

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

In the Matter of Transfer Application                    )     FINAL ORDER APPROVING A  
T-12216, Washington County                            )     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**

DAE-LEE LLC  
11383 NW 195TH AVE  
HILLSBORO, OR 97124

**Findings of Fact**

1. On December 11, 2015, DAE-LEE LLC filed an application to change the character of use under Certificate 69327. The Department assigned the application number T-12216.
2. Notice of the application for transfer was published on December 22, 2015, pursuant to OAR 690-380-4000. No comments were filed in response to the notice.
3. On February 10, and 11, 2016, the Department contacted the applicant and Certified Water Right Examiner (CWRE) by telephone and email for clarification regarding some discrepancies on the application.
4. On February 11, and 16, 2016, the CWRE submitted amended documents resolving the questions.
5. On February 17, 2016, the Department sent a copy of the draft Preliminary Determination proposing to approve Transfer Application T-12216 to the applicant. The draft Preliminary Determination cover letter set forth a deadline of March 18, 2016, for the applicant to respond. The applicant requested that the Department extend the date for completion to October 1, 2018, and 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.

6. On April 13, 2016, the Department issued a Preliminary Determination proposing to approve Transfer Application T-12216 and sent 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 19, 2016, and in the Hillsboro Argus newspaper on April 27 and May 4, 2016, pursuant to ORS 540.520 and OAR 690-380-4020. No protests were filed in response to the notice.

7. The right to be transferred is as follows:

**Certificate:** 69327 in the name of DAVE GRIFFITH (perfected under Reservoir Application R-74893)  
**Use:** STORAGE in Unnamed Reservoir for LIVESTOCK and WILDLIFE  
**Priority Date:** JANUARY 1, 1993  
**Limit/Duty:** The amount of water entitled to be stored and used each year under this right is not more than 0.75 ACRE-FEET (AF), BEING 0.50 AF IN RES 1 AND 0.25 AF IN RES 2  
**Source:** RUNOFF, a tributary of the COLUMBIA SLOUGH

**The Reservoirs are Located As Follows:**

Twp	Rng	Mer	Sec	Reservoir
1 N	2 E	WM	1	1
1 N	2 E	WM	1	2

8. There is a scrivener's error in the description of the authorized location of the reservoirs in Certificate 69327. Based on the original reservoir application, the property deed and the transfer map, the reservoirs are actually located in Range 2 West, not Range 2 East. This in turn changes the tributary from the Columbia Slough to Rock Creek.

9. Certificate 69327 does not describe the quarter quarter or the measured distances, however additional information is available from the applicant and CWRE further describing the location of the reservoirs, including the correction of the Range, as follows:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
1 N	2 W	WM	1	SE NW	RESERVOIR 1: 1460 FEET SOUTH AND 650 FEET WEST FROM THE NORTH 1/4 CORNER OF SECTION 1
1 N	2 W	WM	1	SE NW	RESERVOIR 2: 1500 FEET SOUTH AND 1200 FEET WEST FROM THE NORTH 1/4 CORNER OF SECTION 1

10. Transfer Application T-12216 proposes to change the character of use to multipurpose.

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

11. 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.

12. A reservoir structure sufficient to store the full amount of water allowed under the existing right was present within the five-year period prior to submittal of Transfer Application T-12216.
13. The proposed change would not result in enlargement of the right.
14. The proposed change would not result in injury to other water rights.

**Conclusions of Law**

The change in character of use proposed in Transfer Application T-12216 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-12216 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 69327 and any related decree.
3. Water right Certificate 69327 is cancelled.
4. Full beneficial use of the water shall be made, consistent with the terms of this order, on or before **October 1, 2018**. 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 7 day of June, 2016.

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

Mailing Date: JUN 10 2016