

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

In the Matter of Transfer Application     )  
T-8901, Morrow County                    )  
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SUPERSEDING FINAL ORDER APPROVING  
A CHANGE IN POINTS OF  
APPROPRIATION, A CHANGE IN PLACE  
OF USE AND CORRECTING A  
SCRIVENER’S ERROR IN A PREVIOUS  
ORDER

**Authority**

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. OAR Chapter 690, Division 380 implements the statutes and provides the Department’s procedures and criteria for evaluating transfer applications.

**Applicant**

JEDEDIAH W. AYLETT  
75816 FRONTAGE ROAD  
HERMISTON, OREGON 87838

**Findings of Fact**

**Background**

1. On October 1, 2001, Jedediah Aylett filed an application to change the place of use, and change the points of appropriation under Certificates 60556, 68430, 68431, 72145, 72146, 72147, 72148, 72149 and 72150. The Department assigned the application number T-8901.
2. On August 11, 2004, the Department issued a Final Order for T-8901, approving changes in place of use and points of appropriation, recorded at Special Order Volume 61, Pages 172 – 180. Certificates 80899, 80900, 80901 were issued to describe the portions of the rights not affected by the transfer.
3. On September 7, 2010, the Department became aware of a scrivener’s error in the Final Order, which resulted in an apparent omission of the proposed change in point of appropriation for three of the rights.
4. The public notice, including the notice published in the newspaper, stated that the two proposed points of appropriation were to be applied to all nine of the water rights, however, the Final Order document placed the statement “The applicant proposes to CHANGE THE

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.

POINT OF APPROPRIATION for the above listed water rights to two wells.....” following the paragraph listing the sixth right, rather than after the paragraph listing the ninth right. Therefore, the scrivener’s error in placement of the statement appeared to change the meaning so that the point of appropriation would apply to only six of the nine rights.

5. Re-examination of the transfer application and map shows that both proposed points of appropriation (Well A and Well B) were mentioned and shown on the map. The applicant was contacted and has confirmed that the intent was for all the water rights to have a point of appropriation change, which is consistent with the changes as described in the public notice of T-8901. Though ALL rights were to have a change in point of appropriation, the first six water rights were to receive water from proposed Well #A and the last three water rights were to receive water from Well #B.
6. The Department, on its own initiative, has concluded a scrivener’s error was made in placement of the statement that a point of appropriation change was proposed, so that a point of appropriation change appeared not to apply to the last three water rights (which also were to have a change in place of use). The Department concludes the error should be corrected, and that in making the correction, a statement of proposed changes should follow the listing of each water right to provide further clarification of which changes apply to each right.
7. This order is issued to supersede the previous order recorded at Special Order Volume 61, Pages 172 – 180 to correct the scrivener’s error and add further clarification.

8. The FIRST right to be transferred is as follows:

**Certificate:** 72145 issued in the name of JEDEDIAH AYLETT (perfected under Permit G-2782)

**Use:** IRRIGATION of 7.6 ACRES

**Priority Date:** FEBRUARY 4, 1965

**Rate:** 0.095 CUBIC FOOT PER SECOND

**Limit/Duty:** ONE-EIGHTIETH of one cfs per acre, not to exceed 3.0 ACRE-FEET per acre per year, or its equivalent in case of rotation, measured at the well.

**Source:** A WELL, within the UMATILLA RIVER BASIN

**Authorized Point of Appropriation:**

Twp	Rng	Mer	Sec	Q - Q	Measured Distances
4 N	27 E	WM	19	SW SW	1077 FEET NORTH AND 910 FEET EAST FROM THE SW CORNER OF SECTION 19

**Authorized Place of Use:**

IRRIGATION					
Twp	Rng	Mer	Sec	Q - Q	Acres
4 N	27 E	WM	19	SW SE	7.6

9. The applicant proposes to CHANGE THE POINT OF APPROPRIATION for the above described water right southeast approximately 300 feet to:

**Proposed Point of Appropriation:**

Twp	Rng	Mer	Sec	Q - Q	Measured Distances
4 N	27 E	WM	19	SW SW	Well #A - 865 FEET NORTH AND 1207 FEET EAST FROM THE SW CORNER OF

Twp	Rng	Mer	Sec	Q - Q	Measured Distances
					SECTION 19

10. The SECOND right to be transferred is as follows:

**Certificate:** 72146 issued in the name of JEDEDIAH AYLETT (perfected under Permit G-190)

**Use:** IRRIGATION of 14.6 ACRES

**Priority Date:** MARCH 26, 1956

**Rate:** 0.183 CUBIC FOOT PER SECOND

**Limit/Duty:** ONE-EIGHTIETH of one cfs per acre, not to exceed 3.0 ACRE-FEET per acre per year, or its equivalent in case of rotation, measured at the well.

