

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

In the Matter of Transfer Application)	FINAL ORDER APPROVING A
T-12373, Polk 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

THE CAPRA COMPANY LLC
PO BOX 2340
WINDSOR, CA 95492

Findings of Fact

1. On May 9, 2016, THE CAPRA COMPANY LLC filed an application to change the character of use under Certificate 39282. The Department assigned the application number T-12373.
2. Notice of the application for transfer was published on May 17, 2016, pursuant to OAR 690-380-4000. No comments were filed in response to the notice.
3. On November 2, 2016, the Department mailed a copy of the draft Preliminary Determination proposing to approve Transfer Application T-12373 to the applicant. The draft Preliminary Determination cover letter set forth a deadline of December 2, 2016, 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.
4. On December 12, 2016, the Department issued a Preliminary Determination proposing to approve Transfer T-12373 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 13, 2016, and in the Polk County Itemizer Observer newspaper

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.

on December 21, and 28, 2016 pursuant to ORS 540.520 and OAR 690-380-4020. No protests were filed in response to the notices.

5. The right to be transferred is as follows:

Certificate: 39282 in the name of CARL STEVENS (perfected under Permit R-5075)
Use: STOCK
Priority Date: SEPTEMBER 5, 1967
Rate: 1.0 ACRE-FOOT
Limit/Duty: The amount of water entitled to be stored each year under such right, for the purposes afore-said, shall not exceed 1.0 acre foot.
Source: AN UNNAMED STREAM, tributary of MUD SLOUGH (Rickreall Creek) in Stevens Reservoir

The reservoir is located in:

Twp	Rng	Mer	Sec	Q-Q
7 S	4 W	WM	10	SE NW

6. Transfer Application T-12373 proposes to change the character of use to multi-purpose storage.
7. Certificate 39282 does not specify the season of use. However, the Willamette Basin Program establishes the storage season for the area as November 1 to June 30.

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

8. 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.
9. The water delivery system and storage facility were present within the five-year period prior to submittal of Transfer Application T-12373.
10. The proposed change would not result in enlargement of the right.
11. 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-12373 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-12373 is approved.
2. The storage season for this transfer application is November 1 to June 30.

3. 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 39282 and any related decree.
4. Water right Certificate 39282 is cancelled.
5. 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.
6. After satisfactory proof of beneficial use is received, a new certificate confirming the right transferred will be issued.

Dated at Salem, Oregon this 31 day of January, 2017.



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

FEB 07 2017

Mailing date: _____