

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

In the Matter of Transfer Application	)	PROPOSED FINAL ORDER APPROVING
T-11475, Clackamas County	)	ADDITIONAL POINTS OF DIVERSION

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

JAMES E CALCAGNO
17031 S. CLACKAMAS RIVER DRIVE
OREGON CITY, OR 97045

Findings of Fact

1. On September 19, 2012, JAMES E. CALCAGNO filed an application for additional points of diversion under Certificates 64477 and 64508. The Department assigned the application number T-11475.
2. Notice of the application for transfer was published on September 25, 2012, pursuant to OAR 690-380-4000. No comments were filed in response to the notice.
3. On August 9, 2016, the Department mailed a copy of the draft Preliminary Determination proposing to approve Transfer Application T-11475 to the applicant. The draft Preliminary Determination cover letter set forth a deadline of September 9, 2016, 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.

Under ORS 540.520(8) and (9) and ORS 536.077(1), any person may file a protest of this Proposed Final Order within 30 days after publication of notice of this Proposed Final Order in the Department's weekly notice. Under ORS 540.520(9) and ORS 536.077(2), if a protest is filed, any person who supports this Proposed Final Order may file a request for party status within 30 days after the deadline for filing a protest. Please refer to the end of this document for further information about filing protests and requests for party status.

4. Upon issuance of the draft Preliminary Determination, the Watermaster made a site visit to review the original and the proposed points of diversion and determined a revised review was necessary. As part of the revised review the Watermaster identified potential problems with the authorized source and suggested conditions to ensure the point of diversion source remains the same. It was determined that a revised draft Preliminary Determination must be issued to include these new findings and conditions to avoid enlargement of the rights.
5. On May 4, 2026, the Department mailed a copy of the revised draft Preliminary Determination proposing to approve Transfer Application T-11475 to the applicant. The draft Preliminary Determination cover letter set forth a deadline of June 3, 2026, for the applicant to respond. The applicant requested that the Department proceed with issuance of a Proposed Final Order.
6. The first right to be transferred is as follows:

Certificate: 64508 in the name of James E Calcagno (perfected under Permit S-43816)

Use: IRRIGATION of 18.0 ACRES

Priority Date: JANUARY 2, 1979

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 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 SLOUGH, tributary to the CLACKAMAS RIVER

Authorized Point of Diversion:

Twp	Rng	Mer	Sec	Q-Q	GLot	Measured Distances
2 S	2 E	WM	12	SW SW	4	SLOUGH - 70 FEET NORTH AND 210 FEET EAST FROM THE SW CORNER OF SECTION 12

Authorized Place of Use:

IRRIGATION						
Twp	Rng	Mer	Sec	Q-Q	GLot	Acres
2 S	2 E	WM	12	SW SW	4	0.1
2 S	2 E	WM	13	NW NW		10.2
2 S	2 E	WM	14	NE NE	1	7.7
Total						18.0

7. The second right to be transferred is as follows:

Certificate: 64477 in the name of JAMES E CALCAGNO (perfected under Permit S-42248)
Use: SUPPLEMENTAL IRRIGATION of 20.1 ACRES
Priority Date: JULY 20, 1977
Rate: 0.25 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 a diversion of 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. The right shall be limited to any deficiency in the available supply of any prior right existing for the same land and shall not exceed the limitation allowed herein.
Source: A SLOUGH, tributary to the CLACKAMAS RIVER

Authorized Point of Diversion:

Twp	Rng	Mer	Sec	Q-Q	GLot	Measured Distances
2 S	2 E	WM	12	SW SW	4	SLOUGH - 70 FEET NORTH AND 210 FEET EAST FROM THE SW CORNER OF SECTION 12

Authorized Place of Use:

IRRIGATION						
Twp	Rng	Mer	Sec	Q-Q	GLot	Acres
2 S	2 E	WM	13	NW NW		2.3
2 S	2 E	WM	13	SW NW		6.1
2 S	2 E	WM	14	NE NE	1	2.2
2 S	2 E	WM	14	SE NE	2	9.5
Total						20.1

8. Transfer Application T-11475 proposes additional points of diversion approximately 400 feet west from the original point to:

Twp	Rng	Mer	Sec	Q-Q	GLot	Measured Distances
2 S	2 E	WM	11	SE SE	2	POD 1 - 0 FEET NORTH AND 270 FEET WEST FROM THE SE CORNER OF SECTION 11
2 S	2 E	WM	11	SE SE	2	POD 2 - 380 FEET NORTH AND 150 FEET WEST FROM THE SE CORNER OF SECTION 11

9. The proposed new points of diversion are located on the Clackamas River. On October 20, 2012, the Watermaster concurred with evidence provided by the applicant that the slough and the Clackamas River were in fact hydraulically connected.

