

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

In the Matter of Transfer Application) FINAL ORDER APPROVING A
T-13590, Josephine County) CHANGE IN 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

MICHAEL GOSENSKI
AND CYNTHIA S. HOBBS
950 AIRPORT DR
CAVE JUNCTION, OR 97523

Findings of Fact

1. On January 4, 2021, MICHAEL GOSENSKI AND CYNTHIA S. HOBBS filed an application to change the place of use under Certificate 14632. The Department assigned the application number T-13590.
2. Notice of the application for transfer was published on January 26, 2021, pursuant to OAR 690-380-4000. No comments were filed in response to the notice.
3. On February 4, 2022, the Department sent a copy of the draft Preliminary Determination proposing to approve Transfer Application T-13590 to the applicants. The draft Preliminary Determination cover letter set forth a deadline of March 26, 2022, 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.

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.

4. On May 11, 2022, the Department issued a Preliminary Determination proposing to approve Transfer Application T-13590 and sent a copy to the applicants. Additionally, notice of the Preliminary Determination for the transfer application was published in the Department's weekly notice on May 17, 2022, pursuant to ORS 540.520 and OAR 690-380-4020. No protests were filed in response to the notice.

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

Certificate: 14632 in the name of IDA J. WING (perfected under Permit S-13307)

Use: IRRIGATION of 2.0 ACRES

Priority Date: OCTOBER 3, 1938

Rate: 0.04 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-FIFTIETH of one cubic foot per second per acre, or its equivalent for each acre irrigated throughout the irrigation season from April 1st to November 1st of each year, and shall conform to such reasonable rotation system as may be ordered by the proper state officer.

Period of Use: APRIL 1ST TO NOVEMBER 1ST OF EACH YEAR

Source: ROUGH & READY CREEK, tributary of WEST FORK ILLINOIS, A TRIBUTARY OF ILLINOIS RIVER

Authorized Point of Diversion:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
40 S	9 W	WM	14	NE SW	Not Specified on Certificate

Authorized Place of Use:

IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
40 S	9 W	WM	12	SE SW	2.0

6. The Department received information from the applicant that describes the location of the authorized point of diversion for Certificate 14632 as follows:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
40 S	9 W	WM	14	NE SW	2140 FEET NORTH AND 650 FEET WEST OF THE S1/4 CORNER OF SECTION 14

7. Transfer Application T-13590 also proposes to change the place of use of the right to:

IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
40 S	9 W	WM	12	SE SW	2.0

Transfer Review Criteria [OAR 690-380-4010(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 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-13590.
10. The proposed changes as conditioned would not result in enlargement of the right.
11. The proposed changes as conditioned would not result in injury to other water rights.
12. All other application requirements are met.

Conclusions of Law

The change in place of use proposed in Transfer Application T-13590 appears to be consistent with the requirements of ORS 540.505 to 540.580 and OAR 690-380-5000.

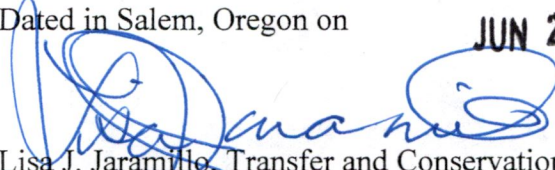
Now, therefore, it is ORDERED:

1. The change in place of use proposed in Transfer Application T-13590 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 14632 and any related decree.
3. Water right Certificate 14632 is cancelled. A new certificate will be issued describing that portion of the right not affected by this transfer.
4. 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 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.
5. Prior to diverting water, the water user shall install a headgate to control and regulate the quantity of water diverted. The type and plans of the headgate must be approved by the Department prior to beginning construction and shall be installed under the general supervision of the Department. The water user shall maintain the headgate as required by the Department.
6. The former place of use of the transferred right shall no longer receive water under the right.

7. Full beneficial use of the water shall be made, consistent with the terms of this order, on or before **October 1, 2023**. 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 in Salem, Oregon on

JUN 22 2022


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

Mailing date: **JUN 23 2022**