

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

In the Matter of Transfer Application	)	FINAL ORDER APPROVING A CHANGE IN
T-14031, Lake County	)	POINT OF APPROPRIATION, A CHANGE IN
	)	PLACE OF USE AND A CHANGE IN
	)	CHARACTER OF USE

**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**

THOMAS O'LEARY  
PO BOX 69  
SILVER LAKE, OR 97638

**Findings of Fact**

1. On June 9, 2022, Thomas O'Leary filed an application to change the point of appropriation, change the place of use, and to change the character of use under Certificate 56038. The Department assigned the application number T-14031.
2. Notice of the application for transfer was published on June 28, 2022, pursuant to OAR 690-380-4000. No comments were filed in response to the notice.
3. On September 12, 2023, the Department notified the applicant's agent via email that the transfer application did not include supporting documentation for the Evidence of Use Affidavit.
4. On October 16, 2023, the applicant's agent submitted the supporting documentation for the Evidence of Use Affidavit.

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 October 19, 2023, the Department sent a copy of the draft Preliminary Determination proposing to approve Transfer Application T-14031 to the applicant. The draft Preliminary Determination cover letter set forth a deadline of November 18, 2023, for the applicant to respond. The applicant requested that the Department proceed with issuance of a Preliminary Determination and provided the necessary information to demonstrate that the applicant is authorized to pursue the transfer.
6. On November 13, 2023, the applicant's agent requested a modified completion date for October 1, 2029.
7. On March 26, 2024, the Department issued a Preliminary Determination proposing to approve Transfer Application T-14031 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 March 26, 2024, and in the Lakeview Examiner newspaper on April 3, 2024, and April 10, 2024, pursuant to ORS 540.520 and OAR 690-380-4020. No protests were filed in response to the notice.
8. The right to be transferred is as follows:

**Certificate:** 56038 in the name of JEREMIAH O'LEARY (perfected under Permit G-9201)  
**Use:** IRRIGATION OF 18.1 ACRES  
**Priority Date:** JANUARY 26, 1981  
**Rate:** 0.23 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 3.0 acre-feet per acre for each acre irrigated during the irrigation season of each year.  
**Source:** A WELL, a tributary of SILVER LAKE

**Authorized Point of Appropriation:**

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
28 S	14 E	WM	28	SE SE	WELL OFF - 1080 FEET NORTH AND 220 FEET WEST FROM THE SE CORNER OF SECTION 28

**Authorized Place of Use:**

IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
28 S	15 E	WM	27	NW SW	2.5
28 S	15 E	WM	27	SW SW	15.6
TOTAL					18.1



9. Transfer Application T-14031 proposes to move the authorized point of appropriation approximately 4.75 miles west from the existing point of appropriation to:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
28 S	14 E	WM	14	SW SE	WELL ON - 1053 FEET NORTH AND 2559 FEET WEST FROM THE SE CORNER OF SECTION 14

10. Transfer Application T-14031 proposes to change the character of use to Supplemental Irrigation.

11. Transfer Application T-14031 also proposes to change the place of use of the right to:

SUPPLEMENTAL IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
28 S	14 E	WM	14	SE SE	18.1

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

12. 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.
13. 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-14031.
14. The water right is subject to transfer as defined in ORS 540.505(4) and OAR 690-380-0100(14).
15. 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).
16. The proposed changes, as conditioned, would not result in enlargement of the right.
17. The proposed changes, as conditioned, would not result in injury to other existing water rights.
18. All other application requirements are met.

**Conclusions of Law**

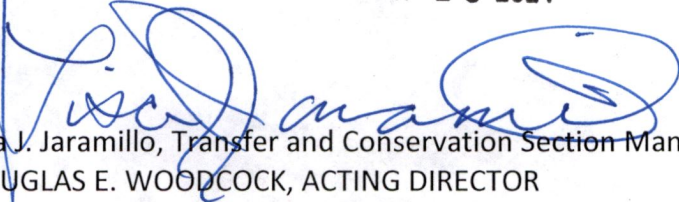
The change in point of appropriation, change in place of use and change in character of use proposed in Transfer Application T-14031 are consistent with the requirements of ORS 537.705 and 540.505 to 540.580 and OAR 690-380-5000.

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

1. The change in point of appropriation, change in place of use and change in character of use proposed in Transfer Application T-14031 are 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 56038 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 or the new place of use.
4. Water right Certificate 56038 is cancelled.
5. The quantity of water diverted at the new point of appropriation shall not exceed the quantity of water lawfully available at the original point of appropriation.
6. Water shall be acquired from the same aquifer (water source) as the original point of appropriation.
7. The former place of use of the transferred right shall no longer receive water under the right.
8. The amount of water used under the proposed supplemental irrigation use shall be limited to a maximum rate of diversion of 0.23 cubic foot per second and shall be further limited to 3.0 acre-feet per acre for each acre irrigated during the irrigation season of each year.
9. 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 appropriation with the exception that water rights issued to the Bureau of Reclamation, or an irrigation district (or similar entity) are not subject to this condition.
  - 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.
10. Full beneficial use of the water shall be made, consistent with the terms of this order, on or before **October 1, 2029**. 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 changes and full beneficial use of the water.

11. After satisfactory proof of beneficial use is received, a new certificate confirming the right transferred will be issued.

Dated in Salem, Oregon on **MAY 20 2024**

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

Mailing Date:     **MAY 21 2024**