10. The Oregon Department of Fish and Wildlife (ODFW) has determined that fish screens are necessary at the new points of diversion to prevent fish from entering the diversions and that the diversions are not currently equipped with appropriate fish screens. These diversions may be eligible for screening cost-share funds.

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

11. Water has been used within the five-year period prior to submittal of the transfer application according to the terms and conditions of the rights. There is no information in the record that would demonstrate that the rights are subject to forfeiture under ORS 540.610.
12. A pump, pipeline, and sprinkler system sufficient to use the full amount of water allowed under the existing rights were present within the five-year period prior to submittal of Transfer Application T-11475.
13. The proposed changes, as conditioned, would not result in enlargement of the rights.
14. The proposed changes, as conditioned, would not result in injury to other water rights.

Determination and Proposed Action

The additional points of diversion proposed in Transfer Application T-11475 appear 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-11475 is approved, the final order will include the following:

1. *The additional points of diversion proposed in Transfer Application T-11475 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 Certificates 64508, 64477, and any related decree.*
3. *Water right Certificates 64508 and 64477 are cancelled.*
4. *To prevent enlargement and prove what could have been used beneficially, the water in the slough at the original point of diversion must be measured and available before water use can occur at the new points of diversion.*
5. *The quantity of water diverted at the additional points of diversion (POD 1 and POD 2), together with that diverted at the original point of diversion (Slough), shall not exceed the quantity of water lawfully available at the original point of diversion (Slough).*

The original location is as follows:

Twp	Rng	Mer	Sec	Q-Q	GLot	Measured Distances
2 S	2 E	WM	12	SW SW	4	SLOUGH - 70 FEET NORTH AND 210 FEET EAST FROM THE SW CORNER OF SECTION 12

6. Water use measurement conditions:

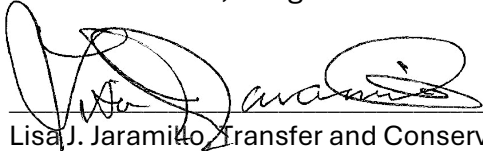
- a. **Before water use may begin** under this order, the water user shall install a totalizing flow meter, or, with prior approval of the Director, another suitable measuring device, at each new point of diversion.
- b. The water user shall maintain the meters or measuring devices in good working order.
- 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.

7. Prior to diverting water, the water user shall install an approved fish screen at the new points of diversion and shall provide to the OWRD a written statement from Oregon Department of Fish and Wildlife (ODFW) that the installed screens meet the state's criteria, or that ODFW has determined a screen is not necessary.

The water user shall operate and maintain the fish screens at the new points of diversion consistent with ODFW's operational and maintenance standards. If ODFW determines the screens are not functioning properly, and is unsuccessful in working with the water user to meet ODFW standards, ODFW may request that OWRD regulate the use of water until OWRD receives notification from ODFW that the fish screen is functioning properly.

8. Full beneficial use of the water shall be made, consistent with the terms of this order, on or before **October 1, 2027**. 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.
9. After satisfactory proof of beneficial use is received, new certificates confirming the rights transferred will be issued.

Dated at Salem, Oregon this 6/15/2026



Lisa J. Jaramillo, Transfer and Conservation Section Manager, for
IVAN GALL, Director
Oregon Water Resources Department

This Proposed Final Order was prepared by Corey Courchane. If you have questions about the information in this document, you may reach me at 503-979-3917 or corey.a.courchane@water.oregon.gov

Pursuant to ORS 536.077(4) and (5), if no protest of this Proposed Final Order is received by July 16, 2026, and the Department does not withdraw this Proposed Final Order on or before August 18, 2026, this Proposed Final Order is a final order without any further action by the Department on August 18, 2026.

Protests and Requests for Party Status

The following sections explain how to: (1) file a protest in opposition to this Proposed Final Order to request a contested case hearing on this Proposed Final Order; and (2) file a request for party status to request to participate in any contested case proceeding in support of this Proposed Final Order.