**Source:** A WELL, within the UMATILLA RIVER BASIN

**Authorized Point of Appropriation:**

Twp	Rng	Mer	Sec	Q - Q	Measured Distances
4 N	27 E	WM	19	SW SW	1077 FEET NORTH AND 910 FEET EAST FROM THE SW CORNER OF SECTION 19

**Authorized Place of Use:**

IRRIGATION					
Twp	Rng	Mer	Sec	Q - Q	Acres
4 N	27 E	WM	19	NE SW	10.1
4 N	27 E	WM	19	NW SW	4.5

11. The applicant proposes to CHANGE THE POINT OF APPROPRIATION for the above described water right southeast approximately 300 feet to:

**Proposed Point of Appropriation:**

Twp	Rng	Mer	Sec	Q - Q	Measured Distances
4 N	27 E	WM	19	SW SW	Well #A - 865 FEET NORTH AND 1207 FEET EAST FROM THE SW CORNER OF SECTION 19

12. The THIRD right to be transferred is as follows:

**Certificate:** 72147 issued in the name of JEDEDIAH AYLETT (perfected under Permit U-497)

**Use:** IRRIGATION of 12.9 ACRES

**Priority Date:** DECEMBER 15, 1952

**Rate:** 0.16 CUBIC FOOT PER SECOND

**Limit/Duty:** ONE-EIGHTIETH of one cfs per acre, not to exceed 3.0 ACRE-FEET per acre per year, or its equivalent in case of rotation, measured at the well.

**Source:** A WELL, within the UMATILLA RIVER BASIN

**Authorized Point of Appropriation:**

Twp	Rng	Mer	Sec	Q - Q	Measured Distances
4 N	27 E	WM	19	SW SW	1077 FEET NORTH AND 910 FEET EAST FROM THE SW CORNER OF SECTION 19

**Authorized Place of Use:**

IRRIGATION					
Twp	Rng	Mer	Sec	Q - Q	Acres
4 N	27 E	WM	19	NW SE	1.0

IRRIGATION					
Twp	Rng	Mer	Sec	Q - Q	Acres
4 N	27 E	WM	19	SW SE	11.9

13. The applicant proposes to CHANGE THE POINT OF APPROPRIATION for the above described water right southeast approximately 300 feet to:

**Proposed Point of Appropriation:**

Twp	Rng	Mer	Sec	Q - Q	Measured Distances
4 N	27 E	WM	19	SW SW	Well #A - 865 FEET NORTH AND 1207 FEET EAST FROM THE SW CORNER OF SECTION 19

14. The FOURTH water right to be transferred is as follows:

**Certificate:** 72148 issued in the name of JEDEDIAH AYLETT (perfected under Permit U-363)

**Use:** IRRIGATION of 12.2 ACRES

**Priority Date:** NOVEMBER 1, 1950

**Rate:** 0.16 CUBIC FOOT PER SECOND

**Limit/Duty:** ONE-EIGHTIETH of one cfs per acre, not to exceed 3.0 ACRE-FEET per acre per year, or its equivalent in case of rotation, measured at the well.

**Source:** A WELL, within the UMATILLA RIVER BASIN

**Authorized Point of Appropriation:**

Twp	Rng	Mer	Sec	Q - Q	Measured Distances
4 N	27 E	WM	19	SW SW	1077 FEET NORTH AND 910 FEET EAST FROM THE SW CORNER OF SECTION 19

**Authorized Place of Use:**

IRRIGATION					
Twp	Rng	Mer	Sec	Q - Q	Acres
4 N	27 E	WM	19	SW SE	12.2

15. The applicant proposes to CHANGE THE POINT OF APPROPRIATION for the above described water right southeast approximately 300 feet to:

**Proposed Point of Appropriation:**

Twp	Rng	Mer	Sec	Q - Q	Measured Distances
4 N	27 E	WM	19	SW SW	Well #A - 865 FEET NORTH AND 1207 FEET EAST FROM THE SW CORNER OF SECTION 19

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

**Certificate:** 72149 issued in the name of JEDEDIAH AYLETT (perfected under Permit U-725)

**Use:** IRRIGATION of 36.7 ACRES

**Priority Date:** MAY 2, 1955

**Rate:** 0.458 CUBIC FOOT PER SECOND

**Limit/Duty:** ONE-EIGHTIETH of one cfs per acre, not to exceed 3.0 ACRE-FEET per acre per year, or its equivalent in case of rotation, measured at the well.

