, the Department mailed a copy of the revised draft Preliminary Determination proposing to deny Transfer Application T-13404 to the applicants. The draft Preliminary Determination cover letter set forth a deadline of March 1, 2021, for the applicants to respond. The applicants 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. On February 16, 2021, the Department received a request from the applicant to pursue a recommendation for Consent to Injury through the Oregon Department of Fish and Wildlife (ODFW).
7. On March 18, 2021, the Department issued a Preliminary Determination proposing to deny Transfer T-13404 and mailed a copy to the applicants. Additionally, notice of the Preliminary Determination for the transfer application was published on the Department's weekly notice on March 23, 2021, pursuant to ORS 540.520 and OAR 690-380-4020. No protests were filed in response to the notice.
8. On April 19, 2021, a request was sent to ODFW for a recommendation for consent to injury of the instream water right Certificate 73354.
9. On May 26, 2022, a recommendation for consent to injury to instream water right Certificate 73354 was received from ODFW. ODFW recommended that the Department consent to the injury with the following conditions:
 - a) ODFW recommends the transfer applicant comply with terms of the associated Mitigation Plan to minimize detrimental impacts to fish, wildlife, and/or their habitat. ODFW understands that the mitigation and following conditions will be fully incorporated into the requirements of the new certificate and may only be altered by written mutual agreement of all parties. ODFW recommends:
 - i) Regulation of the use and/or cancellation of the certificate(s) if the required mitigation is not maintained.
 - ii) This recommendation for consent to injury is contingent upon:
 - (1) Removal of the fish passage barriers at POD 1 and POD 2 and restoration of the stream channel and banks prior to diversion of water at POD 3 under the transfer. Barrier removal shall be approved by ODFW and provide adequate fish

passage of native migratory fish at all times per the Fish Passage Criteria requirements in OAR 635-412-0035(8). Requirements for artificial obstruction removal are:

- a) Artificial obstruction removals shall follow the requirements of OAR 635-412-0035(10);
 - b) If not completely removed, no parts of the remaining artificial obstruction shall:
 - A. Constrict the stream channel; or
 - B. Cause low flow depths less than the surrounding stream channel.
 - c) After an artificial obstruction is removed, the stream channel shall be restored; and
 - d) The stream channel restoration shall address impacts to stream habitat caused by the artificial obstruction while in place and by its removal, including but not limited to upstream and downstream channel degradation, and provisions shall be made to address unexpected fish passage issues resulting from removal.
- (2) POD 3 be upgraded to meet fish passage and screening criteria prior to diversion of water under this transfer. The applicant must provide proof to ODFW that fish passage was constructed per the approved fish passage plan and fish screening meets criteria (see full conditions below).
- (3) Approval of the transfer constitutes a permanent transfer of POD 1 and POD 2 to POD 3 (i.e., not an APOD as proposed in the application).
- (4) No actions be taken to negatively impede/reduce riparian vegetation establishment.
- b) The permittee shall not construct, operate, or maintain any dam or artificial obstruction to fish passage without obtaining approval from the Oregon Department of Fish and Wildlife (ODFW). The permittee is hereby directed to contact an ODFW Fish Passage Coordinator prior to construction of any in-channel obstruction or prior to diversion of water that may create an artificial obstruction due to low flow.
 - c) The permittee shall install, maintain, and operate fish screening on the new point of diversion consistent with current Oregon Department of Fish and Wildlife (ODFW) standards. Fish screening is to prevent fish from entering the proposed diversion. The required screen is to be in place and functional, and approved in writing by ODFW prior to diversion of water. The permittee is hereby directed to contact the ODFW Fish Screening Coordinator prior to diversion of water.
 - d) If the riparian area is disturbed in the process of developing the new point of diversion, the permittee shall be responsible for restoration and enhancement of such riparian area in accordance with the Oregon Department of Fish and Wildlife's Fish and Wildlife Habitat Mitigation Policy OAR 635-415. Prior to development of the new point of

diversion, the permittee shall submit, to the Oregon Water Resources Department, a Riparian Mitigation Plan approved in writing by ODFW unless ODFW provides documentation that riparian mitigation is not necessary. The permittee shall maintain the riparian area for the life of the permit and subsequent certificate per the approved Riparian Mitigation Plan. If ODFW determines the riparian area is not being maintained and is unsuccessful in working with the water user to fulfill the obligation, ODFW may request that OWRD regulate the use of water until OWRD receives notification from ODFW that the mitigation is sufficient. The permittee is hereby directed to contact the local ODFW Fish Biologist prior to development of the new point of diversion.

