

WATER RESOURCES DEPARTMENT
OF THE
STATE OF OREGON

In the Matter of Transfer Application) FINAL ORDER APPROVING
T-13619, Yamhill County) OF 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

A & S INVESTMENTS LLC
22100 RIVERWOOD ROAD
DUNDEE, OR 97115

Findings of Fact

1. On March 3, 2021, A & S INVESTMENTS LLC filed an application to change the place of use under Certificates 12181 and 44677. The Department assigned the application number T-13619.
2. Notice of the application for transfer was published on March 9, 2021, pursuant to OAR 690-380-4000. No comments were filed in response to the notice.
3. On May 11, 2022, the Department mailed a copy of the draft Preliminary Determination proposing to approve Transfer Application T-13619 to the applicant. The draft Preliminary Determination cover letter set forth a deadline of June 13, 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.

4. On January 3, 2024, the Department issued a Preliminary Determination proposing to approve Transfer T-13619 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 January 9, 2024, pursuant to ORS 540.520 and OAR 690-380-4020. No protests were filed in response to the notice.

5. The first right to be transferred is as follows:

Certificate: 12181 in the name of U.S. ALDERMAN (perfected under Permit S-12592)

Use: IRRIGATION of 131.7 ACRES

Priority Date: APRIL 5, 1937

Rate: 1.65 CUBIC FEET 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 2.5 acre-feet per acre for each acre irrigated during the irrigation season of each year.

Source: YAMHILL RIVER, tributary of WILLAMETTE, and WILLAMETTE RIVER

Authorized Point of Diversion:

Twp	Rng	Mer	Sec	Q-Q	GLot
4 S	3 W	WM	12	NW SE	2
4 S	3 W	WM	13	NE NW	4

Authorized Place of Use:

IRRIGATION							
Twp	Rng	Mer	Sec	Q-Q	GLot	DLC	Acres
4 S	3 W	WM	12		10		0.9
4 S	3 W	WM	12		1		1.9
4 S	3 W	WM	12		9		5.7
4 S	3 W	WM	12		3		24.0
4 S	3 W	WM	12		2		27.2
4 S	3 W	WM	12	NE SW		71	6.0
4 S	3 W	WM	12	NW SW		71	7.4
4 S	3 W	WM	12	SW SW		71	17.3
4 S	3 W	WM	12	SE SW		71	28.2
4 S	3 W	WM	13		4		6.6
4 S	3 W	WM	13	NE NW		71	6.4
4 S	3 W	WM	13	NW NW		71	0.1
Total							131.7

6. Certificate 12181 does not provide detailed descriptions of the points of diversion; however, information is available from the agent for the applicant describing the points of diversion as follows:

Twp	Rng	Mer	Sec	Q-Q	GLot	DLC	Measured Distances
4 S	3 W	WM	12	NW SE	2		POD 3 - 1620 FEET NORTH AND 3820 FEET EAST FROM THE SW CORNER OF SECTION 12
4 S	3 W	WM	13	NE NW		71	POD 1 - 580 FEET SOUTH AND 2040 FEET EAST FROM THE SW CORNER OF SECTION 12

7. Transfer Application T-13619 also proposes to change the place of use of the right to:

IRRIGATION							
Twp	Rng	Mer	Sec	Q-Q	GLot	DLC	Acres
4 S	3 W	WM	12	SE NW	11		0.1
4 S	3 W	WM	12	NE SW	10		0.9
4 S	3 W	WM	12	NE SW	10		1.2
4 S	3 W	WM	12	NE SW		71	6.0
4 S	3 W	WM	12	NW SW		71	7.4
4 S	3 W	WM	12	SW SW		71	17.3
4 S	3 W	WM	12	SE SW	9		5.7
4 S	3 W	WM	12	SE SW		71	28.2
4 S	3 W	WM	12	NW SE	2		19.7
4 S	3 W	WM	12	NW SE	2		5.8
4 S	3 W	WM	12	SW SE	3		24.0
4 S	3 W	WM	12	SW SE	3		3.1
4 S	3 W	WM	13	NW NE	4		3.7
4 S	3 W	WM	13	NE NW	4		2.5
4 S	3 W	WM	13	NE NW		71	6.05
4 S	3 W	WM	13	NW NW		71	0.05
Total							131.7

8. The second right to be transferred is described as follows:

Certificate: 44677 in the name of JOHN SHELBURNE JR. (perfected under Permit S-37636)

Use: IRRIGATION of 100.5 ACRES

Priority Date: FEBRUARY 27, 1973

Rate: 1.25 CUBIC FEET 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 2.5 acre-feet per acre for each acre irrigated during the irrigation season of each year.

