

Priority Date: AUGUST 17, 1967
Volume: 1.21 ACRE-FEET
Source: UNNAMED INTERMITTENT STREAM, tributary to ASH SWALE

Authorized Place of Use:

STORAGE FOR STOCK USE				
Twp	Rng	Mer	Sec	Q-Q
6 S	5 W	WM	27	NE SW

5. Certificate 36547 does not describe the point of diversion; however, information is available describing the dam location as:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
6 S	5 W	WM	27	NE SW	480 FEET SOUTH AND 1280 FEET EAST FROM THE SW CORNER OF DLC 74

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

Certificate: 39082 in the name of MATT GILLES (perfected under Permit R-5663)
Use: STORAGE FOR STOCK USE (ENLARGEMENT OF MATT GILLES RESERVOIR NO. 1)
Priority Date: JULY 7, 1970
Volume: 6.5 ACRE-FEET
Source: AN UNNAMED DRAINAGE-WAY, tributary of WEST BRANCH ASH SWALE (YAMHILL RIVER)

Authorized Place of Use:

STORAGE FOR STOCK USE (ENLARGEMENT OF MATT GILLES RESERVOIR NO. 1)				
Twp	Rng	Mer	Sec	Q-Q
6 S	5 W	WM	27	NE SW

7. Certificate 39082 does not describe the point of diversion; however, information is available describing the dam location as:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
6 S	5 W	WM	27	NE SW	480 FEET SOUTH AND 1280 FEET EAST FROM THE SW CORNER OF DLC 74

8. Transfer Application T-13919 proposes to change the character of use to storage for irrigation, agriculture use, livestock use and fire protection.

Transfer Review Criteria [OAR 690-380-0100(14), 690-380-4010(2) and 690-380-2110(2)]

9. Water has been stored within the five-year period prior to submittal of Transfer Application T-13919 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.

10. A water delivery system sufficient to store the full amount of water allowed under the existing rights was present within the five-year period prior to submittal of Transfer Application T-13919.
11. The water rights are subject to transfer as defined in ORS 540.505(4), ORS 540.510(1), and OAR 690-380-0100(14).
12. The proposed change would not result in enlargement of the rights.
13. The proposed change would not result in injury to other existing water rights.
14. All other application requirements are met.

Determination and Proposed Action

The change in character of use proposed in Transfer Application T-13919 appears to be consistent with the requirements of ORS 540.505 to 540.580 and OAR 690-380-5000. If protests are not filed pursuant to OAR 690-380-4030, the transfer application will be approved.

If Transfer Application T-13919 is approved, the final order will include the following:

1. *The change in character of use proposed in Transfer Application T-13919 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 36547 and 39082 and any related decree.*
3. *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.*
4. *After satisfactory proof of beneficial use is received, new certificates confirming the rights transferred will be issued.*

Dated in Salem, Oregon on **DEC 15 2023**


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

This Preliminary Determination was prepared by Kim French. If you have questions about the information in this document, you may reach me at 503 979-9607 or Kim.R.French@water.oregon.gov.

Protests

Under the provisions of ORS 540.520(6) & (7) and OAR 690-380-4030, within 30 days after the last date of publication of the newspaper notice or the Department's weekly notice as prescribed by OAR 690-380-4020, whichever is later, any person may file, jointly or severally, a protest expressing opposition of approval of the transfer application and disagreement with this Preliminary Determination or a standing statement in support of this Preliminary Determination. If this Preliminary Determination determines that a change in point of diversion or appropriation would result in injury, the applicant may file a notification of intent to pursue approval of the transfer under OAR 690-380-5030 to 690-380-5050. Protests and standing statements must be received by the Water Resources Department within 30 days after the last date of publication of the newspaper notice or the Department's weekly notice as prescribed by OAR 690-380-4020, whichever is later.

Protests must be in writing and received in hard copy form with the appropriate statutory protest filing fee; protests cannot be filed by electronic mail. [OAR 690-002-0025(3) and 690-380-0100(9)]. The protest must include the following:

- The person's name, address, and telephone number;
- All reasonably ascertainable issues and all reasonably available arguments supporting the person's position by the close of the protest period. Failure to raise a reasonably ascertainable issue in a protest or failure to provide sufficient specificity to afford the Department an opportunity to respond to the issue may preclude consideration of the issue during the hearing;
- If you are the applicant, a protest fee of \$480 required by ORS 536.050; and
- If you are not the applicant, a protest fee of \$950 required by ORS 536.050 and proof of service of the protest upon the applicant.

Requests for Standing

Under the provisions of OAR 690-380-4030(5), the Department shall provide to persons who have filed standing statements as defined under OAR 690-380-0100(11) notice of any differences between the Department's Preliminary Determination and the Final Order, notice of a hearing on the application under OAR 137-003-0535, and an opportunity to request limited party status or party status in the hearing.