- e) Construction must occur during the established in-water work period (October 1 to March 31) unless otherwise approved by ODFW.
10. On May 31, 2022, the Department received revisions to the application, requesting a change in point of diversion (POD) under Certificates 48389 and 56242, rather than an additional point of diversion (APOD). The recommendation by ODFW for consent to injury is contingent on the request being a change in POD, and not an APOD.
 11. On July 6, 2022, the Department mailed a copy of the draft Preliminary Determination proposing to approve Transfer Application T-13404 to the applicants. The draft Preliminary Determination cover letter set forth a deadline of August 5, 2022, for the applicants to respond.
 12. On July 15, 2022, the applicants requested that the Department proceed with issuance of a Preliminary Determination. The applicants also requested to extend the date to complete full beneficial use of the water to October 1, 2025.
 13. On December 5, 2022, the Department issued a Preliminary Determination proposing to approve Transfer T-13404 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 March 23, 2021, and in the Malheur Enterprise newspaper on December 14 and 21, 2022, pursuant to ORS 540.520 and OAR 690-380-4020. No protests were filed in response to the notices.
 14. The first right to be transferred is as follows:
 - Certificate:** 33312 in the name of RAY DUNCAN (perfected under Permit G-2175)
 - Use:** IRRIGATION of 104.7 ACRES
 - Priority Date:** JUNE 18, 1962
 - Rate:** 1.31 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 acre feet per acre for each acre irrigated during the irrigation season of each year.

Source: WELL NO. 2, a tributary of WILLOW CREEK, (MALHEUR RIVER)

Authorized Point of Appropriation:

| Twp | Rng | Mer | Sec | Q-Q | Measured Distances |
|------|------|-----|-----|-------|--|
| 14 S | 39 E | WM | 32 | NE NE | 1300 FEET SOUTH AND 525 FEET WEST FROM THE NE CORNER OF SECTION 32 |

Authorized Place of Use:

| IRRIGATION | | | | | |
|------------|------|-----|-----|-------|-------|
| Twp | Rng | Mer | Sec | Q-Q | Acres |
| 14 S | 39 E | WM | 28 | SW NE | 9.3 |
| 14 S | 39 E | WM | 28 | NE SW | 2.1 |
| 14 S | 39 E | WM | 28 | SE SW | 16.8 |
| 14 S | 39 E | WM | 28 | NW SE | 37.8 |
| 14 S | 39 E | WM | 28 | SW SE | 20.0 |
| 14 S | 39 E | WM | 33 | NW NE | 1.2 |
| 14 S | 39 E | WM | 33 | NE NW | 17.5 |
| Total | | | | | 104.7 |

15. Transfer Application T-13404 proposes to change the place of use of the right to:

| IRRIGATION | | | | | |
|------------|------|-----|-----|-------|-------|
| Twp | Rng | Mer | Sec | Q-Q | Acres |
| 14 S | 39 E | WM | 27 | NW SW | 0.3 |
| 14 S | 39 E | WM | 27 | SW SW | 0.1 |
| 14 S | 39 E | WM | 28 | NE SE | 32.7 |
| 14 S | 39 E | WM | 28 | NW SE | 23.9 |
| 14 S | 39 E | WM | 28 | SW SE | 20.3 |
| 14 S | 39 E | WM | 28 | SE SE | 27.4 |
| Total | | | | | 104.7 |

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

Certificate: 48389 in the name of RAYMOND M. AND V. FERNE DUNCAN (perfected under Permit S-36682)

Use: SUPPLEMENTAL IRRIGATION of 104.7 ACRES

Priority Date: FEBRUARY 16, 1972

Rate: 1.60 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-FORTIETH 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, provided further that although declared herein to be for supplemental irrigation the right allowed may, in the interest of conserving the ground water supplies, be exercised at times when water is available in

the ground water supply provided that the total quantity diverted from all sources of supply does not exceed the limitation allowed herein.

