

4. On September 29, 2023, the applicant requested to extend the period for full beneficial use of the water to October 1, 2025. The extra time is needed to make electrical repairs, and the power company has an unpredictable schedule. The Department granted the longer time pursuant to OAR 690-380-5140(3).
5. On December 15, 2023, the Department issued a Preliminary Determination proposing to approve Transfer T-13674 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 December 19, 2023, and in the McMinnville News-Register newspaper on December 19 and 27, 2023, pursuant to ORS 540.520 and OAR 690-380-4020. No protests were filed in response to the notices.
6. The first right to be transferred is as follows:

Certificate: 39560 in the name of WALLACE AEBI (perfected under Permit G-4553)
Use: SUPPLEMENTAL FISH CULTURE AND RECREATION
Priority Date: APRIL 1, 1969
Rate: 0.01 CUBIC FOOT PER SECOND
Limit/Duty: The amount shall be limited to appropriation of water only to the extent that it does not impair or substantially interfere with existing surface water rights of others.
Source: A WELL, a tributary of an unnamed stream (NORTH YAMHILL RIVER)

Authorized Point of Appropriation:

Twp	Rng	Mer	Sec	Q-Q	DLC	Measured Distances
4 S	4 W	WM	10	NW NE	45	1360 FEET NORTH AND 970 FEET EAST FROM THE NE CORNER OF LOT 2 (SE1/4 NW1/4) OF SECTION 10

Authorized Place of Use:

SUPPLEMENTAL FISH CULTURE AND RECREATION					
Twp	Rng	Mer	Sec	Q-Q	DLC
4 S	4 W	WM	10	NW NE	45
4 S	4 W	WM	10	SW NE	45

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

Certificate: 47123 in the name of WALLACE AEBI (perfected under Permit G-5866)
Use: SUPPLEMENTAL FISH CULTURE AND RECREATION
Priority Date: JULY 2, 1973
Rate: 0.04 CUBIC FOOT PER SECOND
Limit/Duty: The amount shall be limited to appropriation of water only to the extent that it does not impair or substantially interfere with existing surface water rights of others.
Source: WELL NO. 2, a tributary of YAMHILL RIVER

Authorized Point of Appropriation:

Twp	Rng	Mer	Sec	Q-Q	DLC	Measured Distances
4 S	4 W	WM	10	NW NE	45	WELL No. 2 - 1330 FEET NORTH AND 940 FEET EAST FROM THE NE CORNER OF LOT 2 (SE1/4 NW 1/4) OF SECTION 10

Authorized Place of Use:

SUPPLEMENTAL FISH CULTURE AND RECREATION						
Twp	Rng	Mer	Sec	Q-Q	DLC	
4 S	4 W	WM	10	NW NE	45	
4 S	4 W	WM	10	SW NE	45	

8. Transfer Application T-13674 proposes to change the place of use of the rights to:

IRRIGATION						
Twp	Rng	Mer	Sec	Q-Q	DLC	Acres
4 S	4 W	WM	3	SE SW	45	12.0
4 S	4 W	WM	3	SW SE	45	17.3
4 S	4 W	WM	10	NW NE	45	20.7
4 S	4 W	WM	10	SW NE	45	13.0
4 S	4 W	WM	10	NE NW	45	11.6
4 S	4 W	WM	10	SE NW	45	4.7
Total						79.3

9. Transfer Application T-13674 also proposes to change the character of use for each right to Irrigation.

10. Certificates 39560 and 47123 do not specify a season of use, however, supplemental fish culture and recreation are considered a year-round use. Irrigation is not considered a year-round use, and therefore, must include a seasonal limitation. Pursuant to the Yamhill River (F) Decree, the irrigation season is April 1 through September 30 of each year.

11. Transfer Application T-13674 requests that the individual rates of 0.01 cubic foot per second (cfs) under Certificate 39560, and 0.04 cfs under Certificate 47123 for supplemental fish culture and recreation be converted to irrigation use. The proposed system would pump the water from the two authorized wells into Aebi Reservoir, authorized under Certificate 39584, which would be used as a bulge in the system less than or equal to 10 days prior to irrigating. Since supplemental fish culture and recreation are non-consumptive uses, and irrigation is a consumptive use, the quantity of water to be transferred would be limited to the amount of evaporation loss from Aebi Reservoir. Aebi Reservoir has a surface area of approximately 3.03 acres, or 132,000 square feet. Based on the best available information, the annual evaporation rate for the Willamette Basin is 1.42 Acre-Feet (AF) per year. Therefore, the amount of water available to be transferred is limited to 4.30 AF (3.03 acres x 1.42 AF), or 0.012 cfs (4.30 AF/183 days/1.983471 AF/day). The combined total of water allowed between the two certificates is 0.05 cfs. Certificate 39560 represents 20% of the combined total (0.01/0.05), so the rate to be transferred under Certificate 39560 would be

limited to 0.002 cfs. Certificate 47123 represents 80% of the combined total, so the rate to be transferred under Certificate 47123 would be limited to 0.01 cfs.

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

12. Water has been used within the last five years according to the terms and conditions of the rights. There is no information in the record that would demonstrate that the rights are subject to forfeiture under ORS 540.610.
13. A water delivery system 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-13674.
14. The water rights are subject to transfer as defined in ORS 540.505(4) and OAR 690-380-0100(14).
15. The proposed changes, as conditioned, would not result in enlargement of the rights.
16. The proposed changes, as conditioned, would not result in injury to other existing water rights.
17. All other application requirements are met.

Conclusions of Law

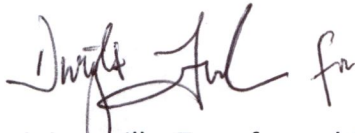
The changes in place of use and character of use proposed in Transfer Application T-13674 are consistent with the requirements of ORS 537.705 and 540.505 to 540.580 and OAR 690-380-5000.

Now, therefore, it is ORDERED:

1. The changes in place of use and character of use proposed in Transfer Application T-13674 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 Certificates 39560 and 47123 and any related decree.
3. Approval of this transfer application does not constitute nor grant legal access onto or through another person's property for purposes of accessing the new place of use.
4. Water right Certificates 39560 and 47123 are cancelled.

5. The use of water for the proposed irrigation use is limited to 0.012 cubic foot per second (cfs), being 0.002 cfs from the authorized well under Certificate 39560, and 0.01 cfs from Well No. 2 under Certificate 47123, and shall be further limited to a total volume diverted of 4.30 Acre-Feet during the season of use, being April 1 through September 30.
6. The former place of use of the transferred rights shall no longer receive water under the rights.
7. 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 appropriation (new and existing).
 - 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.
8. 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.
9. After satisfactory proof of beneficial use is received, new certificates confirming the rights transferred will be issued.

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



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

Mailing date: **FEB 14 2024** _