

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

In the Matter of Transfer Application	)	FINAL ORDER APPROVING CHANGES IN
T-13457, Lake County	)	POINTS OF APPROPRIATION AND PLACES
	)	OF USE AND THE PARTIAL CANCELLATION
	)	OF A WATER RIGHT

**Authority**

Oregon Revised Statutes (ORS) 537.705 and 540.505 to 540.580 establish the process in which a water right holder may submit a request to transfer the point of appropriation, 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.

ORS 540.621 establishes the process for the owner of land to which a water right is appurtenant to certify under oath that the water right, or a portion thereof, has been abandoned and to voluntarily request that it be cancelled.

**Applicant**

DANIEL AND LEANNE MILES  
81341 BUICK LANE  
SILVER LAKE, OR 97638

**Findings of Fact**

1. On June 9, 2020, DANIEL AND LEANNE MILES filed an application to change the points of appropriation and to change the places of use under Certificates 35750, 48608, 94357, 94359, 94361, 94362, and 94365. The Department assigned the application number T-13457.
2. Notice of the application for transfer was published on June 16, 2020, pursuant to OAR 690-380-4000. No comments were filed in response to the notice.

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.

3. On October 19, 2021, the Department contacted the applicant by written correspondence to notify the applicant and the applicant's agent of a deficiency in the application. The Department's Watermaster review identified, "The applicant is proposing to move 1.53 acres in the SENW and 1.14 acres in the NESW of 27 15 2 for Certificate 94365. Building have been here for over 20 years so I propose we limit transfer to 0.58 acres in the SENW and .35 acres in the NESW." These areas are also not identified on the application map, as required by Oregon Administrative Rule 690-380-3100(2)(i). Therefore, the water use as authorized by Certificate 94365 could not have been beneficially used in the identified areas within the previous 5 years prior to submittal of the application, being May 26, 2015. These areas should be removed from the application, and pursuant to Oregon Revised Statute 540.610, these areas should be cancelled for non-use. The Department requested the submission of a revised Table 2 and map with the identified acres removed, along with an Affidavit for the Partial Cancellation of Water Right Certificate 94365. The Department requested that the deficiency be resolved by November 19, 2021.
4. On December 23, 2021, the applicant's agent requested for additional time to resolve the deficiency. The Department requested that the deficiency be resolved by January 21, 2022.
5. On January 18, 2022, the Department received a revised map and table for Certificate 94365, and an Affidavit for the Voluntary Cancellation of a Portion of Water Right Certificate 94365, resolving the deficiency.
6. On March 2, 2022, the Department mailed a copy of the draft Preliminary Determination proposing to approve Transfer Application T-13457 to the applicants. The draft Preliminary Determination cover letter set forth a deadline of April 1, 2022, for the applicants to respond. The applicants 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.
7. On October 31, 2022, the Department issued a Preliminary Determination proposing to approve Transfer T-13457 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 November 1, 2022, and in the Lake County Examiner newspaper on January 25 and February 1, 2023 pursuant to ORS 540.520 and OAR 690-380-4020. No protests were filed in response to the notices.
8. The portion of the first right to be transferred is as follows:
  - Certificate:** 35750 in the name of THELMA C. HEILMEYER OWSLEY (perfected under Permit G-1092)
  - Use:** IRRIGATION of 10.31 ACRES
  - Priority Date:** NOVEMBER 6, 1958
  - Rate:** 0.13 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 per acre, or its equivalent for each acre irrigated and shall be further limited to a diversion of not to exceed 3 acre feet per acre for each acre irrigated during the irrigation season of each year.

**Source:** A WELL, a tributary of SILVER LAKE

**Authorized Point of Appropriation:**

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
27 S	15 E	WM	14	NW NE	(WELL 5) -1130 FEET SOUTH AND 1770 FEET WEST FROM THE NE CORNER OF SECTION 14

**Authorized Place of Use:**

IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
27 S	15 E	WM	14	NE NE	5.29
27 S	15 E	WM	14	NW NE	5.02
Total					10.31

9. Transfer Application T-13457 proposes to move the authorized point of appropriation approximately 2.1 miles from the existing point of appropriation to:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
27 S	16 E	WM	18	NW NE	WELL 7 - 1320 FEET NORTH AND 1330 FEET WEST FROM THE E1/4 CORNER OF SECTION 18

10. Transfer Application T-13457 also proposes to change the place of use of the right to:

IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
27 S	16 E	WM	18	SW NE	10.31

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

**Certificate:** 48608 in the name of THELMA C. RUMSEY (perfected under Permit G-6957)

**Use:** IRRIGATION of 17.74 ACRES and SUPPLEMENTAL IRRIGATION of 10.31 ACRES

**Priority Date:** AUGUST 9, 1976

**Rate:** 0.35 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 per acre, or its equivalent for each acre irrigated and shall be further limited to a diversion of not to exceed 3 acre feet per acre for each acre irrigated during the irrigation season of each year.

