

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

In the Matter of Transfer Application                    )     FINAL ORDER APPROVING  
T-13604, Baker and Union Counties                    )     A CHANGE IN PLACES 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**

DALE BINGHAM  
14553 TALLEY-DOBBINS LANE  
HAINES, OR 97833

**Findings of Fact**

1. On January 27, 2021, DALE BINGHAM filed an application to change the places of use under Certificates 83781 and 83782. The Department assigned the application number T-13604.
2. Notice of the application for transfer was published on February 9, 2021, pursuant to OAR 690-380-4000. No comments were filed in response to the notice.
3. On March 18, 2021, the Department received revised application pages and maps correctly describing the places of use.
4. On May 23, 2022, the Department mailed a copy of the draft Preliminary Determination proposing to approve Transfer Application T-13604 to the applicant. The draft Preliminary Determination cover letter set forth a deadline of June 23, 2022, 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.

5. On December 21, 2022, the Department issued a Preliminary Determination proposing to approve Transfer T-13604 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 18, 2023, pursuant to ORS 540.520 and OAR 690-380-4020. No protests were filed in response to the notice.

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

**Certificate:** 83781 in the name of DANIEL R. AND MARY E. ARRITOLA (confirmed by North Powder River Decree in Volume 3, at Page 252)

**Use:** IRRIGATION of 12.8 ACRES, LIVESTOCK AND DOMESTIC

**Priority Date:** 1873, 1895, 1903

**Rate:** 0.16 CUBIC FOOT PER SECOND

**Season of Use:** MARCH 1 TO JULY 1

**Source:** NORTH FORK ANTHONY CREEK, tributary to ANTHONY CREEK

**Authorized Points of Diversion:**

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
6 S	38 E	WM	5	NW NE	2760 FEET SOUTH AND 2380 FEET WEST FROM THE E1/4 CORNER OF SECTION 32

**Authorized Place of Use:**

IRRIGATION, LIVESTOCK, AND DOMESTIC								
Twp	Rng	Mer	Sec	Q-Q	Acres	Tax lot	Tract	Priority Date
7 S	38 E	WM	3	SW NE	2.8	700	2	1873, 1885, 1903
7 S	38 E	WM	3	S NE	2.9	700	2	1873, 1885, 1903
7 S	38 E	WM	3	NE SE	2.4	700	2	1873, 1885, 1903
7 S	38 E	WM	3	NW SE	4.7	700	2	1873, 1885, 1903
Total					12.8			

7. Certificate 83781 contains a scrivener's error, the actual location of the point of diversion is as follows:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
7 S	38 E	WM	5	NW NE	HUTCHINGSON SIDE HILL DITCH- 140 FEET SOUTH AND 2380 FEET WEST FROM THE NE CORNER OF SECTION 5

8. Transfer Application T-13604 proposes to change the place of use of the right to:

IRRIGATION, LIVESTOCK, AND DOMESTIC						
Twp	Rng	Mer	Sec	Q-Q	Acres	Tax lot
7 S	38 E	WM	3	SW NE	1.1	700
7 S	38 E	WM	3	NE SW	11.7	700
Total					12.8	



9. The portion of the second right to be transferred is as follows

**Certificate:** 83782 in the name of HART ESTATE INVESTMENTS (confirmed by North Powder River Decree Volume 3, at Page 252)  
**Use:** IRRIGATION of 18.4 ACRES, LIVESTOCK AND DOMESTIC  
**Priority Date:** 1873, 1888, 1903  
**Rate:** 0.23 CUBIC FOOT PER SECOND  
**Season of Use:** MARCH 1 TO JULY 1  
**Source:** NORTH POWDER RIVER, tributary of the POWDER RIVER

**Authorized Point of Diversion:**

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
6 S	38 E	WM	5	NW NE	2760 FEET SOUTH AND 2380 FEET WEST FROM THE E1/4 CORNER OF SECTION 32

**Authorized Place of Use:**

IRRIGATION, LIVESTOCK AND DOMESTIC								
Twp	Rng	Mer	Sec	Q-Q	Acres	Tax lot	Tract	Priority Date
7 S	38 E	WM	2	NW SW	4.6	700		1873, 1888, 1903
7 S	38 E	WM	2	NW SW	3.4	700	4	1873, 1888, 1903
7 S	38 E	WM	2	SW SW	3.8	700	3	1873, 1888, 1903
7 S	38 E	WM	2	SE SW	6.6	700	3	1873, 1888, 1903
Total					18.4			

10. Certificate 83782 contains a scrivener's error, the actual location of the point of diversion is as follows:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
7 S	38 E	WM	5	NW NE	HUTCHINGSON SIDE HILL DITCH- 140 FEET SOUTH AND 2380 FEET WEST FROM THE NE CORNER OF SECTION 5

11. Transfer Application T-13604 proposes to change the place of use of the right to:

IRRIGATION, LIVESTOCK AND DOMESTIC								
Twp	Rng	Mer	Sec	Q-Q	Acres	Tax lot	Tract	Priority Date
7 S	38 E	WM	2	NE SW	6.5	700	3	1873, 1888,1903
7 S	38 E	WM	2	NW SW	7.9	700	3	1873, 1888,1903
7 S	38 E	WM	2	SE SW	4.0	700	3	1873, 1888,1903
Total					18.4			

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

12. 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 rights are subject to forfeiture under ORS 540.610.

13. A diversion structure and ditch sufficient to use the full amount of water allowed under the existing rights were present within the five-year period prior to submittal of Transfer Application T-13604.
14. The proposed changes would not result in enlargement of the rights.
15. The proposed changes would not result in injury to other water rights.
16. All other application requirements are met.

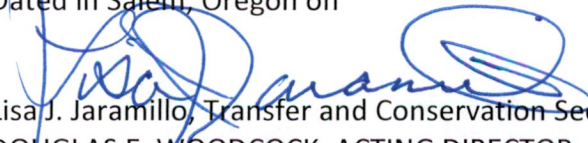
**Conclusions of Law:**

The change in places of use proposed in Transfer Application T-13604 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 place of use proposed in Transfer Application T-13604 are approved.
2. The right to the use of the water is restricted to beneficial use at the places of use described and is subject to all other conditions and limitations contained in Certificates 83781, 83782, and any related decree.
3. Water right Certificates 83781 and 83782 are cancelled. New certificates will be issued describing those portions of the rights not affected by this transfer
4. The former place of use of the transferred rights shall no longer receive water under the rights.
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. After satisfactory proof of beneficial use is received, new certificates confirming the rights transferred will be issued.

Dated in Salem, Oregon on **JUL 18 2023**

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

Mailing date:           **JUL 19 2023**