

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

In the Matter of Transfer Application	)	FINAL ORDER DENYING TEMPORARY
T-14319, DOUGLAS County	)	CHANGES IN PLACE OF USE AND FOR AN
	)	ADDITIONAL POINT OF DIVERSION

**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**

JAMES HALL AND RACHEL SCHELBLE  
2441 OLD PIONEER ROAD  
OAKLAND, OR 97462

**Findings of Fact**

1. On September 1, 2023, JAMES HALL and RACHEL SCHELBLE filed an application to temporarily change the place of use and to add a point of diversion to serve the proposed place of use under Certificate 50899 for a period of 5 years. The Department assigned the application number T-14319.
2. Notice of the application for transfer was published on September 12, 2023, pursuant to OAR 690-380-4000.

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.

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

**Certificate:** 50899 in the name of CREIGHTON BAXTER, JR. (perfected under Permit S-19857)  
**Use:** IRRIGATION of 28.05 ACRES  
**Priority Date:** SEPTEMBER 22, 1950  
**Rate:** 0.35 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:** CALAPOOYA CREEK, a tributary of UMPQUA RIVER

**Authorized Point of Diversion:**

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
24 S	5 W	WM	35	NE NE	4430 FEET NORTH AND 4080 FEET EAST FROM THE SW CORNER OF SECTION 35

**Authorized Place of Use:**

IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
24 S	5 W	WM	35	SE NE	28.05

4. Temporary Transfer Application T-14319 proposes to temporarily change the place of use of the right to:

IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
24 S	5 W	WM	36	SW NW	20.15
24 S	5 W	WM	36	SE NW	0.70
24 S	5 W	WM	36	NW SW	7.20
Total					28.05

5. An additional point of diversion is necessary to convey the water to the proposed temporary place of use. Temporary Transfer Application T-14319 proposes an additional point of diversion approximately 0.73 mile upstream to:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
24 S	5 W	WM	36	NW NW	POD 1 - 1244 FEET SOUTH AND 1282 FEET EAST FROM THE NE CORNER OF SECTION 35

**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 result in injury to water right Certificate 59902. This finding is made under ORS 540.523(5) OAR 690-380-8000(2).

**Conclusions of Law**

The temporary changes in place of use and additional point of diversion to convey water to the temporary place of use proposed in Temporary Transfer Application T-14319 are NOT consistent with the requirements of ORS 540.523 and OAR 690-380-8000. Pursuant to OAR 690-380-8000(2) the proposed additional point of diversion would injure an instream water right.

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

1. The temporary change in place of use and additional point of diversion to convey water to the temporary place of use proposed in Temporary Transfer Application T-14319 are DENIED.

Dated in Salem, Oregon on **JAN 26 2024**



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

Mailing Date: **JAN 29 2024**