

Watermaster Review Form:

Water Right Transfer



Oregon Water Resources Department
725 Summer St NE, Suite A
Salem, Oregon 97301-1266
(503) 986-0900
www.oregon.gov/OWRD

Transfer Application: T-

Review Due Date:

Applicant Name:

Proposed Changes: POU POD POA USE OTHER

Reviewer(s):

Date of Review:

1. Do you have evidence that the right has not been used in the last 5 years and that the presumption of forfeiture would not likely be rebuttable? Yes No If "Yes", attach evidence (e.g. dated aerial photo showing pavement or building on the land for >5 yrs.)

2. Is there a history of regulation on the source that serves this (or these) right(s) that has involved the transferred right(s) and downstream water rights? Yes No Generally characterize the frequency of any regulation or explain why regulation has not occurred:

3. Have headgate notices been issued for the source that serves the transferred right(s)?
 Yes No Records not available.

4. In your estimation, after the proposed change, would distribution of water for the right(s) result in regulation of other water rights that would not have occurred if use under the original right(s) was/were maximized? Yes No If "Yes", explain:

5. In your estimation, if the proposed change is approved, are there upstream water rights that would be affected? Yes No If "Yes", describe how the rights would be affected and list the rights most affected:

6. Check here ☐ if it appears that downstream water rights benefit from return flows resulting from the current use of the transferred right(s)? If you check the box, generally characterize the locations where the return flows likely occur and list the water rights that benefit most:

N/A

7. For POD changes and instream transfers, check here if there are channel losses between the old and new PODs or within the proposed instream reach? If you check the box, describe and, if possible, estimate the losses:

N/A

8. For instream transfers that propose protection of a reach beyond the mouth of the source stream:

N/A Would the quantity be measureable into the receiving stream consistent with
OAR 690-077-0015(8)? Yes No

9. For POU changes: N/A Is it likely the original place of use would continue to receive water from the same source? Yes No If "Yes", explain:

10. For POU or USE changes: N/A In your best judgment, would use of the existing right at "full face value," result in the diversion of more water than can be used beneficially and without waste?

Yes No If "Yes", explain:

11. For POU changes that involve micro-irrigation: N/A

- a. Has the applicant made changes (absent a transfer) to convert to micro-irrigation within the current place of use boundary of the water right proposed for transfer, and previously demonstrated to the Department through monitoring and site inspections by the Watermaster that the proposed transfer will not result in injury or enlargement?

Yes No If "Yes", explain:

- b. Has a temporary transfer of this nature been previously filed and approved on the same lands (or portions thereof) as those lands involved in this transfer?

Yes No If "Yes", answer the following:

- i. Were there any problems with more acres being irrigated (or wetted) than were authorized under the temporary transfer? Yes No If "Yes", explain:

- ii. Did the designated areas that were to remain dry (or not wetted) under the temporary transfer actually remain dry? Yes No If "No", explain:

- iii. Did the applicant comply with and meet all of the conditions of the temporary transfer? Yes No If "No", explain:

- iv. Do you have any other observations regarding the temporary transfer?
Yes No If "Yes", describe:

- v. Did the applicant demonstrate to the Department through monitoring and site inspections by the Watermaster that neither injury nor enlargement occurred as a result of the temporary transfer? Yes No If "No", explain:

- c. To the best of your knowledge, if this transfer is approved, does it appear that:

- i. "Injury" will occur to other water rights that share the same source?
Yes No If "Yes", explain:

- ii. "Enlargement" of the water right being transferred will occur?
Yes No If "Yes", explain:

12. Are there other issues not identified through the above questions that should be considered in determining whether the change “can be effected without injury to other rights”?

Yes No If “Yes”, explain:

13. What alternatives may be available for addressing any issues identified above:

14. Do conditions need to be included in the transfer order to avoid enlargement of the right or injury to other rights? No Yes, as checked and provided below:

For POU changes that involve micro-irrigation, provide the monitoring and reporting conditions necessary to prevent injury/enlargement:

A Headgate should be required prior to diverting water.

Measurement Devices for POD or POA: (if this condition is selected, also fill in the top sections of Page 4)

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 diversion/appropriation (new and existing) **OR** at each new point of diversion/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.

Reservoir water use measurement: (if this condition is selected, also fill in the top sections of Page 4)

a. Before water use may begin under this order, the water user shall install staff gages*, or, with prior approval of the Director, other suitable measuring devices, that measure the entire range and stage between empty and full in each reservoir. Staff gages shall be United States Geological Survey style.

b. Before water use may begin under this order, if the reservoir is located in channel, weirs or other suitable measuring devices must be installed upstream and downstream of the reservoir, and, an adjustable outlet valve must be installed. The water user shall maintain such devices in good working order. A written waiver may be obtained, if in the judgment of the Director, the installation of weirs or other suitable measuring devices, or the adjustable outlet valve, will provide no public benefit.

*** The following alternative device(s) should be substituted for the bold, underlined device in the above selected condition:**

Weir

Submerged Orifice

Parshall Flume

Flow Restrictor

Other: ____

Oregon Water Resources Department

Measurement Condition Information for the Applicant

(To be sent with the Draft Preliminary Determination or Final Order)

Transfer #: T-

In order to avoid enlargement of the right or injury to other rights, a _____ will
be required to be installed **prior to diversion of water**, as a condition of this transfer:
*at each point of diversion/appropriation (new and existing) **OR***
at each new point of diversion/appropriation.