**Source:** A WELL, a tributary of FORT ROCK BASIN

**Authorized Point of Appropriation:**

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
27 S	15 E	WM	14	SE NW	(WELL 6)-540 FEET NORTH AND 2660 FEET WEST FROM THE E1/4 CORNER OF SECTION 14

**Authorized Place of Use:**

PRIMARY IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
27 S	15 E	WM	14	NW NE	5.41
27 S	15 E	WM	14	SW NE	5.72
27 S	15 E	WM	14	SE NE	6.61
Total					17.74

SUPPLEMENTAL IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
27 S	15 E	WM	14	NE NE	5.29
27 S	15 E	WM	14	NW NE	5.02
Total					10.31

12. Transfer Application T-13457 proposes to move the authorized point of appropriation approximately 2.3 miles from the existing point of appropriation to:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
27 S	16 E	WM	18	NW NE	WELL 7 - 1320 FEET NORTH AND 1330 FEET WEST FROM THE E1/4 CORNER OF SECTION 18

13. Transfer Application T-13457 also proposes to change the place of use of the right to:

PRIMARY IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
27 S	16 E	WM	18	NE NE	17.74

SUPPLEMENTAL IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
27 S	15 E	WM	14	SE NE	10.31

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

**Certificate:** 94357 in the name of LLOYD L. MILES and REBECCA MILES (perfected under Permit U-317)  
**Use:** IRRIGATION of 2.42 ACRES  
**Priority Date:** JANUARY 5, 1950  
**Rate:** 0.030 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 per acre, or its equivalent for each acre irrigated, and shall be further limited to a diversion of not to exceed

3.0 acre-feet per acre for each acre irrigated during the irrigation season of each year.

**Source:** WELL #3

**Authorized Point of Appropriation:**

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
27 S	15 E	WM	2	SE SE	WELL #3 -1290.7 FEET NORTH AND 1089.8 FEET WEST FROM THE SE CORNER OF SECTION 2

**Authorized Place of Use:**

IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
27 S	15 E	WM	2	NW SE	2.42

15. Transfer Application T-13457 proposes to move the authorized point of appropriation approximately 2.5 miles from the existing point of appropriation

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
27 S	16 E	WM	18	NW NE	WELL 7 - 1320 FEET NORTH AND 1330 FEET WEST FROM THE E1/4 CORNER OF SECTION 18

16. Transfer Application T-13457 also proposes to change the place of use of the right to:

IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
27 S	16 E	WM	18	SW NE	2.42

17. The portion of the fourth right to be transferred is as follows:

**Certificate:** 94359 in the name of LLOYD L. MILES and REBECCA MILES (perfected under Permit G-5999)

**Use:** IRRIGATION of 24.05 ACRES

**Priority Date:** FEBRUARY 14, 1974

**Rate:** 0.30 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 per acre, or its equivalent for each acre irrigated, and shall be further limited to a diversion of not to exceed 3.0 acre-feet per acre for each acre irrigated during the irrigation season of each year.

**Source:** WELL #1, A TRIBUTARY OF FORT ROCK BASIN

**Authorized Point of Appropriation:**

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
27 S	15 E	WM	2	NW SW	WELL #1 - 2627.4 FEET NORTH AND 5215.45 FEET WEST FROM THE SE CORNER OF SECTION 2

**Authorized Place of Use:**

IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
27 S	15 E	WM	2	SW SW	24.05

18. Transfer Application T-13457 proposes to move the authorized point of appropriation approximately 3.3 miles from the existing point of appropriation to:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
27 S	16 E	WM	18	NW NE	WELL 7 - 1320 FEET NORTH AND 1330 FEET WEST FROM THE E1/4 CORNER OF SECTION 18

19. Transfer Application T-13457 also proposes to change the place of use of the right to:

IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
27 S	16 E	WM	18	NE NE	1.20
27 S	16 E	WM	18	NW NE	22.85
Total					24.05

20. The portion of the fifth right to be transferred is as follows:

**Certificate:** 94361 in the name of LLOYD L. MILES and REBECCA (perfected under Permit U-695)

**Use:** IRRIGATION of 8.46 ACRES

**Priority Date:** JANUARY 17, 1955

**Rate:** 0.11 CUBIC FOOT PER SECOND (CFS), BEING 0.05 CFS FROM WELL #1 FOR 3.81 ACRES AND 0.06 CFS FROM WELL #2 FOR 4.65 ACRES

**Limit/Duty:** The amount of water used for irrigation, together with the amount secured under any other right existing for the same lands, is limited to ONE-EIGHTIETH 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 3.0 acre-feet per acre for each acre irrigated during the irrigation season of each year.