**Source:** A WELL, within the UMATILLA RIVER BASIN

**Authorized Point of Appropriation:**

Twp	Rng	Mer	Sec	Q - Q	Measured Distances
4 N	27 E	WM	19	SW SW	1077 FEET NORTH AND 910 FEET EAST FROM THE SW CORNER OF SECTION 19

**Authorized Place of Use:**

IRRIGATION					
Twp	Rng	Mer	Sec	Q - Q	Acres
4 N	27 E	WM	19	SW SW	4.2
4 N	27 E	WM	19	SE SW	32.5

17. The applicant proposes to CHANGE THE POINT OF APPROPRIATION for the above described water right southeast approximately 300 feet to:

**Proposed Point of Appropriation:**

Twp	Rng	Mer	Sec	Q - Q	Measured Distances
4 N	27 E	WM	19	SW SW	Well #A - 865 FEET NORTH AND 1207 FEET EAST FROM THE SW CORNER OF SECTION 19

18. The SIXTH right to be transferred is as follows:

**Certificate:** 72150 issued in the name of JEDEDIAH AYLETT (perfected under Permit G-4929) **Use:** IRRIGATION of 41.3 ACRES

**Priority Date:** NOVEMBER 16, 1971

**Rate:** 0.517 CUBIC FOOT PER SECOND

**Limit/Duty:** ONE-EIGHTIETH of one cfs per acre, not to exceed 3.0 ACRE-FEET per acre per year, or its equivalent in case of rotation, measured at the well.

**Source:** A WELL, within the UMATILLA RIVER BASIN

**Authorized Point of Appropriation:**

Twp	Rng	Mer	Sec	Q - Q	Measured Distances
4 N	27 E	WM	19	SW SW	1077 FEET NORTH AND 910 FEET EAST FROM THE SW CORNER OF SECTION 19

**Authorized Place of Use:**

IRRIGATION					
Twp	Rng	Mer	Sec	Q - Q	Acres
4 N	27 E	WM	19	NW SW	16.3
4 N	27 E	WM	19	SW SW	25.0

19. The applicant proposes to CHANGE THE POINT OF APPROPRIATION for the above described water right southeast approximately 300 feet to:

**Proposed Point of Appropriation:**

Twp	Rng	Mer	Sec	Q - Q	Measured Distances
4 N	27 E	WM	19	SW SW	Well #A - 865 FEET NORTH AND 1207 FEET EAST FROM THE SW CORNER OF SECTION 19

20. The portion of the SEVENTH right to be transferred is as follows:

**Certificate:** 68431 issued in the name of JEDEDIAH AYLETT (perfected under Permit G-2782)

**Use:** IRRIGATION of 3.0 ACRES

**Priority Date:** FEBRUARY 4, 1965

**Rate:** 0.037 CUBIC FOOT PER SECOND

**Limit/Duty:** ONE-EIGHTIETH of one cfs per acre, not to exceed 3.0 ACRE-FEET per acre per year, or its equivalent in case of rotation, measured at the well.

**Source:** A WELL, within the UMATILLA RIVER BASIN

**Authorized Point of Appropriation:**

Twp	Rng	Mer	Sec	Q - Q	Measured Distances
4 N	27 E	WM	28	SE SW	90 FEET NORTH AND 40 FEET WEST FROM THE S¼ CORNER OF SECTION 28

**Authorized Place of Use:**

IRRIGATION					
Twp	Rng	Mer	Sec	Q - Q	Acres
4 N	27 E	WM	33	SE SW	3.0

21. The applicant proposes to change the place of use of the right to:

**Proposed Place of Use:**

IRRIGATION					
Twp	Rng	Mer	Sec	Q - Q	Acres
4 N	27 E	WM	19	SE SE	3.0

22. The applicant also proposes to CHANGE THE POINT OF APPROPRIATION for the above described water right northwest approximately 9,700 feet to:

**Proposed Point of Appropriation:**

Twp	Rng	Mer	Sec	Q - Q	Measured Distances
4 N	27 E	WM	19	SE SE	Well #B - 794 FEET NORTH AND 55 FEET WEST FROM THE SE CORNER OF SECTION 19

23. The portion of the EIGHTH right to be transferred is as follows:

**Certificate:** 68430 issued in the name of JEDEDIAH AYLETT (perfected under Permit G-190)

**Use:** IRRIGATION of 3.0 ACRES

**Priority Date:** MARCH 26, 1956

**Rate:** 0.037 CUBIC FOOT PER SECOND

**Limit/Duty:** ONE-EIGHTIETH of one cfs per acre, not to exceed 3.0 ACRE-FEET per acre per year, or its equivalent in case of rotation, measured at the well.