Protests: Under the provisions of ORS 540.520(8) and (9) and ORS 536.077(1), any person may protest this Proposed Final Order. Protests may be mailed or hand delivered to the Oregon Water Resources Department at 725 Summer Street NE, Suite A, Salem, OR 97301. If you submit a protest by U.S. mail, please consider mailing early to ensure the Department receives the protest by the deadline. Protests may be emailed to will.d.davidson@water.oregon.gov, but payment of Protest fees cannot be accepted electronically and must be received by the Department by mail or hand delivery prior to the deadline. Protests and protest fees must be received by the Water Resources Department no later than **July 16, 2026**.

Protests must meet the following requirements:

- Be in writing;
- Include the protestant's name, address, telephone number, and email address, if the protestant has an email address;
- Include the name, address, telephone number, and email address of the protestant's attorney, if the protestant is represented by an attorney;
- Include a description of the protestant's interest in the Proposed Final Order, and, if the protestant claims to represent the public interest, a precise statement of the public interest represented;
- Include a detailed description of how the action proposed in the Proposed Final Order would impair or be detrimental to the protestant's interest and/or the claimed public interest;
- Identify which of the Proposed Final Order's recommended findings of fact, conclusions of law or conditions of approval the protestant objects to;

- Raise all reasonably ascertainable issues and include all reasonably available arguments that support the protestant's position;
- Include any citation of legal authority to support the protest, if known;
- Explain how the issues raised in the protest are within the Department's jurisdiction;
- If the protestant is the applicant, include a protest fee of \$720 required by ORS 536.050; and
- If the protestant is not the applicant, include a protest fee of \$1,425 required by ORS 536.050.

Requests for Party Status: Under the provisions of ORS 540.520(9) and ORS 536.077(2), if this Proposed Final Order is protested, any person who supports this Proposed Final Order may file a request for party status to request to participate in any contested case proceeding on the Proposed Final Order or for judicial review of a final order resulting from the Proposed Final Order. There is no need for the applicant to file a request for party status. The applicant will automatically be a party to any contested case proceeding on this Proposed Final Order. Requests for party status may be mailed or hand delivered to the Oregon Water Resources Department at 725 Summer Street NE, Suite A, Salem, OR 97301. If you submit a request for party status by U.S. mail, please consider mailing early to ensure the Department receives the request by the deadline. Requests for party status may be emailed to will.d.davidson@water.oregon.gov, but payment of request for party status fees cannot be accepted electronically and must be received by the Department by mail or hand delivery prior to the deadline. Requests for party status and request for party status fees must be received by the Water Resources Department no later than **August 17, 2026**.

Requests for party status must be in writing and include the following:

- Names, addresses, and email addresses (if any) of the requester and any organization the requester represents;
- Name, address, and email address of the requestor's attorney, if any;
- A statement of whether the request is for participation as a party or a limited party, and, if as a limited party, the precise area or areas in which participation is sought;
- If the requestor seeks to protect a personal interest in the outcome of any contested case hearing on the Proposed Final Order, a detailed statement of the requestor's interest, economic or otherwise, and how such interest may be affected by the results of the hearing;
- If the requestor seeks to represent a public interest in the results of any contested case hearing on the Proposed Final Order, a detailed statement of such public interest, the manner in which such public interest will be affected by the results of the hearing, and the requestor's qualifications to represent such public interest;

- A statement of the reasons why existing parties to the proceeding cannot adequately represent the private and/or public interest(s) the requestor seeks to represent; and
- The request for party status fee of \$1,425 required by ORS 536.077(2)(b)(C) and ORS 536.050.

After the deadline for requests for party status, the Department will provide copies of any timely requests for party status, accept responses to requests for party status, and consider and rule on timely requests for party status as provided in OAR 690-002-0225.

Additional Notices

Notice of requirement to provide updated contact information: Parties must timely provide the Department with updated contact information, including any change of address or primary means of electronic communication. The contact information provided in the protest or request for party status, as applicable, is presumed to be valid for the purposes of service and notification of upcoming referral to the Office of Administrative Hearings unless timely updated by the party. OAR 690-002-0081.