**Source:** WELLS #1 AND #2 IN THE SILVER CREEK BASIN

**Authorized Point of Appropriation:**

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
27 S	15 E	WM	2	NW SW	WELL #1 - 2627.4 FEET NORTH AND 5215.45 FEET WEST FROM THE SE CORNER OF SECTION 2
27 S	15 E	WM	2	SE SW	WELL #2 - 187.26 FEET NORTH AND 3509.58 FEET WEST FROM THE SE CORNER OF SECTION 2

**Authorized Place of Use:**

IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
27 S	15 E	WM	2	SW SW	3.46
27 S	15 E	WM	2	SE SW	3.81
27 S	15 E	WM	2	SE SW	1.19

IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
Total					8.46

21. Transfer Application T-13457 proposes to move the authorized points of appropriation to:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
27 S	16 E	WM	18	NW NE	WELL 7 - 1320 FEET NORTH AND 1330 FEET WEST FROM THE E1/4 CORNER OF SECTION 18

22. Transfer Application T-13457 also proposes to change the place of use of the right to:

IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
27 S	16 E	WM	18	SW NE	8.46

23. The portion of the sixth right to be transferred is as follows:

**Certificate:** 94362 in the name of LLOYD L. MILES and REBECCA MILES (perfected under Permit G-385)

**Use:** PRIMARY IRRIGATION OF 16.8 ACRES AND SUPPLEMENTAL IRRIGATION OF 1.42 ACRES

**Priority Date:** APRIL 10, 1956

**Rate:** 0.23 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, is limited to ONE-EIGHTIETH 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 3.0 acre-feet per acre for each acre irrigated during the irrigation season of each year.

**Source:** WELL #1 IN THE SILVER CREEK BASIN

**Authorized Point of Appropriation:**

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
27 S	15 E	WM	2	NW SW	WELL #1 - 2627.4 FEET NORTH AND 5215.45 FEET WEST FROM THE SE CORNER OF SECTION 2

**Authorized Place of Use:**

PRIMARY IRRIGATION						
Twp	Rng	Mer	Sec	Q-Q	GLot	Acres
27 S	15 E	WM	2	NW NW	4	16.80

SUPPLEMENTAL IRRIGATION						
Twp	Rng	Mer	Sec	Q-Q	GLot	Acres
27 S	15 E	WM	2	NW NW	4	1.42

24. Transfer Application T-13457 proposes to move the authorized point of appropriation approximately 3.3 miles from the existing point of appropriation to:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
27 S	16 E	WM	18	NW NE	WELL 7 - 1320 FEET NORTH AND 1330 FEET WEST FROM THE E1/4 CORNER OF SECTION 18

25. Transfer Application T-13457 also proposes to change the place of use of the right to:

PRIMARY IRRIGATION						
Twp	Rng	Mer	Sec	Q-Q	Acres	Well
27 S	16 E	WM	18	NE NE	2.06	7
27 S	16 E	WM	18	SE NE	14.74	7
TOTAL					16.80	

SUPPLEMENTAL IRRIGATION							
Twp	Rng	Mer	Sec	Q-Q	GLot	Acres	Well
27 S	15 E	WM	2	NW NW	4	1.42	#1

26. The portion of the seventh right to be transferred is as follows:

- Certificate:** 94365 in the names of LLOYD L. MILES, REBECCA MILES (perfected under Permit G-1241)
- Use:** IRRIGATION of 9.52 ACRES
- Priority Date:** FEBRUARY 6, 1959
- 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, is limited to ONE-EIGHTIETH 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 3.0 acre-feet per acre for each acre irrigated during the irrigation season of each year.
- Source:** WELL #1 IN THE SILVER CREEK BASIN

**Authorized Point of Appropriation:**

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
27 S	15 E	WM	2	NW SW	WELL #1 - 2627.4 FEET NORTH AND 5215.45 FEET WEST FROM THE SE CORNER OF SECTION 2

**Authorized Place of Use:**

IRRIGATION						
Twp	Rng	Mer	Sec	Q-Q	GLot	Acres
27 S	15 E	WM	2	NE NW	3	7.17
27 S	15 E	WM	2	NW NW	4	1.42
27 S	15 E	WM	2	SE NW		0.58
27 S	15 E	WM	2	NE SW		0.35
Total						9.52



