

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

In the Matter of Transfer Application) FINAL ORDER APPROVING A CHANGE IN
T-14151, Klamath County) POINT OF APPROPRIATION

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

JOHN ELLIOTT AND LOUDEAN ELLIOTT
18610 TAYLOR RD
KLAMATH FALLS, OR 97603

Findings of Fact

1. On January 23, 2023, JOHN ELLIOTT AND LOUDEAN ELLIOTT filed an application to change the point of appropriation under Certificate 65944. The Department assigned the application number T-14151.
2. Notice of the application for transfer was published on January 31, 2023, pursuant to OAR 690-380-4000. No comments were filed in response to the notice.
3. On June 28, 2023, the Department sent a copy of the draft Preliminary Determination proposing to approve Transfer Application T-14151 to the applicants. The draft Preliminary Determination cover letter set forth a deadline of July 28, 2023, 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 applicants are authorized to pursue the transfer.
4. On July 24, 2023, the agent for the applicant submitted a corrected map and table 1 to correct a scrivener’s error on the original application.

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 September 27, 2023, the Department issued a Preliminary Determination proposing to approve Transfer Application T-14151 and sent a copy to the applicants. Additionally, notice of the Preliminary Determination for the transfer application was published in the Department's weekly notice on October 3, 2023, pursuant to ORS 540.520 and OAR 690-380-4020. No protests were filed in response to the notice.

6. The right to be transferred is as follows:

Certificate: 65944 in the name of GARY D. OREM (perfected under Permit G-9243)
Use: IRRIGATION OF 16.3 ACRES
Priority Date: MARCH 4, 1981
Rate: 89.8 GALLONS PER MINUTE
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: ONE WELL in the LOST RIVER BASIN

Authorized Point of Appropriation:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
40 S	11 E	WM	32	SW NW	50 FEET NORTH AND 720 FEET EAST FROM THE W1/4 CORNER OF SECTION 32

Authorized Place of Use:

IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
40 S	11 E	WM	32	SW NW	16.3

7. The Department received information from the applicant that describes the location of the authorized point of diversion for Certificate 65944 as follows:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
40 S	11 E	WM	32	SW NW	WELL 1 - 2590 FEET SOUTH AND 720 FEET EAST FROM THE NW CORNER OF SECTION 32

8. Transfer Application T-14151 proposes to move the authorized point of appropriation approximately 25 feet from the existing point of appropriation to:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
40 S	11 E	WM	32	SW NW	WELL 2 - 2565 FEET SOUTH AND 730 FEET EAST FROM THE NW CORNER OF SECTION 32

Transfer Review Criteria [OAR 690-380-0100(14), 690-380-4010(2) and OAR 690-380-2110(2)]

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 water delivery system sufficient to use the full amount of water allowed under the existing right was present within the five-year period prior to submittal of Transfer Application T-14151.
11. The water right is subject to transfer as defined in ORS 540.505(4) and OAR 690-380-0100(14).
12. The proposed point of appropriation develops groundwater from the same aquifer as the authorized point of appropriation, as required by OAR 690-380-2110(2).
13. The proposed change would not result in enlargement of the right.
14. The proposed change would not result in injury to other existing water rights.
15. All other application requirements are met.

Conclusions of Law

The change in point of appropriation proposed in Transfer Application T-14151 is consistent with the requirements of ORS 537.705 and 540.505 to 540.580 and OAR 690-380-5000.

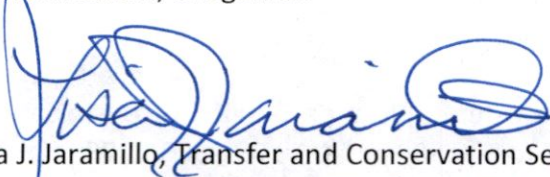
Now, therefore, it is ORDERED:

1. The change in point of appropriation proposed in Transfer Application T-14151 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 65944 and any related decree.
3. Approval of this transfer application does not constitute nor grant legal access onto or through another person's property for purposes of accessing the new point of appropriation.
4. Water right Certificate 65944 is cancelled.
5. The quantity of water diverted at the new point of appropriation (Well 2) shall not exceed the quantity of water lawfully available at the original point of appropriation (Well 1).
6. Water shall be acquired from the same aquifer (water source) as the original point of appropriation.

7. 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 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.
8. 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 change 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.

NOV 20 2023

Dated in Salem, Oregon on



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

Mailing date: NOV 21 2023