Source: SOUTH FORK WILLOW CREEK, a tributary of WILLOW CREEK

Authorized Point of Appropriation:

| Twp | Rng | Mer | Sec | Q-Q | Measured Distances |
|------|------|-----|-----|-------|--|
| 14 S | 39 E | WM | 28 | SW NW | POD 1 - 2670 FEET NORTH AND 980 FEET EAST FROM THE SW CORNER OF SECTION 28 |

Authorized Place of Use:

| SUPPLEMENTAL IRRIGATION | | | | | |
|-------------------------|------|-----|-----|-------|-------|
| Twp | Rng | Mer | Sec | Q-Q | Acres |
| 14 S | 39 E | WM | 28 | SW NE | 9.3 |
| 14 S | 39 E | WM | 28 | NE SW | 2.1 |
| 14 S | 39 E | WM | 28 | SE SW | 16.8 |
| 14 S | 39 E | WM | 28 | NW SE | 37.8 |
| 14 S | 39 E | WM | 28 | SW SE | 20.0 |
| 14 S | 39 E | WM | 33 | NW NE | 1.2 |
| 14 S | 39 E | WM | 33 | NE NW | 17.5 |
| Total | | | | | 104.7 |

17. Transfer Application T-13404 proposes to change the point of diversion approximately 1.5 miles upstream to:

| Twp | Rng | Mer | Sec | Q-Q | Measured Distances |
|------|------|-----|-----|-------|--|
| 14 S | 39 E | WM | 32 | NW SE | POD 3 - 540 FEET SOUTH AND 1400 FEET WEST FROM THE E1/4 CORNER OF SECTION 32 |

18. Transfer Application T-13404 also proposes to change the place of use of the right to:

| SUPPLEMENTAL IRRIGATION | | | | | |
|-------------------------|------|-----|-----|-------|-------|
| Twp | Rng | Mer | Sec | Q-Q | Acres |
| 14 S | 39 E | WM | 27 | NW SW | 0.3 |
| 14 S | 39 E | WM | 27 | SW SW | 0.1 |
| 14 S | 39 E | WM | 28 | NE SE | 32.7 |
| 14 S | 39 E | WM | 28 | NW SE | 23.9 |
| 14 S | 39 E | WM | 28 | SW SE | 20.3 |
| 14 S | 39 E | WM | 28 | SE SE | 27.4 |
| Total | | | | | 104.7 |

19. The third right to be transferred is as follows:

Certificate: 56242 in the name of RAYMOND M. AND V. FERNE DUNCAN (perfected under Permit S-46371)
Use: IRRIGATION of 15.2 ACRES
Priority Date: FEBRUARY 9, 1981
Rate: 0.38 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 ONE-FORTIETH 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: SOUTH FORK WILLOW CREEK, a tributary of WILLOW CREEK

Authorized Point of Diversion:

| Twp | Rng | Mer | Sec | Q-Q | Measured Distances |
|------|------|-----|-----|-------|--|
| 14 S | 39 E | WM | 28 | SW NW | POD 2 - 2650 FEET NORTH AND 915 FEET EAST FROM THE SW CORNER OF SECTION 28 |

Authorized Place of Use:

| IRRIGATION | | | | | |
|------------|------|-----|-----|-------|-------|
| Twp | Rng | Mer | Sec | Q-Q | Acres |
| 14 S | 39 E | WM | 28 | SW NE | 1.2 |
| 14 S | 39 E | WM | 28 | SE NE | 4.4 |
| 14 S | 39 E | WM | 28 | NE SW | 0.3 |
| 14 S | 39 E | WM | 28 | SE SW | 2.4 |
| 14 S | 39 E | WM | 28 | NE SE | 3.2 |
| 14 S | 39 E | WM | 28 | NW SE | 0.2 |
| 14 S | 39 E | WM | 28 | SW SE | 1.6 |
| 14 S | 39 E | WM | 33 | NW NE | 1.6 |
| 14 S | 39 E | WM | 33 | NE NW | 0.3 |
| Total | | | | | 15.2 |

20. Transfer Application T-13404 proposes to change the point of diversion approximately 1.5 miles upstream to:

| Twp | Rng | Mer | Sec | Q-Q | Measured Distances |
|------|------|-----|-----|-------|--|
| 14 S | 39 E | WM | 32 | NW SE | POD 3 - 540 FEET SOUTH AND 1400 FEET WEST FROM THE E1/4 CORNER OF SECTION 32 |

21. Transfer Application T-13404 also proposes to change the place of use of the right to:

| IRRIGATION | | | | | |
|------------|------|-----|-----|-------|-------|
| Twp | Rng | Mer | Sec | Q-Q | Acres |
| 14 S | 39 E | WM | 28 | SW SW | 8.2 |
| 14 S | 39 E | WM | 33 | NW NW | 4.7 |
| 14 S | 39 E | WM | 33 | SW NW | 2.3 |
| Total | | | | | 15.2 |