Requests for standing must be received in the Water Resources Department no later than 30 days after the last date of publication of the newspaper notice or the Department's weekly notice as prescribed by OAR 690-380-4020, whichever is later. Requests for standing must be in writing, and must include the following:

- The requester's name, mailing address and telephone number;
- If the requester is representing a group, association or other organization, the name, address and telephone number of the represented group;
- A statement that the requester supports the preliminary determination as issued.

After the protest period has ended, the Director will either issue a Final Order or schedule a contested case hearing. The contested case hearing will be scheduled only if a protest has been filed under OAR 690-380-4030. In accordance with OAR 690-380-4200, notice and conduct of the hearing shall:

- Be under the applicable provisions of ORS 183.310 to 183.550, pertaining to contested cases, and the hearing shall be held in the area where the rights are located unless all parties stipulate otherwise; and
- If a protest has asserted that a water right to be transferred has been forfeited through non-use, include the notice and procedures described in OAR 690-017-0500 to 690-017-0900.

If after hearing the Department issues a proposed Final Order finding that a change in point of diversion or appropriation will result in injury, the applicant may file a notification of intent to pursue approval of the transfer under OAR 690-380-5030 to 690-380-5050 within 15 days of receipt of the proposed order. Notwithstanding 690-002-0175, if the applicant files a notification of intent to pursue approval of the transfer under 690-380-5030 to 690-380-5050, the deadline for filing exceptions to the proposed order shall be 30 days after the Department provides notice to the parties that the transfer does not meet the requirements of 690-380-5030 to 690-380-5050.

If you do not request a hearing within 30 days after the close of the protest period, or if you withdraw a request for a hearing, notify the Department or the administrative law judge that you will not appear, or fail to appear at a scheduled hearing, the Director may issue a final order by default. If the Director issues a Final Order by default, the Department designates the relevant portions of its files on this matter, including all materials that you have submitted relating to this matter, as the record for purpose of proving a *prima facie* case upon default.

You may be represented by an attorney at the hearing. Legal aid organizations may be able to assist a party with limited financial resources. Generally, partnerships, corporations, associations, governmental subdivisions, or public or private organizations are represented by an attorney. However, consistent with OAR 690-002-0020 and OAR 690-137-0555, an agency representative may represent partnerships, corporations, associations, governmental subdivisions or public, or private organizations if the Department determines that appearance of a person by an authorized representative will not hinder the orderly and timely development of the record in this case.

Notice Regarding Servicemembers: Active-duty servicemembers have a right to stay proceedings under the federal Servicemembers Civil Relief Act. 50 U.S.C. App. §§501-597b. For more information contact the Oregon State Bar at 800-452-8260, the Oregon Military Department at 971-355-4127, or the nearest United States Armed Forces Legal Assistance Office through <http://legalassistance.law.af.mil>.

If you have questions about how to file a protest or if you have previously filed a protest and you want to know the status, please contact Will Davidson at 503-507-2749.

If you have questions about the Department or any of its programs, please contact our Water Resources Customer Service Group at 503-986-0900.

Address any correspondence to: Oregon Water Resources Department, Transfer and Conservation Section, 725 Summer Street NE, Suite A, Salem OR 97301-1266.



Oregon

Tina Kotek, Governor

Water Resources Department

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725 Summer St NE, Suite A
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November 14, 2023

VIA CERTIFIED MAIL AND E-MAIL

Applicant

OPA'S ACRES LLC
ATTN: OLIVER RAAB
PO BOX 15010
SALEM, OR 97309

SUBJECT: Water Right Transfer Application T-13919

Please find enclosed the Preliminary Determination indicating that, based on the information available, the Department intends to approve application T-13919. This document is an intermediate step in the approval process; water may not be used legally as proposed in the transfer application until a Final Order has been issued by the Department. Please read this entire letter carefully to determine your responsibility for additional action.

A public notice is being published in the Department's weekly publication and in the Statesman Journal newspaper, simultaneously with issuance of the Preliminary Determination. The notice initiates a period in which any person may file either a protest opposing the decision proposed by the Department in the Preliminary Determination or a standing statement supporting the Department's decision. The protest period will end 30 days after the last date of newspaper publication.

If no protest is filed, the Department will issue a Final Order consistent with the Preliminary Determination. You should receive a copy of the Final Order about 30 days after the close of the protest period.

If a protest is filed, the application may be referred to a contested case proceeding. A contested case provides an opportunity for the proponents and opponents of the decision proposed in the Preliminary Determination to present information and arguments supporting their position in a quasi-judicial proceeding.

Please don't hesitate to contact me at 503 979-9607 or Kim.R.French@water.oregon.gov, if I may be of assistance

Sincerely,

Kim French
Transfer Specialist
Transfer and Conservation Section

cc: T-13919
Joel M. Plahn, District 22 Watermaster (*via e-mail*)
Ted Ressler, Agent for the applicant (*via e-mail*)

encs