

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

In the Matter of Transfer Application	)	FINAL ORDER APPROVING A
T-13251, Douglas County	)	TEMPORARY CHANGES IN PLACE
	)	OF USE AND 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**

JESSE AND RACHEL DEAN  
2005 GREEN VALLEY RD.  
OAKLAND, OR 97462

**Findings of Fact**

1. On September 16, 2019, JESSE AND RACHEL DEAN filed an application to temporarily change the place of use and change the point of diversion to serve the proposed place of use under Certificate 50899 for a period of 2 years. The Department assigned the application number T-13251.
2. Notice of the application for transfer was published on September 24, 2019, pursuant to OAR 690-380-4000. No comments were filed in response to the notice.
3. On December 9, 2019, the Department contacted the applicant by written correspondence to notify the applicant of deficiencies in the application. The Evidence of Use supporting documentation submitted with the application was not sufficient enough to suggest that the water had been beneficially used within the previous five years, according to the terms and conditions of Certificate 50899. Also, Table 2 and the application map "FROM" lands did not match the amount of acres identified in the "TO" lands. The Department requested that the deficiencies be resolved by January 10, 2020.

<p>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.</p>
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4. On January 8, 2020, the applicant submitted additional Evidence of Use supporting documentation that does indicate water was beneficially used within the previous five years, according to the terms and conditions of Certificate 50899.
5. On January 10, 2020, the applicant submitted a revised Table 2, resolving the deficiencies.
6. 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 25.82 ACRES  
**Priority Date:** SEPTEMBER 22, 1950  
**Rate:** 0.32 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	POD #1 - 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	NE NE	1.45
24 S	5 W	WM	35	NW NE	3.02
24 S	5 W	WM	35	SW NE	13.40
24 S	5 W	WM	35	SE NE	7.95
Total					25.82

7. Temporary Transfer Application T-13251 proposes to temporarily change the place of use of the right to:

IRRIGATION						
Twp	Rng	Mer	Sec	Q-Q	DLC	Acres
25 S	5 W	WM	6	SW SE	55	9.32
25 S	5 W	WM	7	NW NE	55	16.50
Total						25.82

8. A change in point of diversion is necessary to convey the water to the proposed temporary place of use. Temporary Transfer Application T-13251 proposes to move the authorized point of diversion approximately 6.3 miles downstream to:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
25 S	5 W	WM	7	SW NE	POD #2 - 1950 FEET SOUTH AND 2080 FEET WEST FROM THE NE CORNER OF SECTION 7

### ***Temporary Transfer Review Criteria***

9. 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.
10. A pump, pipeline, and sprinkler system sufficient to use the full amount of water allowed under the existing right are present.
11. The proposed changes would not result in enlargement of the right.
12. The proposed changes would not result in injury to other water rights. This finding is made through an abbreviated review recognizing that the transfer may be revoked under ORS 540.523(5) if the Department later finds that the transfer is causing injury to any existing water right.

### **Conclusions of Law**

The temporary changes in place of use and point of diversion to convey water to the temporary place of use proposed in Temporary Transfer Application T-13251 are consistent with the requirements of ORS 540.523 and OAR 690-380-8000.

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

1. The temporary changes in place of use and point of diversion to convey water to the temporary place of use proposed in Temporary Transfer Application T-13251 are approved.
2. The former place of use **shall not** be irrigated as part of this water right during the 2019 and 2020 irrigation seasons.
3. The proposed place of use under T-13251 will become layered with Certificate 38942. The place of use under Certificate 38942 that will become layered with the temporary place of use under Certificate 50899, shall not be irrigated for the duration of this temporary transfer, being the 2019 and 2020 irrigations seasons.
4. The use shall revert to the authorized place of use at the end of the 2020 irrigation season. The authorization to use the additional point of diversion shall be terminated concurrently.
5. The approval of this temporary transfer may be revoked or modified if the Department finds the changes cause injury to any existing water right.
6. A subsequent application for permanent transfer of Certificate 50899 shall be subject to a full and complete review to determine consistency with the requirements of OAR Chapter 690, Division 380. Approval of this temporary transfer does not establish a precedent for approval of a subsequent application filed for a permanent transfer.
7. The use of water at the temporary place of use authorized by this transfer shall be in accordance with the terms and conditions of Certificate 50899.

8. The time during which water is used under this approved temporary transfer does not apply toward a finding of forfeiture under ORS 540.610.
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 new point of diversion.
  - 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. The use of the remaining water right described by Certificate 50899 shall continue to be in accordance with the terms and conditions of Certificate 50899.

Dated in Salem, Oregon on **JAN 29 2020**



Lisa J. Jaramillo, Transfer and Conservation Section Manager, for  
THOMAS M BYLER, DIRECTOR  
Oregon Water Resources Department

*Mailing Date:* **JAN 30 2020**