

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

In the Matter of Transfer Application            )     FINAL ORDER  
T-12531, Polk County                            )     APPROVING A 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**

LEWIS DLC FARM LLC  
PO BOX 1286  
SHERWOOD, OR 97140

**Findings of Fact**

1. On December 12, 2016, LEWIS DLC FARM LLC, filed an application to change the character of use under Certificate 23955. The Department assigned the application number T-12531.
2. Notice of the application for transfer was published on December 20, 2016, pursuant to OAR 690-380-4000. No comments were filed in response to the notice.
3. On March 6, 2017, the Department emailed a copy of the draft Preliminary Determination proposing to approve Transfer Application T-12531 to the applicant. The draft Preliminary Determination cover letter set forth a deadline of April 6, 2017, 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.

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 April 20, 2017, the Department issued a Preliminary Determination proposing to approve Transfer T-12531 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 April 25, 2017, and in the Polk County Itemizer newspaper on June 21 and 28, 2017 pursuant to ORS 540.520 and OAR 690-380-4020. No protests were filed in response to the notice.

5. The right to be transferred is as follows:

**Certificate:** 23955 in the name of ATLAS LUMBER COMPANY (perfected under Permit R-1515)  
**Use:** STOCK  
**Priority Date:** OCTOBER 20, 1952  
**Rate:** 8.0 ACRE-FEET  
**Source:** UNNAMED STREAM, tributary to the LUCKIAMUTE RIVER

**Authorized place of use:**

Storage for Stock Use				
Twp	Rng	Mer	Sec	Q-Q
9 S	5 W	WM	18	SE NW
9 S	5 W	WM	18	SW NW

4. Certificate 23955 does not provide a measured distance for the location of the point of the diversion, however the applicant has provided information further describing the location of the dam:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
9 S	5 W	WM	18	SE NW	1935 FEET SOUTH AND 1350 FEET EAST FROM THE NW CORNER OF SECTION 18

5. Transfer Application T-12531 proposes to change the character of use to multipurpose.

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

- 6. 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.
- 7. The proposed change would not result in enlargement of the right.
- 8. The proposed change would not result in injury to other water rights.

**Determination and Proposed Action**

The change in character of use proposed in Transfer Application T-12531 is 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 character of use proposed in Transfer Application T-12531 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 23955 and any related decree.
3. Water right Certificate 23955 is cancelled.
4. Full beneficial use of the water shall be made, consistent with the terms of this order, on or before **October 1, 2021**. 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.
5. After satisfactory proof of beneficial use is received, a new certificate confirming the right transferred will be issued.

Dated at Salem, Oregon this 20 day of July 2017.

  
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Dwight French, Water Right Services Administrator, for  
Thomas M. Byler, Director  
Oregon Water Resources Department

Mailing Date JUL 26 2017