

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

In the Matter of Transfer Application) FINAL ORDER
T-13628, Lane County) APPROVING A CHANGE IN PLACE OF USE
) AND CHANGE IN CHARACTER 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

DELTA SAND AND GRAVEL CO.
999 DIVISION AVE.
EUGENE, OR 97404

Findings of Fact

1. On February 22, 2021, DELTA SAND AND GRAVEL CO. filed an application for a change in place of use, and to change the character of use under Certificate 65679. The Department assigned the application number T-13628.
2. Notice of the application for transfer was published on March 9, 2021, pursuant to OAR 690-380-4000. No comments were filed in response to the notice.
3. On April 30, 2021, the Department requested that the agent revise Table 2 of the transfer application to match the transfer application map.
4. On May 3, 2021, the Department received a revised Transfer Application Table 2.
5. On May 28, 2021, the Department mailed a copy of the draft Preliminary Determination proposing to deny Transfer Application T-13628 to the applicant. The draft Preliminary Determination cover letter set forth a deadline of June 27, 2021, for the applicant to respond.

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.

6. On June 15, 2021, the agent for the applicant requested the response deadline be extended to July 28, 2021. The Department granted the request to extend the response deadline.
7. On July 26, 2021, the applicant sent the Department a revised application, removing the additional point of diversion.
8. On September 21, 2021, the Department mailed a copy of the revised draft Preliminary Determination proposing to approve Transfer Application T-13628 to the applicant. The revised draft Preliminary Determination cover letter set forth a deadline of October 30, 2021, for the applicant to respond.
9. On October 27, 2021, the agent for the applicant requested that the Department proceed with issuance of a Preliminary Determination and requested an extension to November 19, 2021 to provide the necessary information to demonstrate that the applicant is authorized to pursue the transfer.
10. On March 8, 2022, the Department requested that the agent revise Table 2 of the transfer application to match the transfer application map, specifically: T17S, R4W, Section 12 NENW and SENW quarter-quarters.
11. On March 16, 2022, the Department received a revised Table 2. The quarter-quarters in question had been removed from the application.
12. On May 9, 2022, the Department mailed a copy of the second revised draft Preliminary Determination proposing to approve Transfer Application T-13628 to the applicant. The second revised draft Preliminary Determination cover letter set forth a deadline of June 8, 2022, for the applicant to respond. The agent for the applicant requested that the Department proceed with issuance of a Preliminary Determination.
13. On July 27, 2022, the Department issued a Preliminary Determination proposing to approve Transfer T-13628 and mailed a copy to the applicant. Additionally, notice of the Preliminary Determination for the transfer application was published on the Department's weekly notice on August 2, 2022, and in the Eugene Weekly on August 4 and 11, 2022, pursuant to ORS 540.520 and OAR 690-380-4020. No protests were filed in response to the notice.
14. The right to be transferred is as follows:
 - Certificate:** 65679 in the name of DELTA SAND AND GRAVEL COMPANY (perfected under Permit S-50130)
 - Use:** WASHING SAND AND GRAVEL
 - Priority Date:** AUGUST 4, 1987
 - Rate:** 7.14 CUBIC FEET PER SECOND
 - Source:** WILLAMETTE RIVER, a tributary of COLUMBIA RIVER

Authorized Point of Diversion:

Twp	Rng	Mer	Sec	Q-Q	GLot	Measured Distances
17 S	3 W	WM	18	NW NW	4	402 FEET SOUTH AND 626 FEET EAST FROM THE NW CORNER OF SECTION 18

Authorized Place of Use:

WASHING SAND AND GRAVEL						
Twp	Rng	Mer	Sec	Q-Q	GLot	
17 S	3 W	WM	18	NW NW	4	

15. Transfer Application T-13628 proposes to change the place of use of the right to:

GENERAL INDUSTRIAL					
Twp	Rng	Mer	Sec	Q-Q	
17 S	3 W	WM	6	SW NW	
17 S	3 W	WM	6	NE SW	
17 S	3 W	WM	6	NW SW	
17 S	3 W	WM	6	SW SW	
17 S	3 W	WM	6	SE SW	
17 S	3 W	WM	7	NW NE	
17 S	3 W	WM	7	SW NE	
17 S	3 W	WM	7	NE NW	
17 S	3 W	WM	7	NW NW	
17 S	3 W	WM	7	SE NW	
17 S	3 W	WM	7	SW NW	
17 S	3 W	WM	7	NW SW	
17 S	3 W	WM	7	SW SW	
17 S	3 W	WM	18	NW NW	
17 S	4 W	WM	1	NE NE	
17 S	4 W	WM	1	NW NE	
17 S	4 W	WM	1	SE NE	
17 S	4 W	WM	1	SW NE	
17 S	4 W	WM	1	NE SE	
17 S	4 W	WM	1	NW SE	
17 S	4 W	WM	12	NE NE	
17 S	4 W	WM	12	NW NE	
17 S	4 W	WM	12	SW NE	
17 S	4 W	WM	12	SE NE	
17 S	4 W	WM	12	NE SE	
17 S	4 W	WM	12	NW SE	
17 S	4 W	WM	12	SW SE	
17 S	4 W	WM	12	SE SE	
17 S	4 W	WM	13	NE NE	
17 S	4 W	WM	13	NW NE	

16. Transfer Application T-13628 proposes to change the character of use to general industrial.

Transfer Review Criteria [OAR 690-380-4010(2)]

17. 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.
18. A pump and pipeline 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-13628.
19. The proposed changes would not result in enlargement of the right.
20. The proposed changes would not result in injury to other water rights.
21. All other application requirements are met.

Conclusions of Law

The change in place of use and change in character of use proposed in Transfer Application T-13628 are consistent with the requirements of ORS 540.505 to 540.580 and OAR 690-380-5000.

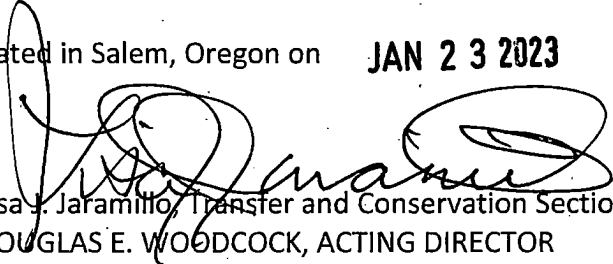
Now, therefore, it is ORDERED:

1. The change in place of use and change in character of use proposed in Transfer Application T-13628 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 Certificate 65679 and any related decree.
3. Water right Certificate 65679 is cancelled.
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, 2024**. 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 changes and full beneficial use of the water.
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 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. After satisfactory proof of beneficial use is received, a new certificate confirming the right transferred will be issued.

Dated in Salem, Oregon on **JAN 23 2023**



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

Mailing date: JAN 24 2023