

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

In the Matter of Transfer Application)	FINAL ORDER APPROVING
T-12540, Marion County)	ADDITIONAL POINTS OF
)	APPROPRIATION, A CHANGE IN
)	PLACE OF USE AND 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.

Applicant

RD FARMS INC.
C/O STEVE DAVIDSON
4608 DAVIDSON RD NE
ST. PAUL, OR 97137

Findings of Fact

1. On December 20, 2016, RD FARMS INC., C/O STEVE DAVIDSON filed an application for additional points of appropriation and to change the place of use under Certificate 40215. The Department assigned the application number T-12540.
2. Notice of the application for transfer was published on December 27, 2016, pursuant to OAR 690-380-4000. No comments were filed in response to the notice.
3. On April 10, 2018, the Department contacted the agent for the applicant by e-mail regarding deficiencies in the application.
4. On April 25, 2018, the Department received amended application pages, an amended map and an affidavit for a partial cancellation of Certificate 40215 addressing any remaining deficiencies.
5. On August 22, 2018, the agent for the applicant sent correcting information for the amended application pages and map satisfying the deficiencies.

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.

6. On September 24, 2018, the Department emailed a copy of the draft Preliminary Determination proposing to approve Transfer Application T-12540 to the applicant and agent for the applicant. The draft Preliminary Determination cover letter set forth a deadline of October 24, 2018 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 and requested the completion date for the transfer be extended to October 1, 2022.
7. On November 21, 2018, the Department issued a Preliminary Determination proposing to approve Transfer T-12540 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 27, 2018, and in the Woodburn Independent newspaper on November 28, 2018 and December 5, 2018, pursuant to ORS 540.520 and OAR 690-380-4020. No protests were filed in response to the notice.
8. The right to be transferred is as follows:

Certificate: 40215 in the name of RAYMOND T. DAVIDSON (perfected under Permit G-4085)

Use: IRRIGATION of 48.85 ACRES and SUPPLEMENTAL IRRIGATION of 100.4 ACRES

Priority Date: APRIL 16, 1968

Rate: 1.325 CUBIC FEET PER SECOND (CFS)

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 the right allowed herein shall be limited to any deficiency in the available supply of any prior right existing for the same land and shall not exceed the limitation allowed herein

Source: A WELL in the WILLAMETTE RIVER BASIN

Authorized Point of Appropriation:

Twp	Rng	Mer	Sec	Q-Q	DLC	Measured Distances
4 S	2 W	WM	29	SW NW	94	WELL 2 - 3450 FEET NORTH AND 470 FEET EAST FROM THE NW CORNER OF DLC 56

Authorized Place of Use:

IRRIGATION						
Twp	Rng	Mer	Sec	Q-Q	DLC	Acres
4 S	2 W	WM	29	NE NW	94	8.8
4 S	2 W	WM	29	NW NW	94	10.0
4 S	2 W	WM	29	SW NW	94	10.0
4 S	2 W	WM	29	SE NW	94	7.95
4 S	2 W	WM	30	NE NE	94	9.8
4 S	2 W	WM	30	SE NE	94	2.3
Total						48.85

SUPPLEMENTAL IRRIGATION						
Twp	Rng	Mer	Sec	Q-Q	DLC	Acres
4 S	2 W	WM	29	SW NW	94	14.5
4 S	2 W	WM	29	NW SW	94	8.1
4 S	2 W	WM	29	NW SW	80	12.4
4 S	2 W	WM	29	SW SW	80	20.0
4 S	2 W	WM	30	SE NE	94	10.2
4 S	2 W	WM	30	NE SE	94	4.3
4 S	2 W	WM	30	NE SE	80	5.7
4 S	2 W	WM	30	SE SE	80	14.4
4 S	2 W	WM	31	NE NE	80	5.2
4 S	2 W	WM	32	NW NW	80	5.6
Total						100.4

9. Transfer Application T-12540 proposes additional points of appropriation in the table below with the approximate distances from the existing point of appropriation:

Twp	Rng	Mer	Sec	Q-Q	DLC	Measured Distances	Distance from original well location in feet
4 S	2 W	WM	32	NW NW	80	WELL 3 - 425 FEET SOUTH AND 180 FEET EAST FROM THE NW CORNER OF SECTION 32	0.74 mile
4 S	2 W	WM	30	NE SE	80	WELL 4 - 1565 FEET NORTH AND 400 FEET WEST FROM THE SE CORNER OF SECTION 30	0.40 mile