For additional information, or to obtain approval of a different type of measurement device, the applicant should contact the area Watermaster:

Watermaster name:

District:

Address:

City/State/Zip:

Phone:

Email:

Note: *If a device other than the one specified in the Preliminary Determination or Final Order is approved by the Watermaster, fill out and mail the form below to the Salem office.*

Approval of an Alternate Measurement Device

T-

(to be filled out after consultation with the applicant, or after a site visit)

On behalf of the Director, I authorize use of the following suitable **alternate measurement device**:

Watermaster signature

District

Date

If this form is used for approval of an alternative measurement device, it must be mailed to:

Oregon Water Resources Department
725 Summer Street NE, Suite A
Salem, OR 97301-1266

Watermaster Review: The applicant has proposed changing two authorized POD's to two wells. This additional document is provided due to lack of space within the Watermaster Review form.

Watermaster concerns are as follows:

- 1) Umatilla/McKay Management Plan requires water use to be metered. "An individuals rate of water diversion shall not exceed the rate of their water right in the absence of an approved rotation agreement. Water use shall not exceed the duty of the water right. Use of water shall be within the irrigation season of the water right. To do otherwise may be harmful to instream water rights and other users". Page 3-D also "Measuring devices or reporting of use will ensure that users stay within the limits of their water rights." Page 4 - #2. "Measuring devices – users required to have measuring devices shall have them installed prior to irrigating in the 1993 irrigation season." Page 7 - #2.

Watermaster Concern: Mr. Piercy would have been regulated off if any known unmetered water use was occurring. Injury was occurring to instream water rights due to lack of metering.

- 2) In 2016 – The applicant filed T-12487 proposing a change in place of use with the same certificates identified in the historic POD transfer application. The source was identified as the two authorized points of diversion on 89254 and 89256. The transfer was ultimately withdrawn in 2019. However, this application was signed by Mr. and Mrs. Piercy directly below the statement "We affirm that the information contained in this application is true and accurate".

Watermaster Concern – In the Historic POD application, the applicant claims use since 2012. However, the 2016 application makes no mention of it and would have been an ideal time to also file for a change in POD.

- 3) In December of 2019, Watermaster Silbernagel met with Mr. Piercy and farm manager Mr. Tyhuis over concerns of exceeding duty limits on these certificates during the 2019 irrigation season. Mr. Piercy had utilized more water from metered sources than authorized on his certificate. His water right use exceeded certificated limits from the metered sources.

Watermaster Concern - Any additional water used from other sources was enlargement of the water right in 2019 and caused injury to other water users and instream water rights on the Umatilla River.

- 4) Mr. Tyhuis was asked about the use from POD 4 during one of our encounters. Watermaster Silbernagel was informed and lead to believe that it was used to process sulfur into the blueberry driplines and only a minimal amount of water was used.

Watermaster Concern – At no time when questioned about the use from this location was I to understand that large quantities of water were being utilized for irrigation purposes. This was understood to be a commercial exempt use and not formal historical practice of irrigation. Other regulation on the farm was occurring at this time and it would have been included.

- 5) Certificate 89254 was reduced by 27% due to canal losses from the original Taylor POD to the APOD applied for in T-8431. At no time may more than 1.1 CFS be withdrawn from the infiltration gallery to cover the seepage and evaporation losses. The same shall be calculated at the new historic POD's if this is approved.
- 6) Certificate 89256 rate should be reduced by the same 27% to account for seepage losses from the original POD to prevent injury if this transfer is approved.
- 7) The application lacks sufficient historical evidence of use. The reason being is that the fields were irrigated from known metered sources during the proposed time. There is no proof provided in the application that the water was from the unmetered wells. Aerial photos of well locations proves nothing.
- 8) A groundwater review needs to be completed regarding hydraulic connection to prove same source if this proceeds. I do not know that a surface water to groundwater transfer is allowed in the historic POD process and also needs to be reviewed.
- 9) Certificates 89254 and 89256 both hold language that reads "The water user shall maintain a headgate, an in-line flow meter, weir or other suitable device for measuring and recording the quantity of water diverted". POD 4 had no such device on it and in no way would allow for historical use to be claimed because the use was unauthorized.
- 10) Certificate 89254 holds the language "This certificate is issued to confirm an additional point of diversion approved by an order of the Water Resources Director entered May 17th, 2000, at Special Order Volume 54, Page 391, approving transfer application 8431...)

Certificate 89256 holds similar language citing "entered September 16th, 1990 , at Special Order Volume 52, Page 832, Approving transfer Application 7156...."

Both orders hold similar language "The approval of the additional point of diversion is based on infiltration gallery construction details provided by the applicant. Any changes in construction of the infiltration gallery must be approved by the Department in advance and may be subject to the provisions of the General Standards of the Construction and Maintenance of Water Wells in Oregon." I am unaware of any requested changes and therefore any other use is considered unauthorized and should not be allowed as historic.