

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

In the Matter of Transfer Application	)	FINAL ORDER APPROVING A
T-11523, Marion County	)	CHANGE IN POINT OF
	)	APPROPRIATION

**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.

**Applicants**

KEITH DITCHEN AND JUSTIN DITCHEN  
9712 NUSOM ROAD NE  
SILVERTON, OR 97381

**Findings of Fact**

1. On January 14, 2013, KEITH DITCHEN AND JUSTIN DITCHEN filed an application for an additional point of appropriation under Certificate 55544. The Department assigned the application number T-11523.
2. Notice of the application for transfer was published on January 22, 2013, pursuant to OAR 690-380-4000. No comments were filed in response to the notice.
3. On November 26, 2013, the Department mailed a copy of the draft Preliminary Determination proposing to approve Transfer Application T-11523 to the applicants. The draft Preliminary Determination cover letter set forth a deadline of December 26, 2013, for the applicants to respond. The applicants requested that the Department proceed with issuance of a Preliminary Determination and provided the necessary information to demonstrate that the applicants are authorized to pursue the transfer.
4. On January 29, 2014, the Department issued a Preliminary Determination proposing to approve Transfer Application T-11523 and sent a copy to the applicants. Additionally, notice of the Preliminary Determination for the transfer application was published on 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.

Department's weekly notice on February 4, 2014, and in the Silverton Appeal newspaper on February 5, and 12, 2014, pursuant to ORS 540.520 and OAR 690-380-4020. No protests were filed in response to the notice.

5. The applicants requested that the date that full beneficial use of the water shall be made, be changed from "on or before October 1, 2015," to "on or before October 1, 2016." That amendment was made in the Preliminary Determination.
6. The portion of the right to be transferred is as follows:

**Certificate:** 55544 in the name of EDWARD A. HARI (perfected under Permit G-7867)  
**Use:** IRRIGATION of 22.2 ACRES  
**Priority Date:** DECEMBER 1, 1977  
**Rate:** 0.278 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:** A WELL within the LITTLE PUDDING RIVER BASIN

**Authorized Point of Appropriation:**

Twp	Rng	Mer	Sec	Q-Q	DLC	Measured Distances
7 S	2 W	WM	2	SE NW	58	140 FEET NORTH AND 1260 FEET WEST FROM THE CENTER OF SECTION 2

**Authorized Place of Use:**

IRRIGATION						
Twp	Rng	Mer	Sec	Q-Q	DLC	Acres
7 S	2 W	WM	2	NW NW	84	3.4
7 S	2 W	WM	3	NE NE	84	18.8

7. Transfer Application T-11523 proposes an additional point of appropriation approximately 3,560 feet from the existing point of appropriation to:

Twp	Rng	Mer	Sec	Q-Q	DLC	Measured Distances
7 S	2 W	WM	3	NW NE	84	540 FEET SOUTH AND 1500 FEET WEST FROM THE NE CORNER OF SECTION 3

**Transfer Review Criteria (OAR 690-380-4010)**

8. 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.
9. A pump, pipeline, and sprinkler system sufficient to use the full amount of water allowed under the existing right were present within the five-year period prior to submittal of Transfer Application T-11523.

10. The proposed change would not result in enlargement of the right.
11. The proposed change would not result in injury to other water rights.
12. All other application requirements are met.

### **Conclusions of Law**

The change in point of appropriation proposed in Transfer Application T-11523 is 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 proposed in Transfer Application T-11523 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 Certificate 55544 and any related decree.
3. Water right certificate 55544 is cancelled. A new certificate will be issued describing that portion of the right not affected by this transfer.
4. The quantity of water diverted at the additional point of appropriation, together with that diverted at the original point of appropriation, shall not exceed the quantity of water lawfully available at the original point of appropriation.
5. 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 at each new point of appropriation.
  - b. The water user shall maintain the meter or measuring device in good working order.
  - c. The water user shall allow the Watermaster access to the meter or measuring device; provided however, where the meter or measuring device is located within a private structure, the Watermaster shall request access upon reasonable notice.
6. Water shall be acquired from the same aquifer (water source) as the original point of appropriation.
7. Full beneficial use of the water shall be made, consistent with the terms of this order, on or before **October 1, 2016**. 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 and full beneficial use of the water.
8. After satisfactory proof of beneficial use is received, a new certificate confirming the right transferred will be issued.

Dated at Salem, Oregon this 14 day of March 2014.

  
Dwight French, Water Right Services Administrator, for  
PHILLIP C. WARD, DIRECTOR

Mailing Date: MAR 24 2014