Source: WILLAMETTE RIVER and YAMHILL RIVER tributary of COLUMBIA RIVER

Authorized Points of Diversion:

Twp	Rng	Mer	Sec	Q-Q	GLot	Measured Distances
4 S	3 W	WM	12	SW SW	71	480 FEET NORTH AND 30 FEET EAST FROM THE SW CORNER OF SECTION 12
4 S	3 W	WM	12	NW SE	2	1620 FEET NORTH AND 3820 FEET EAST FROM THE SW CORNER OF SECTION 12
4 S	3 W	WM	13	NE NW	71	580 FEET SOUTH AND 2040 FEET EAST FROM THE SW CORNER OF SECTION 12

Authorized Place of Use:

IRRIGATION							
Twp	Rng	Mer	Sec	Q-Q	GLot	DLC	Acres
4 S	3 W	WM	11	NE SE		71	7.2
4 S	3 W	WM	11	SE SE		71	5.0
4 S	3 W	WM	12	SW NE	1		3.2
4 S	3 W	WM	12	SW NW		71	10.2
4 S	3 W	WM	12	SE NW		71	0.7
4 S	3 W	WM	12	SE NW		71	1.3
4 S	3 W	WM	12	SE NW	11		4.0
4 S	3 W	WM	12	NE SW	10		10.5
4 S	3 W	WM	12	NE SW		71	11.4
4 S	3 W	WM	12	NW SW		71	30.8
4 S	3 W	WM	12	SW SW		71	12.0
4 S	3 W	WM	12	SE SW	9		1.4
4 S	3 W	WM	12	SE SW		71	1.6
4 S	3 W	WM	12	NW SE	2		1.2
Total							100.5

9. Certificate 44677 contains scrivener's errors in the place of use location inadvertently leaving off 1.3 acres in Township 4 South, Range 3 West, Section 12, SE NW, DLC 71. The correction appears in **bold and italic** in the above table Finding of Fact #8.
10. Transfer Application T-13619 also proposes to change the place of use of the right to:

IRRIGATION							
Twp	Rng	Mer	Sec	Q-Q	GLot	DLC	Acres
4 S	3 W	WM	11	NE SE		71	7.2
4 S	3 W	WM	11	SE SE		71	5.0
4 S	3 W	WM	12	SE NW		71	1.3
4 S	3 W	WM	12	SW NW		71	10.2
4 S	3 W	WM	12	NW SW		71	30.8
4 S	3 W	WM	12	SW SW		71	12.0
4 S	3 W	WM	12	SE NW		71	0.7
4 S	3 W	WM	12	SE NW	11		4.0
4 S	3 W	WM	12	NE SW		71	11.4
4 S	3 W	WM	12	NE SW	10		10.5
4 S	3 W	WM	12	NE SW	10		1.2
4 S	3 W	WM	12	SE SW		71	1.6
4 S	3 W	WM	12	SE SW		71	0.2
4 S	3 W	WM	12	SE SW	9		1.4

IRRIGATION							
Twp	Rng	Mer	Sec	Q-Q	GLot	DLC	Acres
4 S	3 W	WM	12	SE SW	9		3.0
Total							100.5

Transfer Review Criteria [OAR 690-380-4010(2)] and OAR 690-380-2110(2)]

11. Water has been used 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.
12. 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-13619.
13. The proposed changes would not result in enlargement of the rights.
14. The proposed changes would not result in injury to other water rights.
15. All other application requirements are met.

Conclusions of Law

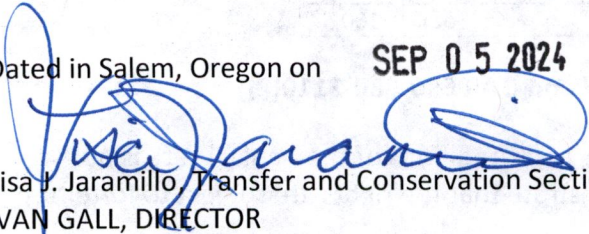
The change in places of use proposed in Transfer Application T-13619 is consistent with the requirements of ORS 540.505 to 540.580 and OAR 690-380-5000.

Now, therefore, it is ORDERED:

1. The change in places of use proposed in Transfer Application T-13619 is 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 12181, 44677, and any related decree.
3. Water right Certificates 12181 and 44677 are cancelled.
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, 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 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 **SEP 05 2024**


Lisa J. Jaramillo, Transfer and Conservation Section Manager, for
IVAN GALL, DIRECTOR
Oregon Water Resources Department

Mailing date: **SEP 06 2024**