# BEFORE THE WATER RESOURCES DEPARTMENT OF THE STATE OF OREGON

In the Matter of Transfer Application	)	FINAL ORDER APPROVING
T-12784, Clackamas County	)	ADDITIONAL POINTS OF
	)	APPROPRIATION

### 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.

#### Applicant

DEBORAH UNRAU 33245 S. DRYLAND RD. MOLALLA, OR 97038

#### **Findings of Fact**

- 1. On December 12, 2017, Neal F. Lucht and Pamela M. Lucht, Trustees of the Lucht Living Trust Dated December 29, 1994 filed an application for additional points of appropriation under Certificate 52854. The Department assigned the application number T-12784.
- 2. On April 1, 2019, the Department approved an assignment of ownership from Neal F. Lucht and Pamela M. Lucht, Trustees of the Lucht Living Trust Dated December 29, 1994 to Deborah Unrau.
- 3. On April 4, 2019, the Department mailed a copy of the draft Preliminary Determination proposing to approve Transfer Application T-12784 to the applicant. The draft Preliminary Determination cover letter set forth a deadline of May 7, 2019, 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. Notice of the application for transfer was published on December 19, 2017, 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.

- 5. On May 6, 2019 the applicant requested to extend the date for full beneficial use of the water to October 1, 2023.
- 6. On June 4, 2019, the Department issued a Preliminary Determination proposing to approve Transfer Application T-12784 and sent a copy to the applicant. Additionally, notice of the Preliminary Determination for the transfer application was published in the Department's weekly notice on June 4, 2019, and in the Molalla Pioneer newspaper on July 31 and August 7, 2019, pursuant to ORS 540.520 and OAR 690-380-4020. No protests were filed in response to the notices.
- 7. The right to be transferred is as follows:

Certificate: 52854 in the name of CRESTVIEW FARMS INC. (perfected under Permit

G-9818)

Use: IRRIGATION OF 12.0 ACRES

Priority Date: JUNE 7, 1982

Rate: 0.15 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 2.5 acre-feet per acre for each acre irrigated during the irrigation season of each year, provided further that in the event of a request for a change in point of appropriation, an additional point of appropriation of repair of this well, the quantity of water allowed herein together with any other right from this point of appropriation shall not exceed the capacity of

this well at the time of perfection of this right.

Source: ONE WELL, a tributary of ROCK CREEK

#### Authorized Point of Appropriation:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
5 S	1 E '	WM	23	NW NE	1300 FEET SOUTH AND 1430 FEET WEST FROM THE NE CORNER OF SECTION 23

#### **Authorized Place of Use:**

IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
5 S	1 E	WM	23	NE NW	1.40
5 S	1 E	WM	23	WNWN	3.90
5 S	1 E	WM	23	SW NW	4.00
5 S	1 E	WM	23	SE NW	2.70
TOTAL					12.0

8. Transfer Application T-12784 proposes additional points of appropriation with approximate distances from the existing point of appropriation as follows:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances	Approximate distance from Authorized Well in feet (ft)
5 S	1 E	WM	23	NW NW	WELL 1 - 1200 FEET SOUTH AND 960 FEET EAST FROM THE NW CORNER OF SECTION 23	2904 ft
5 S	1 E	WM	23	NE NW	WELL 2 - 1210 FEET SOUTH AND 1550 FEET EAST FROM THE NW CORNER OF SECTION 23	2244 ft

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

(4) 74

- 9. Water has been used within the last five years prior to the submittal of Transfer Application T-12784 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.
- 10. A pump, pipeline, and sprinkler system sufficient to use the full amount of water allowed under the existing right were present within the five-year period prior to submittal of Transfer Application T-12784.
- 11. The proposed change would not result in enlargement of the right.
- 12. The proposed change would not result in injury to other water right (
- 13. All other application requirements are met.

#### Conclusions of Law

The additional points of appropriation proposed in Transfer Application T-12784 are consistent with the requirements of ORS 537.705 and 540.505 to 540.580 and OAR 690-380-5000.

#### Now, therefore, it is ORDERED:

- 1. The additional points of appropriation proposed in Transfer Application T-12784 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 Certificate 52854 and any related decree.
- 3. Water right Certificate 52854 is cancelled.
- 4. The quantity of water diverted at the additional points of appropriation (Well 1 and 2), together with that diverted at the original point of appropriation (Authorized Well), shall not exceed the quantity of water lawfully available at the original point of appropriation (Authorized Well).

- 5. Water shall be acquired from the same aquifer (water source) as the original point of appropriation.
- 6. Full beneficial use of the water shall be made, consistent with the terms of this order, on or before **October 1, 2023**. 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.
- 7. After satisfactory proof of beneficial use is received, a new certificate confirming the right transferred will be issued.

Dated at Salem, Oregon this	SEP 05 2019
De Jara	and the second
Lisa J. Jaramillo, Transfer and Co	onservation Section Manager for
THOMAS M. BYLER, DIRECT	OR
Oregon Water Resources Departr	nent
Mailing Date: SEP <b>0 6</b> 2019	