Notice of the circumstances under which this Proposed Final Order will become a final order: If no protest of this Proposed Final Order is timely received and the Department does not withdraw this Proposed Final Order for reconsideration within 33 days after the close of the period for submitting a protest, this Proposed Final Order will become a final order on the date that is 33 days after the close of the period for submitting a protest, with no further action required by the Department. If a protest or protests are timely received, but later: (1) all timely-filed protests are withdrawn and the withdrawals are not based on a settlement agreement requiring changes to this Proposed Final Order; (2) all protestants fail to appear at a scheduled hearing; or (3) all protestants notify the Department or the administrative law judge that the protestants will not appear at a scheduled hearing, the protestants will have waived any right to a hearing, and the Department or the administrative law judge will issue an order dismissing the protests and notifying the parties that this Proposed Final Order has become a final order. OAR 690-002-0235; OAR 137-003-0672. The Department designates the relevant portions of its file on this matter, including all materials that you have submitted relating to this matter, as the record for the purpose of proving a prima facie case upon default. OAR 137-003-0672.

Notice of Right to Pursue Approval of Transfer through Consent to Injury Process after Contested Case Hearing: If after a contested case hearing on this Proposed Final Order the Department issues a proposed order finding that a change in point of diversion or appropriation will result in injury, the applicant may file a notification of intent to pursue approval of the transfer under OAR 690-380-5030 to 690-380-5050 within 15 days of receipt of the proposed order. Notwithstanding OAR 690-002-0175, if the applicant files a notification of intent to pursue approval of the transfer under OAR 690-380-5030 to 690-380-5050, the deadline for filing exceptions to the proposed order shall be 30 days after the

Department provides notice to the parties that the transfer does not meet the requirements of OAR 690-380-5030 to 690-380-5050.

Notice of right to be represented by an attorney: You may be represented by an attorney at any contested case hearing on this Proposed Final Order. Legal aid organizations may be able to assist a party with limited financial resources. Generally, partnerships, corporations, associations, governmental subdivisions or public or private organizations are represented by an attorney. However, consistent with OAR 690-002-0020 and OAR 137-003-0555, an “authorized representative” as defined at OAR 137-003-0555(1)(b) may represent a partnership, corporation, association, governmental subdivision or public or private organization if the Department determines that appearance of a person by an authorized representative will not hinder the orderly and timely development of the record in this case.

Notice to active duty servicemembers: 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. For more information contact the Oregon State Bar at 800-452-8260, the Oregon Military Department at 971-355-4127, or the nearest United States Armed Forces Legal Assistance Office through <http://legalassistance.law.af.mil>.

If you have questions about how to file a protest or a request for party status, or if you have previously filed a protest or a request for party status and you want to know the status, please contact Will Davidson at 503-507-2749.

If you have questions about the Department or any of its programs, please contact our Water Resources Customer Service Group at 503-986-0900.

Address any correspondence to: Oregon Water Resources Department, Transfer and Conservation Section, 725 Summer Street NE, Suite A, Salem OR 97301-1266.



Oregon

Tina Kotek, Governor

Water Resources Department

North Mall Office Building

725 Summer St NE, Suite A

Salem, OR 97301

Phone 503 986-0900

Fax 503 986-0904

www.oregon.gov/owrd

June 15, 2026

VIA CERTIFIED MAIL AND E-MAIL

JAMES E CALCAGNO
17031 S. CLACKAMAS RIVER DRIVE
OREGON CITY, OR 97045

SUBJECT: Water Right Transfer Application T-11475

Please find enclosed the Proposed Final Order indicating that, based on the information available, the Department intends to approve application T-11475. This document is an intermediate step in the approval process; water may not be used legally as proposed in the transfer application until a Final Order has been issued by the Department. Please read this entire letter carefully to determine your responsibility for additional action.

A public notice is being published in the Department's weekly publication, simultaneously with issuance of the Proposed Final Order. The notice initiates a period in which any person may file either a protest opposing the decision proposed by the Department in the Proposed Final Order or a request for party status supporting the Department's decision. The protest period will end 30 days after the Department's notice.

The Proposed Final Order will become a Final Order 33 days after the protest period ends without any further action by the Department, as a matter of law, if no protest is filed.

If a protest is filed, the application may be referred to a contested case proceeding. A contested case provides an opportunity for the proponents and opponents of the decision proposed in the Proposed Final Order to present information and arguments supporting their position in a quasi-judicial proceeding.

Please do not hesitate to contact me, at corey.a.courchane@water.oregon.gov or (503) 979-3917, if I may be of assistance.

Sincerely,

Corey Courchane
Allocation of Conserved Water
Transfer and Conservation Section

cc: Transfer Application file T-11475
Amy J. Landvoigt, District 20 Watermaster (*via e-mail*)
Steven R. Bruce, Agent for the applicant (*via e-mail*)

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