



# Oregon

Tina Kotek, Governor

## Water Resources Department

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May 17, 2023

JOHN EVELAND  
25159 GRANGE HALL RD  
PHILOMATH, OR 97330

REFERENCE: District Temporary Transfer Application T-[14182](#)

Enclosed is a copy of the final order approving your TEMPORARY water right transfer application.

The temporary change shall be effective at the **beginning of the 2023 irrigation season**. The use shall revert to the original authorized place of use at the **end of the 2027 irrigation season**.

If you have any questions related to the approval of this temporary transfer, you may contact your caseworker, [Kelly Starnes](#), by telephone at (503) 979-3511 or by e-mail at [Patrick.K.Starnes@water.oregon.gov](mailto:Patrick.K.Starnes@water.oregon.gov).

Sincerely,

Flor Pena  
Water Rights Services Support  
Transfers and Conservation Section

cc: [Joel M. Plahn](#), Watermaster Dist. # 22 (via email)  
[Eric George](#), Agent

Enclosure

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

In the Matter of Transfer Application        )        FINAL ORDER APPROVING TEMPORARY  
T-14182, Benton County                    )        CHANGES IN PLACES OF USE

**Authority**

Oregon Revised Statute (ORS) 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 diversion 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**

JOHN EVELAND AND SALLY BREWER  
GATHERING TOGETHER FARM  
25159 GRANGE HALL RD  
PHILOMATH, OR 97330

**Findings of Fact**

1. On March 3, 2023, JOHN EVELAND AND SALLY BREWER; GATHERING TOGETHER FARM, filed an application to temporarily change the places of use under Certificate 24183 and 24244 for a period of 5 years. The Department assigned the application number T-14182.
2. Notice of the application for transfer was published on March 14, 2023, pursuant to OAR 690-380-4000.
3. The portion of the first right to be temporarily transferred is as follows:
  - Certificate:** 24183 in the name of DORVAL and ANNA BEVENS (perfected under Permit S-16134)
  - Use:** IRRIGATION of 5.32 ACRES
  - Priority Date:** JANUARY 4, 1945
  - Rate:** 0.04 CUBIC FOOT PER SECOND

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:** MARY'S RIVER, a tributary of WILLAMETTE RIVER

**Authorized Point of Diversion:**

| Twp  | Rng | Mer | Sec | Q-Q   | DLC |
|------|-----|-----|-----|-------|-----|
| 12 S | 6 W | WM  | 11  | SE SE | 46  |

**Authorized Place of Use:**

| IRRIGATION |     |     |     |       |     |       |
|------------|-----|-----|-----|-------|-----|-------|
| Twp        | Rng | Mer | Sec | Q-Q   | DLC | Acres |
| 12 S       | 6 W | WM  | 11  | SE SE | 46  | 0.53  |
| 12 S       | 6 W | WM  | 13  | NW NW | 46  | 0.30  |
| 12 S       | 6 W | WM  | 13  | NW NW | 51  | 2.48  |
| 12 S       | 6 W | WM  | 14  | NE NE | 46  | 1.56  |
| 12 S       | 6 W | WM  | 14  | NE NE | 51  | 0.45  |
| Total      |     |     |     |       |     | 5.32  |

4. Temporary Transfer Application T-12340 proposes to temporarily change the place of use of the right to:

| IRRIGATION |     |     |     |       |     |       |
|------------|-----|-----|-----|-------|-----|-------|
| Twp        | Rng | Mer | Sec | Q-Q   | DLC | Acres |
| 12 S       | 6 W | WM  | 13  | NW NW | 46  | 2.13  |
| 12 S       | 6 W | WM  | 13  | NW NW | 51  | 3.19  |
| Total      |     |     |     |       |     | 5.32  |

5. The portion of the second right to be temporarily transferred is as follows:

**Certificate:** 26244 in the name of ELMER J. BURNWORTH (perfected under Permit S-23680)

**Use:** IRRIGATION of 8.35 ACRES

**Priority Date:** MARCH 29, 1955

**Rate:** 0.08 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 2.5 acre-feet per acre for each acre irrigated during the irrigation season of each year.

