

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

In the Matter of Transfer Application) FINAL ORDER APPROVING
T-13656, Wallowa County) 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

TIM MELVILLE
84887 JOSEPH HWY
ENTERPRISE, OR 97828

Findings of Fact

1. On March 22, 2021, TIM MELVILLE filed an application for a change in places of use under Certificates 34493, 7086, and 48403. The Department assigned the application number T-13656.
2. Notice of the application for transfer was published on April 6, 2021, pursuant to OAR 690-380-4000. No comments were filed in response to the notice.
3. The original application requested to change the place of use for a portion of Certificate 48403, however, Transfer application T-13459 changed a portion of the right as evidenced in Volume 121, Page 120, the remaining right was issued Certificate 95525. This application involves a portion of the remaining right Certificate 95525 and will work off this Certificate.

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 March 7, 2022, the Department mailed a copy of the draft Preliminary Determination proposing to approve Transfer Application T-13656 to the applicant. The draft Preliminary Determination cover letter set forth a deadline of April 7, 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.
5. On August 31, 2022, the Department issued a Preliminary Determination proposing to approve Transfer T-13656 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 September 6, 2022, pursuant to ORS 540.520 and OAR 690-380-4020. No protests were filed in response to the notice.
6. The portion of first right to be transferred is as follows:

Certificate: 34493 in the name of LEONARD J. MELVILLE (perfected under Permit S-28430)

Use: IRRIGATION of 3.7 ACRES

Priority Date: JANUARY 28, 1963

Rate: 0.09 CUBIC FOOT PER SECOND

Limit/Duty: The amount of water used for irrigation, together with the amount secured under any other right existing for the same lands, shall be limited to ONE-FORTIETH of one cubic foot per second per acre, or its equivalent for each acre irrigated, and shall be further limited to a diversion of not to exceed 3.5 acre-feet per acre for each acre irrigated during the irrigation season of each year; provided further that the right to use of water is limited to the period when the flow of the Lower Grande Ronde River is more than 300 c.f.s. at USGS Gage No. 3325; and more than 420 c.f.s. at Oregon-Washington border;

Source: HURRICANE CREEK a tributary of WALLOWA RIVER

Authorized Point of Diversion:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
3 S	44 E	WM	3	NE NE	SOUTH 76 DEGREES 2 MINUTES WEST 49 FEET FROM THE NE CORNER OF SECTION 3

Authorized Place of Use:

IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
2 S	44 E	WM	6	NE SE	3.7

7. Transfer Application T-13656 proposes to change the place of use of the right to:

IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
2 S	44 E	WM	5	SW SW	3.7

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

Certificate: 7086 in the name of A. G. VARNER (perfected under Permit S-5765)
Use: IRRIGATION of 3.0 ACRES
Priority Date: JANUARY 30, 1923
Rate: 0.036 CUBIC FOOT PER SECOND
Limit/Duty: The amount of water used for irrigation, together with the amount secured under any other right existing for the same lands, shall be limited to ONE-EIGHTIETH of one cubic foot per second, or its equivalent in case of rotation.
Source: HURRICANE CREEK a tributary of WALLOWA RIVER

Authorized Point of Diversion:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
2 S	44 E	WM	34	SE SE	NOT DESCRIBED ON CERTIFICATE

Authorized Place of Use:

IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
2 S	44 E	WM	22	NE SE	3.0

9. Transfer Application T-13656 proposes to change the place of use of the right to:

IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
2 S	44 E	WM	5	SW SW	3.0

10. The portion of the third right to be transferred is as follows:

Certificate: 95525 in the name of ALDER SLOPE DITCH CO. (confirmed by Wallowa River Decree)
Use: IRRIGATION of 3.6 ACRES
Priority Date: NOVEMBER 30, 1901
Rate: 0.04 CUBIC FOOT PER SECOND
Limit/Duty: The amount of water to which this right is entitled is limited to an amount actually used beneficially and shall not exceed 1.5 acre feet per acre during any period of 30 days prior to July 31st of each year, and thereafter not to exceed 1 acre foot per acre during the entire remainder of the irrigation season.
Source: HURRICANE CREEK, tributary of WALLOWA RIVER

Authorized Point of Diversion:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
3 S	44 E	WM	3	NE NE	ALDER SLOPE DITCH - SOUTH 76 DEGREES 02 MINUTES WEST 49 FEET FROM THE NE CORNER OF SECTION 3

Authorized Place of Use:

IRRIGATION						
Twp	Rng	Mer	Sec	Q-Q	Acres	TRACT NO.
2 S	44 E	WM	5	NW SW	0.9	23
2 S	44 E	WM	5	SW SW	0.9	23
2 S	44 E	WM	22	NE SE	1.8	28
Total:					3.6	

11. Transfer Application T-13656 also proposes to change the place of use of the right to:

IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
2 S	44 E	WM	5	SW SW	3.6

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 pump, pipeline, and sprinkler 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-13656.
- 14. The proposed change would not result in enlargement of the rights.
- 15. The proposed change 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-13656 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 places of use proposed in Transfer Application T-13656 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 34493, 7086, 95525, and any related decree.
- 3. Water right Certificates 34493, 7086, and 95525 are cancelled. New certificates will be issued describing those portions of Certificates 34493, 7086, and 95525 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 change 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 **OCT 18 2022**


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

Mailing date: **OCT 19 2022**