27. Transfer Application T-13457 proposes to move the authorized point of appropriation approximately 3.3 miles from the existing point of appropriation to:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
27 S	16 E	WM	18	NW NE	WELL 7 - 1320 FEET NORTH AND 1330 FEET WEST FROM THE E1/4 CORNER OF SECTION 18

28. Transfer Application T-13457 also proposes to change the place of use of the right to:

IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
27 S	16 E	WM	18	SW NE	2.65
27 S	16 E	WM	18	SE NE	6.87
Total					9.52

**Transfer Review Criteria (OAR 690-380-4010)**

29. 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.
30. 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-13457.
31. The proposed change would not result in enlargement of the rights.
32. The proposed change would not result in injury to other water rights.
33. All other application requirements are met.

**Partial Cancellation of a Water Right**

34. On January 18, 2022, an affidavit certifying that a portion of a water right has been abandoned and requesting cancellation of the right was received from Daniel and Leanne Miles. The right to be cancelled is as follows:

**Certificate:** 94365 in the names of LLOYD L. MILES, REBECCA MILES (perfected under Permit G-1241)

**Use:** IRRIGATION of 1.74 ACRES

**Priority Date:** FEBRUARY 6, 1959

**Rate:** 0.02 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, is limited to ONE-EIGHTIETH 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 3.0 acre-feet per acre for each acre irrigated during the irrigation season of each year.

**Source:** WELL #1 in the SILVER CREEK BASIN

**Authorized Point of Appropriation:**

Twp	Rng	Mer	Sec	Q - Q	Measured Distances
27 S	15 E	WM	2	NW SW	WELL #1 - 2627.4 FEET NORTH AND 5215.45 FEET WEST FROM THE SE CORNER OF SECTION 2

**Authorized Place of Use:**

IRRIGATION					
Twp	Rng	Mer	Sec	Q - Q	Acres
27 S	15 E	WM	2	SE NW	0.95
27 S	15 E	WM	2	NE SW	0.79
Total					1.74

**Conclusions of Law**

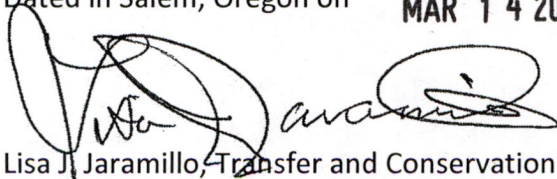
The changes in points of appropriation and changes in places of use proposed in Transfer Application T-13457 are consistent with the requirements of ORS 537.705 and 540.505 to 540.580 and OAR 690-380-5000 and the abandoned portion of Certificate 94365 should be cancelled.

**Now, therefore, it is ORDERED:**

1. The changes in points of appropriation and changes in places of use proposed in Transfer Application T-13457 are approved. The portion of Certificate 94365 that has been abandoned is cancelled.
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 35750, 48608, 94357, 94359, 94361, 94362, 94365, and any related decree.
3. Water right Certificates 35750, 48608, 94357, 94359, 94361, 94362, and 94365 are cancelled. New certificates will be issued describing those portions of the rights not affected by this transfer.
4. The quantity of water, as authorized by Certificate 35750, diverted at the new point of appropriation (Well 7), shall not exceed the quantity of water lawfully available at the original point of appropriation (Well 5).
5. The quantity of water, as authorized by Certificate 48608, diverted at the new point of appropriation (Well 6), shall not exceed the quantity of water lawfully available at the original point of appropriation (Well 7).
6. The quantity of water, as authorized by Certificate 94357, diverted at the new point of appropriation (Well 7), shall not exceed the quantity of water lawfully available at the original point of appropriation (Well #3).

7. The quantity of water, as authorized by Certificate 94361, diverted at the new point of appropriation (Well 7), shall not exceed the quantity of water lawfully available at the original point of appropriation (Well #1 and #2).
8. The quantity of water, as authorized by Certificates 94359, 94362, and 94365, diverted at the new point of appropriation (Well 7), shall not exceed the quantity of water lawfully available at the original point of appropriation (Well #1).
9. 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.
10. Water shall be acquired from the same aquifer (water source) as the original points of appropriation.
11. The former places of use of the transferred rights shall no longer receive water under the rights.
12. 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.
13. After satisfactory proof of beneficial use is received, new certificates confirming the rights transferred will be issued.

Dated in Salem, Oregon on **MAR 14 2023**



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

Mailing date: **MAR 15 2023**