**Source:** MARY'S RIVER, a tributary of WILLAMETTE RIVER

**Authorized Point of Diversion:**

| Twp  | Rng | Mer | Sec | Q-Q   | DLC | Measured Distances                   |
|------|-----|-----|-----|-------|-----|--------------------------------------|
| 12 S | 6 W | WM  | 13  | SE NW | 51  | AS PROJECTED WITHIN HARTLESS DLC #51 |

**Authorized Place of Use:**

| IRRIGATION |     |     |     |       |     |       |
|------------|-----|-----|-----|-------|-----|-------|
| Twp        | Rng | Mer | Sec | Q-Q   | DLC | Acres |
| 12 S       | 6 W | WM  | 13  | NE SW | 51  | 8.35  |

6. Certificate 26244 does not describe the measured distances of the point of diversion, however information is available from the applicant indicating that the point of diversion is located as follows:

| Twp  | Rng | Mer | Sec | Q-Q   | DLC | Measured Distances   |
|------|-----|-----|-----|-------|-----|--|
| 12 S | 6 W | WM  | 13  | SE NW | 51  | 1438.5 FEET SOUTH AND 3181.2 FEET WEST OF THE NE CORNER OF THE E. HARTLESS DLC #51 |

7. Temporary Transfer Application T-12340 proposes to temporarily change the place of use of the right to:

| IRRIGATION |     |     |     |       |     |       |
|------------|-----|-----|-----|-------|-----|-------|
| Twp        | Rng | Mer | Sec | Q-Q   | DLC | Acres |
| 12 S       | 6 W | WM  | 13  | SE SW | 51  | 8.35  |

**Temporary Transfer Review Criteria**

8. Water has been used within the last five years according to the terms and conditions of the rights. There is no evidence available that would demonstrate that the rights are subject to forfeiture under ORS 540.610.
9. A pump, pipeline, and sprinkler system sufficient to use the full amount of water allowed under the existing rights are present.
10. The proposed changes would prevent the lands from which the water rights are removed during the period of the temporary transfer from receiving water under the transferred rights, as required by ORS 540.523(7).
11. 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.

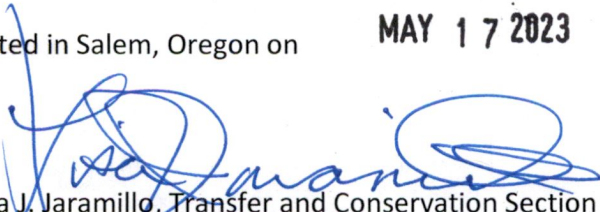
**Conclusions of Law**

The temporary changes in places of use proposed in Temporary Transfer Application T-14182 are consistent with the requirements of ORS 540.523 and OAR 690-380-8000.

**Now, therefore, it is ORDERED:**

1. The temporary changes in places of use proposed in Temporary Transfer Application T-14182 are approved.
2. The former place of use **shall not** be irrigated as part of these water rights during the 2023, 2024, 2025, 2026 and 2027 irrigation seasons.
3. The use shall revert to the authorized place of use at the end of the 2027 irrigation season.
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. A subsequent application for permanent transfer of Certificates 24183 and 26244 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.
6. The use of water at the temporary place of use authorized by this transfer shall be in accordance with the terms and conditions of Certificates 24183 and 26244.
7. The time during which water is used under this approved temporary transfer does not apply toward a finding of forfeiture under ORS 540.610.
8. 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.
9. The use of the remaining water rights described by Certificates 24813 and 26244 shall continue to be in accordance with the terms and conditions of Certificates 24813 and 26244.

Dated in Salem, Oregon on **MAY 17 2023**

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

Mailing Date: **MAY 18 2023**