

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

In the Matter of Transfer Application)	PRELIMINARY DETERMINATION
T-14109, Deschutes and Klamath County)	PROPOSING APPROVAL OF A CHANGE
)	PLACE OF USE

Authority

Oregon Revised Statutes (ORS) 540.505 to 540.580 establish the process in which a water right holder may submit a request to transfer the point of diversion, 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

BELL “A” LAND AND CATTLE COMPANY
PO BOX 97
LA PINE, OR 97739

Receiving Landowner

BELL “A” LAND AND CATTLE COMPANY
PO BOX 97
LA PINE, OR 97739

Findings of Fact

1. On October 21, 2022, BELL “A” LAND AND CATTLE COMPANY filed an application to change the place of use under Certificate 95746. The Department assigned the application number T-14109.
2. BELL “A” LAND AND CATTLE COMPANY is the receiving landowner who will be responsible for completion of the changes.
3. Notice of the application for transfer was published on November 1, 2022, pursuant to OAR 690-380-4000. No comments were filed in response to the notice.
4. On April 14, 2023, the Department mailed a copy of the draft Preliminary Determination proposing to approve Transfer Application T-14109 to the applicant. The draft Preliminary Determination cover letter set forth a deadline of May 15, 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.

Pursuant to OAR 690-380-4030, any person may file a protest or standing statement within 30 days after the last date of publication of the newspaper notice or the Department’s weekly notice as prescribed by OAR 690-380-4020, whichever is later, of this preliminary determination.

5. On April 24, 2023, the applicant requested to extend the time to complete full beneficial use of the water to October 1, 2029.

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

Certificate: 95746 in the name of LA PINE COOPERATIVE WATER ASSOCIATION
(confirmed by Deschutes River (F) Decree)
Use: IRRIGATION OF 12.1 ACRES
Priority Date: 1897 for 12.1 acres
Rate/Duty: ONE-FORTIETH of one cubic foot per second, or its equivalent for each acre irrigated, FROM MAY 23 TO AUGUST 20, and ONE-EIGHTIETH of one cubic foot per second, or its equivalent for each acre irrigated, FROM APRIL 1 TO MAY 23 AND FROM AUGUST 20 TO NOVEMBER 1, and shall be further limited to a diversion of not to exceed 4.0 acre-feet for each acre irrigated during the irrigation season of each year.
Source: LITTLE DESCHUTES RIVER, a tributary to the DESCHUTES RIVER

Authorized Point of Diversion:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
23 S	9 E	WM	34	SW SW	550 FEET NORTH AND 1150 FEET EAST FROM THE SW CORNER OF SECTION 34

Authorized Place of Use:

IRRIGATION							
Twp	Rng	Mer	Sec	Q-Q	Tax Lot	Acres	Owner
22 S	10 E	WM	34	NE SW	2803	12.1	LeBeau, Donald and Suzanne

7. Transfer Application T-14109 proposes to change the place of use of the right to:

IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
23 S	9 E	WM	14	NE NE	0.1
23 S	9 E	WM	14	SE NE	4.9
23 S	9 E	WM	26	SW NE	7.1
Total					12.1

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

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 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-14109.
10. The water right is subject to transfer as defined in ORS 540.505(4) and OAR 690-380-0100(14).

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

Determination and Proposed Action

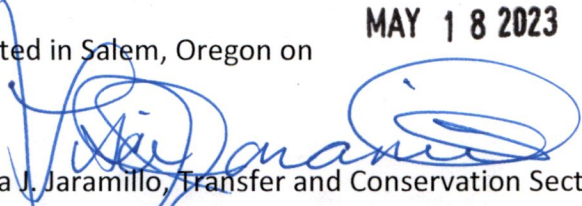
The change in place of use proposed in Transfer Application T-14109 appears to be consistent with the requirements of ORS 540.505 to 540.580 and OAR 690-380-5000. If protests are not filed pursuant to OAR 690-380-4030, the transfer application will be approved.

If Transfer Application T-14109 is approved, the final order will include the following:

1. *The change in place of use proposed in Transfer Application T-14109 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 95746 and any related decree.*
3. *Water right Certificate 95746 is modified. The Department will issue a superseding certificate describing the right when it determines that is necessary for record keeping.*
4. *The former place of use of the transferred right shall no longer receive water under the right.*
5. *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 change and full beneficial use of the water.*
6. *After satisfactory proof of beneficial use is received, a new certificate confirming the right transferred will be issued.*

Dated in Salem, Oregon on

MAY 18 2023


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

This Preliminary Determination was prepared by Corey Courchane. If you have questions about the information in this document, you may reach me at 971 979-3107 or Corey.A.Courchane@water.oregon.gov.

Protests should be addressed to the attention of Water Rights Division, Water Resources Department, 725 Summer St. NE, Suite A, Salem, OR 97301-1266.

Notice Regarding Service Members: Active duty service members have a right to stay proceedings under the federal Service Members Civil Relief Act. 50 U.S.C. App. §§501-597b. You may contact the Oregon State Bar or the Oregon Military Department for more information. The toll-free telephone number for the Oregon State Bar is: 1 (800) 452-8260. The toll-free telephone number of the Oregon Military Department is: 1 (800) 452-7500. The Internet address for the United States Armed Forces Legal Assistance Legal Services Locator website is: <http://legalassistance.law.af.mil>

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