10. Transfer Application T-12540 also proposes to change the place of use of the right to:

IRRIGATION							
Twp	Rng	Mer	Sec	Q-Q	DLC	Acres	Proposed Changes
4 S	2 W	WM	29	NE NW	94	0.5	APOA
4 S	2 W	WM	29	NE NW	94	7.7	APOA
4 S	2 W	WM	29	NW NW	94	0.6	APOA
4 S	2 W	WM	29	NW NW	94	10.0	APOA
4 S	2 W	WM	29	SW NW	94	10.0	APOA
4 S	2 W	WM	29	SE NW	94	7.95	APOA
4 S	2 W	WM	30	NE NE	94	9.8	APOA
4 S	2 W	WM	30	SE NE	94	2.3	APOA
Total						48.85	

SUPPLEMENTAL IRRIGATION							
Twp	Rng	Mer	Sec	Q-Q	DLC	Acres	Proposed Changes
4 S	2 W	WM	29	SW NW	94	14.5	APOA
4 S	2 W	WM	29	NW SW	94	8.1	APOA
4 S	2 W	WM	29	NW SW	80	12.4	APOA
4 S	2 W	WM	29	SW SW	80	20.0	APOA
4 S	2 W	WM	30	SE NE	94	10.2	APOA
4 S	2 W	WM	30	NE SE	94	4.3	APOA
4 S	2 W	WM	30	NE SE	80	5.7	APOA
4 S	2 W	WM	30	SE SE	80	14.4	APOA
4 S	2 W	WM	31	NE NE	80	5.2	APOA
4 S	2 W	WM	32	NW NW	80	5.6	APOA
Total						100.4	

Transfer Review Criteria (OAR 690-380-4010)

11. 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 right is 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 right were present within the five-year period prior to submittal of Transfer Application T-12540.
13. The proposed change would not result in enlargement of the right.
14. The proposed change would not result in injury to other water rights.
15. All other application requirements are met.

Partial Cancellation of a Water Right

16. On April 25, 2018 the Department received an affidavit from the landowner certifying that a portion of a water right has been abandoned and requesting cancellation of a portion of the right.

Certificate: 40215 in the name of RAYMOND T. DAVIDSON (perfected under Permit G-4085)

Use: IRRIGATION of 1.75 ACRES

Priority Date: APRIL 16, 1968

Rate: 0.015 CUBIC FEET PER SECOND (CFS)

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 the right allowed herein shall be limited to any deficiency in the available supply of any prior right existing for the same land and shall not exceed the limitation allowed herein

Source: A WELL in the WILLAMETTE RIVER BASIN

Authorized Point of Appropriation:

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4 S	2 W	WM	29	SW NW	94	WELL 2 - 3450 FEET NORTH AND 470 FEET EAST FROM THE NW CORNER OF DLC 56

Authorized Place of Use to be Cancelled:

IRRIGATION						
Twp	Rng	Mer	Sec	Q-Q	DLC	Acres
4 S	2 W	WM	29	NE NW	94	0.6
4 S	2 W	WM	29	SE NW	94	1.15
Total						1.75

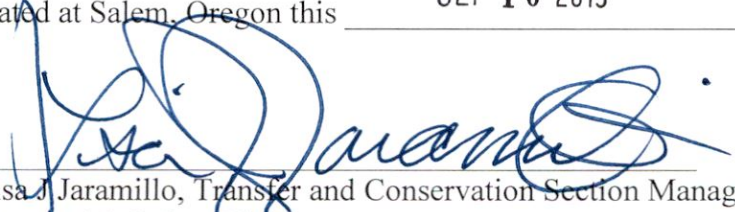
Conclusion of Law

The additional points of appropriation and change in place of use proposed in Transfer Application T-12540 are consistent with the requirements of ORS 537.705 and 540.505 to 540.580 and OAR 690-380-5000 and the abandoned right should be cancelled.

Now, therefore, it is ORDERED:

1. The additional points of appropriation and change in place of use proposed in Transfer Application T-12540 are approved. The portion of the right 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 Certificate 40215 and any related decree.
3. Water right Certificate 40215 is cancelled.
4. The quantity of water diverted at the additional points of appropriation, together with that diverted at the original point of appropriation, shall not exceed the quantity of water lawfully available at the original point of appropriation.
5. Water shall be acquired from the same aquifer (water source) as the original point of appropriation.
6. The former place of use of the transferred right shall no longer receive water under the right.
7. Full beneficial use of the water shall be made, consistent with the terms of this order, on or before **October 1, 2022**. 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.
8. After satisfactory proof of beneficial use is received, a new certificate confirming the right transferred will be issued.

Dated at Salem, Oregon this SEP 10 2019



 Lisa J. Jaramillo, Transfer and Conservation Section Manager, for
 Thomas M. Byler, Director
 Oregon Water Resources Department

Mailing Date: SEP 11 2019