

4. On December 7, 2023, the Department issued a Preliminary Determination proposing to approve Transfer Application T-14169 and sent a copy to the applicant. Additionally, notice of the Preliminary Determination for the transfer application was published in the Department's weekly notice on December 12, 2023, and in the Blue Mountain Eagle newspaper on December 13 and December 20, 2023, pursuant to ORS 540.520 and OAR 690-380-4020. No protests were filed in response to the notice.

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

Certificate: 89055 in the name of MT. VERNON IRRIGATION AND POWER CO.
(perfected under Permit E-88)
Use: IRRIGATION OF 25.0 ACRES
Priority Date: MARCH 6, 1911
Rate: 0.31 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 per acre and shall conform to such reasonable rotation system as may be ordered by the proper state officer.
Source: JOHN DAY RIVER AND BEECH CREEK, tributary to the COLUMBIA RIVER

Authorized Points of Diversion:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
13 S	30 E	WM	21	SE NE	CREEK (PANAMA DITCH)(POD 1)- SOUTH 31 DEGREES WEST, 2244 FEET FROM THE NE CORNER OF SECTION 21
13 S	30 E	WM	25	NE NW	RIVER (POD 2) - SOUTH 72 DEGREES EAST, 2705 FEET FROM THE NW CORNER OF SECTION 25

Authorized Place of Use:

IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
13 S	30 E	WM	29	NW NW	25.0

6. Transfer Application T-14169 proposes to move the authorized points of diversion as follows with approximate distances described below:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances	Approximate Distance from Authorized POD
13 S	30 E	WM	28	SE NW	POD 3 - 245 FEET NORTH AND 955 FEET WEST FROM THE C 1/4 CORNER OF SECTION 28	POD 1 – 1 MILE DOWNSTREAM POD 2 – 11 MILES DOWNSTREAM

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

Certificate: 89056 in the name of MOUNT VERNON IRRIGATION AND POWER CO.
(perfected under Permit S-46213)
Use: SUPPLEMENTAL IRRIGATION OF 25.0 ACRES
Priority Date: JANUARY 8, 1981

Rate: 0.31 CUBIC FOOT PER SECOND (cfs)
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 per acre and shall be further limited to a diversion of not to exceed 5.0 acre-feet per acre for each acre irrigated during the irrigation season of each year.
Source: JOHN DAY RIVER, tributary to the COLUMBIA RIVER

Authorized Point of Diversion:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
13 S	30 E	WM	25	NE NW	(POD 2) - LATITUDE: NORTH 44.4166 LONGITUDE: WEST -119-0549

Authorized Place of Use:

SUPPLEMENTAL IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
13 S	30 E	WM	29	NW NW	25.0

8. Transfer Application T-14169 proposes to move the authorized point of diversion approximately 1 mile downstream to:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
13 S	30 E	WM	28	SE NW	POD 3 - 245 FEET NORTH AND 955 FEET WEST FROM THE C 1/4 CORNER OF SECTION 28

9. 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 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 690-380-0100(14), 690-380-4010(2) and 690-380-2110(2)]

10. Water has been used within the five-year period prior to submittal of Transfer Application T-14169 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.
11. A water delivery system sufficient to use the full amount of water allowed under the existing rights was present within the five-year period prior to submittal of Transfer Application T-14169.
12. The water rights are subject to transfer as defined in ORS 540.505(4) and OAR 690-380-0100(14).
13. The proposed point of diversion diverts water from the same source of surface water as the authorized points of diversion, as required by OAR 690-380-2110(2).

14. The Watermaster for District 4 has found that there is an estimated 1% channel loss per mile on the upper John Day River between the original points of diversion and the proposed point of diversion. To prevent enlargement of the rights, the rate of diversion at the proposed point of diversion on the John Day River (POD 3) shall be limited to 0.28 cubic foot per second under Certificate 89055 and shall be limited to 0.307 cubic foot per second under Certificate 89056.
15. The proposed changes, as conditioned, would not result in injury to other existing water rights.
16. All other application requirements are met.

Conclusions of Law

The change in points of diversion proposed in Transfer Application T-14169 is consistent with the requirements of ORS 540.505 to 540.580 and OAR 690-380-5000.

Now, therefore, it is ORDRED:

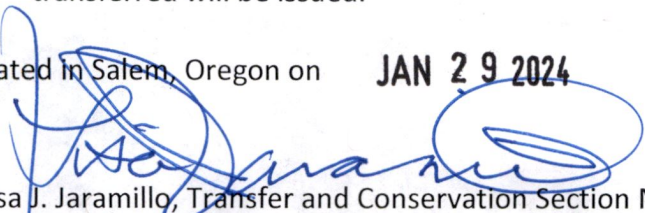
1. The change in points of diversion proposed in Transfer Application T-14169 is approved.
2. The right to the use of the water is restricted to beneficial use at the place of use described and is subject to all other conditions and limitations contained in Certificates 89055 and 89056 and any related 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 diversion.
4. Water right Certificates 89055 and 89056 are cancelled. New certificates will be issued describing that portion of the rights not affected by this transfer.
5. Under Certificate 89055, the quantity of water diverted at the new point of diversion (POD 3) shall not exceed 0.28 cfs, if lawfully available at the original points of diversion (POD 1 and POD 2).
6. Under Certificate 89056, the quantity of water diverted at the new point of diversion (POD 3) shall not exceed 0.307 cfs, if lawfully available at the original point of diversion (POD 2).
7. Water shall be acquired from the same source of surface water as the original points of diversion.
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. 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.

10. 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(s) and full beneficial use of the water.
11. After satisfactory proof of beneficial use is received, new certificates confirming the rights transferred will be issued.

Dated in Salem, Oregon on **JAN 29 2024**


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

Mailing Date: **JAN 30 2024**