**Source:** A WELL, within the UMATILLA RIVER BASIN

**Authorized Point of Appropriation:**

Twp	Rng	Mer	Sec	Q - Q	Measured Distances
4 N	27 E	WM	28	SE SW	90 FEET NORTH AND 40 FEET WEST FROM THE S¼ CORNER OF SECTION 28

**Authorized Place of Use:**

IRRIGATION					
Twp	Rng	Mer	Sec	Q - Q	Acres
4 N	27 E	WM	33	NE SW	3.0

24. The applicant proposes to CHANGE THE PLACE OF USE of the right to:

**Proposed Place of Use:**

IRRIGATION					
Twp	Rng	Mer	Sec	Q - Q	Acres
4 N	27 E	WM	19	SE SE	3.0

25. The applicant also proposes to CHANGE THE POINT OF APPROPRIATION for the above described water right northwest approximately 9,700 feet to:

**Proposed Point of Appropriation:**

Twp	Rng	Mer	Sec	Q - Q	Measured Distances
4 N	27 E	WM	19	SE SE	Well #B - 794 FEET NORTH AND 55 FEET WEST FROM THE SE CORNER OF SECTION 19

26. The portion of the NINTH right to be transferred is as follows:

**Certificate:** 60556 issued in the name of JEDEDIAH AYLETT (perfected under Permit U-363)

**Use:** IRRIGATION of 3.0 ACRES

**Priority Date:** NOVEMBER 1, 1950

**Rate:** 0.037 CUBIC FOOT PER SECOND

**Limit/Duty:** ONE-EIGHTIETH of one cfs per acre, not to exceed 3.0 ACRE-FEET per acre per year, or its equivalent in case of rotation, measured at the well.

**Source:** A WELL, within the UMATILLA RIVER BASIN

**Authorized Point of Appropriation:**

Twp	Rng	Mer	Sec	Q - Q	Measured Distances
4 N	27 E	WM	28	SE SW	90 FEET NORTH AND 40 FEET WEST FROM THE S¼ CORNER OF SECTION 28

**Authorized Place of Use:**

IRRIGATION					
Twp	Rng	Mer	Sec	Q - Q	Acres
4 N	27 E	WM	33	NW SE	3.0

27. The applicant proposes to change the place of use of the right to:

**Proposed Place of Use:**

IRRIGATION					
Twp	Rng	Mer	Sec	Q - Q	Acres
4 N	27 E	WM	19	SE SE	3.0

28. The applicant also proposes to CHANGE THE POINT OF APPROPRIATION for the above listed water right northwest approximately 9,700 feet to:

**Proposed Point of Appropriation:**

Twp	Rng	Mer	Sec	Q - Q	Measured Distances
4 N	27 E	WM	19	SE SE	Well #B - 794 FEET NORTH AND 55 FEET WEST FROM THE SE CORNER OF SECTION 19

## Conclusions of Law

The proposed changes in place of use and points of appropriation are consistent with the requirements of ORS 540.505 to 540.580 and OAR 690-380-5000 and the scrivener's error in Special Order Volume 61, pages 172 – 180 should be corrected and clarified in the record.

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

1. The Final Order approving Transfer Application T-8901, entered at Special Order Volume 61, pages 172 – 180, is withdrawn and of no further force or effect, and is superseded by this order.
2. The changes in place of use and points of appropriation proposed in Transfer Application T-8901 are approved.
3. The right to the use of water is restricted to beneficial use at the place of use described, and is subject to all other conditions and limitations contained in Certificates 60556, 68430, 68431, 72145, 72146, 72147, 72148, 72149 and 72150.
4. The approved changes shall be completed and full beneficial use of the water shall be made on or before October 1, 2005. A Claim of Beneficial Use prepared by a Certified Water Rights Examiner shall be submitted by the applicant to the Water Resources Department within one year after the deadline for completion of the changes and full beneficial use of the water.
5. The quantity of water diverted at the new points of appropriation shall not exceed the quantities of water lawfully available from the original points of appropriation (wells).
6. The former places of use of the transferred water shall no longer receive water as part of these rights.
7. When required by the Department, the water user shall install an in-line flow meter or other suitable device for measuring and recording the quantity of water used. The type and plans of the measuring device must be approved by the Department prior to beginning construction and shall be installed under the general supervision of the Department.
8. Water shall be acquired from the same aquifer as the original points of appropriation. The wells must be maintained so as not to penetrate the underlying basalts.
9. The wells shall be maintained in accordance with the General Standards for the Construction and Maintenance of Water Wells in Oregon.



10. Certificates 60556, 68430, 68431, 72145, 72146, 72147, 72148, 72149 and 72150 are cancelled. Certificates 80899, 80900 and 80901 have been issued to describe the portions of the rights not affected by the transfer. When satisfactory proof of the completed changes is received, new certificates confirming these water rights will be issued.

Dated at Salem, Oregon this 16 of March, 2011.



Dwight French for  
PHILLIP C. WARD, DIRECTOR

Mailing Date: MAR 21 2011