22. The portion of the fourth right to be transferred is as follows:

- Certificate:** 56243 in the name of RAYMOND M. DUNCAN (perfected under Permit G-7418)
- Use:** SUPPLEMENTAL IRRIGATION of 100.8 ACRES
- Priority Date:** APRIL 6, 1977
- Rate:** 0.34 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 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 SOUTH FORK WILLOW CREEK

Authorized Point of Appropriation:

| Twp | Rng | Mer | Sec | Q-Q | Measured Distances |
|------|------|-----|-----|-------|---|
| 14 S | 39 E | WM | 28 | SW SW | 1050 FEET EAST FROM THE SW CORNER OF SECTION 28 |

Authorized Place of Use:

| SUPPLEMENTAL IRRIGATION | | | | | |
|-------------------------|------|-----|-----|-------|-------|
| Twp | Rng | Mer | Sec | Q-Q | Acres |
| 14 S | 39 E | WM | 28 | SW NE | 9.3 |
| 14 S | 39 E | WM | 28 | NE SW | 2.1 |
| 14 S | 39 E | WM | 28 | SE SW | 16.8 |
| 14 S | 39 E | WM | 28 | NW SE | 36.6 |
| 14 S | 39 E | WM | 28 | SW SE | 20.0 |
| 14 S | 39 E | WM | 33 | NW NE | 1.2 |
| 14 S | 39 E | WM | 33 | NE NW | 14.8 |
| Total | | | | | 100.8 |

23. Transfer Application T-13404 proposes to change the place of use of the right to:

| SUPPLEMENTAL IRRIGATION | | | | | |
|-------------------------|------|-----|-----|-------|-------|
| Twp | Rng | Mer | Sec | Q-Q | Acres |
| 14 S | 39 E | WM | 27 | NW SW | 0.1 |
| 14 S | 39 E | WM | 28 | NE SE | 31.7 |
| 14 S | 39 E | WM | 28 | NW SE | 23.0 |
| 14 S | 39 E | WM | 28 | SW SE | 19.5 |
| 14 S | 39 E | WM | 28 | SE SE | 26.5 |
| Total | | | | | 100.8 |

24. The Oregon Department of Fish and Wildlife (ODFW) has determined that a fish screening and/or by-pass device is necessary at the new point of diversion to prevent fish from entering the diversion and/or safely transport fish back to the body of water from which the fish were diverted and that the diversion is not currently equipped with an appropriate fish screening and/or by-pass device. This diversion may be eligible for screening cost share funds.

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

25. 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.

26. 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-13404.
27. The proposed changes would not result in enlargement of the rights.
28. An instream water right, Certificate 73354, exists for the reach of the river in which the additional points of diversion would be moved upstream, and the streamflow within the reach are frequently below the levels allocated under the instream water right. Thus, the instream water right would be injured as a result of the proposed additional points of diversion.
29. Instream water right Certificate 73354 is for flows to be maintained in South Fork Willow Creek from Dutch John Creek at River Mile (RM) 12 (NWSE, Section 32, T15S, R38E, WM) to the mouth at RM 0.0 (SWNE, Section 21, T14S, R39E, WM) and USGS Gage No. 14-038530 (Section 19, T13S, R32E, WM).
30. All other application requirements are met.

Conclusions of Law

Based on the recommendations of the Oregon Department of Fish and Wildlife, the Department consents to injury of the instream right evidenced by Certificate 73354. The change in points of diversion and changes in place of use proposed in Transfer Application T-13404 are consistent with the requirements of ORS 540.505 to 540.580 and OAR 690-380-5000, 690-380-5030, and 690-380-5050.

Now, therefore, it is ORDERED:

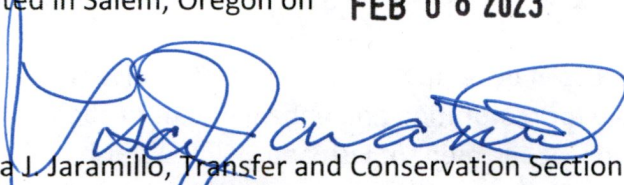
1. The change in points of diversion and change in places of use proposed in Transfer Application T-13404 are approved.
2. The right to the use of the water is restricted to beneficial use at the place of use described, and is subject to all other conditions and limitations contained in Certificates 33312, 48389, 56242, and 56243, and any related decree.
3. Water right Certificates 33312, 48389, 56242, and 56243 are cancelled. A new certificate will be issued describing that portion of Certificate 56243 not affected by this transfer.
4. The quantity of water diverted at the new point of diversion (POD 3), shall not exceed the quantity of water lawfully available at the original points of diversion (POD 1 and POD 2).

