BEFORE THE WATER RESOURCES DEPARTMENT OF THE STATE OF OREGON

In the Matter of Transfer Application)	FINAL ORDER APPROVING
T-12117, Marion, Yamhill 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.

Applicants

MIKE AND CONNIE DAVIDSON, TRUSTEES DAVIDSON LIVING TRUST 3988 DAVIDSON RD NE SAINT PAUL, OR 97137

Findings of Fact

- 1. On July 31, 2015, MIKE AND CONNIE DAVIDSON, TRUSTEES, DAVIDSON LIVING TRUST, filed an application for additional points of appropriation under Certificate 40089. The Department assigned the application number T-12117.
- 2. Notice of the application for transfer was published on August 4, 2015, pursuant to OAR 690-380-4000. No comments were filed in response to the notice.
- 3. On August 7, 2015 the Davidson Living Trust filed Groundwater Registration Modification T-12127. Proposed Well 1 for T-12127 is the same as proposed Well 1 on this application.
- 4. On December 23, 2015, the applicant's agent was informed that the proposed Well 1 would not be approved as requested.
- 5. On January 26, 2016, the applicants' agent proposed to remove Well 1 for both Transfer Applications T-12117 and T-12127 and change the location of Well 2 for both Transfer Applications T-12117 and T-12127. On February 3, 2016, the applicants' agent submitted a revised application, removing Well 1 and modifying the location of Well 2.

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 March 14, 2016, the Department mailed a copy of the draft Preliminary Determination proposing to approve Transfer Application T-12117 to the applicants. The draft Preliminary Determination cover letter set forth a deadline of April 13, 2016, 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 applicants are authorized to pursue the transfer.
- 7. On April 25, 2016, the Department issued a Preliminary Determination proposing to approve Transfer Application T-12117 and sent a copy to the applicants. Additionally, notice of the Preliminary Determination for the transfer application was published in the Department's weekly notice on April 26, 2016, and in the Woodburn Independent newspaper on May 4, and May 11, 2016, 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: 40089 in the name of DAVIDSON FARMS INCORPORATED (perfected

under Permit G-3655)

Use: SUPPLEMENTAL IRRIGATION OF 57.0 ACRES

Priority Date: APRIL 17, 1967

Rate: 0.56 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 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, and shall conform to such reasonable rotation system as may be ordered by the

proper state officer.

Source: A WELL within the WILLAMETTE RIVER BASIN

Authorized Point of Appropriation:

ſ	Twp	Rng	Mer	Sec	Q-Q	DLC	Measured Distances
ĺ	4 S	3 W	WM	25	SW SE	65	WELL 5: 570 FEET NORTH AND 440 FEET WEST FROM THE SE CORNER OF COYLE DLC 65

Authorized Place of Use:

Twp	Rng	Mer	Sec	Q-Q	DLC	Acres
4 S	3 W	WM	25	SE SW	65	10.10
4 S	3 W	WM	25	SW SE	65	28.00
4 S	3 W	WM	36	NW NE	65	12.60
4 S	3 W	WM	36	NE NW	65	6.30
					Total	57.00

9. Transfer Application T-12117 proposes two additional points of appropriation, described as follows, with the approximate distances from the original well identified below:

Twp	Rng	Mer	Sec	Q-Q	DLC	Measured Distances	Distance from Well
4 S	2 W	WM	31	NW NW	89	WELL 2: 415 FEET SOUTH AND 1170 FEET EAST FROM THE SW CORNER OF SECTION 30	3348 feet SE
4 S	3 W	WM	36	NE NW	65	WELL 3: 350 FEET SOUTH AND 2780 FEET WEST FROM THE SW CORNER OF SECTION 30	642 feet SW

Transfer Review Criteria (OAR 690-380-4010)

- 10. 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.
- 11. 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-12117.
- 12. The proposed change would not result in enlargement of the right.
- 13. The proposed change would not result in injury to other water rights.
- 14. All other application requirements are met.

Conclusions of Law

The additional points of appropriation proposed in Transfer Application T-12117 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:

- The additional points of appropriation proposed in Transfer Application T-12117 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 40089 and any related decree.
- 3. Water right Certificate 40089 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. Full beneficial use of the water shall be made, consistent with the terms of this order, on or before **October 1, 2018**. A Claim of Beneficial Use prepared by a Certified Water Right Examiner shall be submitted by the applicants 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 day of June, 2016.

Dwight French, Water Right Services Administrator, for

Thomas M. Ryler, Director

Oregon Water Resources Department

	JUN 2 0 2016
Mailing Date:	