

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

In the Matter of Transfer Application) FINAL ORDER
T-13919, 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

OPA’S ACRES LLC
ATTN: OLIVER RAAB
PO BOX 15010
SALEM, OR 97309

Findings of Fact

1. On February 11, 2022, OPA’S ACRES LLC, ATTN: OLIVER RAAB filed an application to change the character of use under Certificates 36547 and 39082. The Department assigned the application number T-13919.
2. Notice of the application for transfer was published on March 1, 2022, pursuant to OAR 690-380-4000. No comments were filed in response to the notice.
3. On March 27, 2023, the Department sent a copy of the draft Preliminary Determination to the applicant, proposing to approve Transfer Application T-13919. The draft Preliminary Determination cover letter gave a deadline of April 28, 2023, 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 December 15, 2023, the Department issued a Preliminary Determination proposing to approve Transfer Application T-13919 and sent a copy to the applicant. Additionally, notice of the Preliminary Determination for the transfer application was published in the Department's weekly notice on December 19, 2023, and in the Polk County Itemizer Observer newspaper on December 20, 2023, and December 27, 2023, pursuant to ORS 540.520 and OAR 690-380-4020. No protests were filed in response to the notice.

5. The first right to be transferred is as follows:

Certificate: 36547 in the name of M.M. GILLES (perfected under Permit R-5059)
Use: STORAGE FOR STOCK USE
Priority Date: AUGUST 17, 1967
Volume: 1.21 ACRE-FEET
Source: UNNAMED INTERMITTENT STREAM, tributary to ASH SWALE

Authorized Place of Use:

STORAGE FOR STOCK USE				
Twp	Rng	Mer	Sec	Q-Q
6 S	5 W	WM	27	NE SW

6. Certificate 36547 does not describe the point of diversion; however, information is available describing the dam location as:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
6 S	5 W	WM	27	NE SW	480 FEET SOUTH AND 1280 FEET EAST FROM THE SW CORNER OF DLC 74

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

Certificate: 39082 in the name of MATT GILLES (perfected under Permit R-5663)
Use: STORAGE FOR STOCK USE (ENLARGEMENT OF MATT GILLES RESERVOIR NO. 1)
Priority Date: JULY 7, 1970
Volume: 6.5 ACRE-FEET
Source: AN UNNAMED DRAINAGE-WAY, tributary of WEST BRANCH ASH SWALE (YAMHILL RIVER)

Authorized Place of Use:

STORAGE FOR STOCK USE (ENLARGEMENT OF MATT GILLES RESERVOIR NO. 1)				
Twp	Rng	Mer	Sec	Q-Q
6 S	5 W	WM	27	NE SW

8. Certificate 39082 does not describe the point of diversion; however, information is available describing the dam location as:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
6 S	5 W	WM	27	NE SW	480 FEET SOUTH AND 1280 FEET EAST FROM THE SW CORNER OF DLC 74

9. Transfer Application T-13919 proposes to change the character of use to storage for irrigation, agriculture use, livestock use and fire protection.

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

10. Water has been stored within the five-year period prior to submittal of Transfer Application T-13919 according to the terms and conditions of the right. There is no information in the record that would demonstrate that the rights are subject to forfeiture under ORS 540.610.
11. A water delivery system sufficient to store the full amount of water allowed under the existing rights was present within the five-year period prior to submittal of Transfer Application T-13919.
12. The water rights are subject to transfer as defined in ORS 540.505(4), ORS 540.510(1), and OAR 690-380-0100(14).
13. The proposed change would not result in enlargement of the rights.
14. The proposed change would not result in injury to other existing water rights.
15. All other application requirements are met.

Conclusions of Law

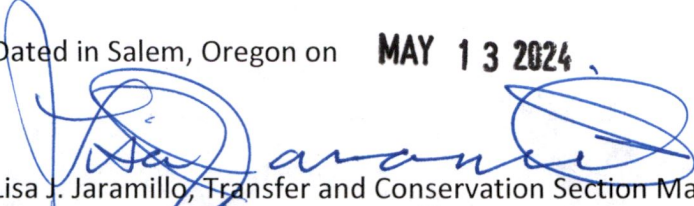
The change in character of use proposed in Transfer Application T-13919 is consistent with the requirements of ORS 540.505 to 540.580 and OAR 690-380-5000.

Now, therefore, it is ORDERED:

1. The change in character of use proposed in Transfer Application T-13919 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 Certificates 36547 and 39082 and any related decree.
3. Full beneficial use of the water shall be made, consistent with the terms of this order, on or before **October 1, 2025**. 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.

4. After satisfactory proof of beneficial use is received, new certificates confirming the rights transferred will be issued.

Dated in Salem, Oregon on **MAY 13 2024**



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

Mailing Date: **MAY 14 2024**