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 (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.
6. Removal of the fish passage barriers at POD 1 and POD 2 and restoration of the stream channel and banks prior to diversion of water at POD 3 under the transfer. Barrier removal shall be approved by ODFW and provide adequate fish passage of native migratory fish at all times per the Fish Passage Criteria requirements in OAR 635-412-0035(8). Requirements for artificial obstruction removal are:
 - a) Artificial obstruction removals shall follow the requirements of OAR 635-412-0035(10);
 - b) If not completely removed, no parts of the remaining artificial obstruction shall:
 - 1) Constrict the stream channel; or
 - 2) Cause low flow depths less than the surrounding stream channel.
 - c) After an artificial obstruction is removed the stream channel shall be restored; and
 - d) The stream channel restoration shall address impacts to stream habitat caused by the artificial obstruction while in place and by its removal, including but not limited to upstream and downstream channel degradation, and provisions shall be made to address unexpected fish passage issues resulting from removal.
7. Point of Diversion 3 as described in Finding of Fact #19 shall be upgraded to meet fish passage and screening criteria prior to diversion of water under this transfer. The applicant must provide proof to ODFW that fish passage was constructed per the approved fish passage plan and fish screening meets criteria (see full conditions below).
8. Approval of this transfer constitutes the permanent transfer of POD 1 and POD 2 to POD 3 (i.e., not an APOD as proposed in the application).
9. No actions shall be taken to negatively impede/reduce riparian vegetation establishment.

10. The permittee shall not construct, operate, or maintain any dam or artificial obstruction to fish passage without obtaining approval from the Oregon Department of Fish and Wildlife (ODFW). The permittee is hereby directed to contact an ODFW Fish Passage Coordinator prior to construction of any in-channel obstruction or prior to diversion of water that may create an artificial obstruction due to low flow.
11. The permittee shall install, maintain, and operate fish screening on the new point of diversion consistent with current Oregon Department of Fish and Wildlife (ODFW) standards. Fish screening is to prevent fish from entering the proposed diversion. The required screen is to be in place and functional, and approved in writing by ODFW prior to diversion of water. The permittee is hereby directed to contact the ODFW Fish Screening Coordinator prior to diversion of water. FEB 08 2003
12. If the riparian area is disturbed in the process of developing the new point of diversion (POD 3), the permittee shall be responsible for restoration and enhancement of such riparian area in accordance with the Oregon Department of Fish and Wildlife's Fish and Wildlife Habitat Mitigation Policy OAR 635-415. Prior to development of the new point of diversion, the permittee shall submit, to the Oregon Water Resources Department, a Riparian Mitigation Plan approved in writing by ODFW unless ODFW provides documentation that riparian mitigation is not necessary. The permittee shall maintain the riparian area for the life of the permit and subsequent certificate per the approved Riparian Mitigation Plan. If ODFW determines the riparian area is not being maintained and is unsuccessful in working with the water user to fulfill the obligation, ODFW may request that OWRD regulate the use of water until OWRD receives notification from ODFW that the mitigation is sufficient. The permittee is hereby directed to contact the local ODFW Fish Biologist prior to development of the new point of diversion.
13. Construction must occur during the established in-water work period (October 1 to March 31) unless otherwise approved by ODFW.
14. Prior to diverting water, the water user shall install a headgate to control and regulate the quantity of water diverted. The type and plans of the headgate must be approved by the Department prior to beginning construction and shall be installed under the general supervision of the Department. The water user shall maintain the headgate as required by the Department.
15. Prior to diverting water, the water user shall install a fish screening and/or by-pass device, as appropriate, at the new point of diversion consistent with the Oregon Department of Fish and Wildlife's (ODFW) design and construction standards. Prior to installation, the water user shall obtain written approval from ODFW that the required screen and/or by-pass device meets ODFW's criteria. Prior to submitting a Claim of Beneficial Use, the water user must obtain written approval from ODFW that the required screening and/or by-pass device was installed to the state's criteria. The water user shall maintain and operate the fish screen and/or by-pass device, as appropriate, at the point of diversion consistent with ODFW's operational and maintenance standards.

16. The former places of use of the transferred rights shall no longer receive water under the rights.
17. 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.
18. After satisfactory proof of beneficial use is received, new certificates confirming the rights transferred will be issued.

Dated in Salem, Oregon on **FEB 08 2023**



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

Mailing date: **FEB 09 2023**