

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

In the Matter of Transfer Application)	FINAL ORDER APPROVING AN
T-10752, Marion County)	ADDITIONAL POINT OF
)	APPROPRIATION

Authority

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. OAR Chapter 690, Division 380 implements the statutes and provides the Department's procedures and criteria for evaluating transfer applications.

Applicant

WILLIAM AND KAYE GOODING
5357 ST. PAUL HIGHWAY
ST. PAUL OR 97137

Findings of Fact

Background

1. On December 18, 2008, William and Kaye Gooding filed an application to add an additional point of appropriation under Certificate 57269. The Department assigned the application number T-10752.

2. The right to be transferred is as follows:

Certificate: 57269 in the name of ELMER GOODING (perfected under Permit G-6609)

Use: SUPPLEMENTAL IRRIGATION of 244.9 ACRES

Priority Date: DECEMBER 2, 1975

Rate: 3.06 CUBIC FEET PER SECOND

Limit/Duty: ONE-EIGHTIETH cfs per acre, not to exceed 2.5 acre-feet per acre per year

Source: A WELL in the MISSION CREEK BASIN

Authorized Point of Appropriation:

Twp	Rng	Mer	Sec	Q-Q	DLC	Measured Distances
4 S	2 W	WM	21	SE NW	99	1,260 FEET NORTH & 1,600 FEET EAST FROM THE SW CORNER OF COSGROVE DLC 99

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 60days following the date the petition was filed, the petition shall be deemed denied.

Authorized Place of Use:

SUPPLEMENTAL IRRIGATION							
Twp	Rng	Mer	Sec	Q-Q	GLot	DLC	Acres
4 S	2 W	WM	17	SE SE		60	0.6
4 S	2 W	WM	20	NE NE		60	33.0
4 S	2 W	WM	20	NW NE		60	23.5
4 S	2 W	WM	20	SW NE		60	39.6
4 S	2 W	WM	20	SE NE		60	34.4
4 S	2 W	WM	20	SE NE		99	4.2
4 S	2 W	WM	20	NE NW		60	1.9
4 S	2 W	WM	20	NE NW	1		1.8
4 S	2 W	WM	20	SE NW	6		2.6
4 S	2 W	WM	20	SE NW		60	2.4
4 S	2 W	WM	20	NE SW		60	0.2
4 S	2 W	WM	20	NE SW	7		0.2
4 S	2 W	WM	20	NE SE		60	2.5
4 S	2 W	WM	20	NE SE		99	0.5
4 S	2 W	WM	20	NW SE		60	3.2
4 S	2 W	WM	21	SW NE		99	14.0
4 S	2 W	WM	21	SW NW		99	35.3
4 S	2 W	WM	21	SE NW		99	35.6
4 S	2 W	WM	21	NE SW		99	4.1
4 S	2 W	WM	21	NW SW		99	4.0
4 S	2 W	WM	21	NW SE		99	1.3

3. Application T-10752 proposes to add an authorized point of appropriation approximately ¼ mile east from the existing point of appropriation:

Twp	Rng	Mer	Sec	Q-Q	DLC	Measured Distances
4S	2W	WM	21	SW NE	99	1,460 FEET SOUTH & 230 FEET EAST FROM THE N¼ CORNER OF SECTION 21

4. Notice of the application for transfer was published on December 30, 2008, pursuant to OAR 690-380-4000. No comments were filed in response to the notice.
5. On March 12, 2009, the Department mailed a copy of the draft Preliminary Determination proposing to approve Transfer Application T-10752 to the applicants. The cover letter for the draft Preliminary Determination set forth a deadline of April 15, 2009, for the applicants to respond. Prior to April 15th, 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 and provided a to-scale print of the transfer map.
6. On April 10, 2009, the Department issued a Preliminary Determination proposing to approve Transfer T-10752 and mailed a copy to the applicants. Additionally, notice of the Preliminary Determination for the transfer application was published on the Department's weekly notice on April 14, 2009, and in the Woodburn Independent newspaper on April 29,

May 6 and May 13, 2009, pursuant to ORS 540.520 and OAR 690-380-4020. No protests were filed in response to the notice.

Transfer Review Criteria (OAR 690-380-4010)

7. Water has been used within the last five years according to the terms and conditions of the right, and there is no information in the record that would demonstrate that the right is subject to forfeiture under ORS 540.610.
8. 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 Application T-10752.
9. The proposed change would not result in enlargement of the right.
10. The proposed change would not result in injury to other water rights.

Conclusions of Law

The additional point of appropriation proposed in application T-10752 is 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 point of appropriation proposed in application T-10752 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 Certificate 57269 and any related decree.
3. Water right certificate 57269 is cancelled.
4. Water shall be acquired from the same aquifer (water source) as the original point of appropriation.
5. The quantity of water diverted at the additional point 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.
6. Prior to diverting water, the water user shall install an in-line flow meter or other suitable device for measuring and recording the quantity of water diverted. The type and plans of the measuring device must be approved by the Department prior to beginning construction and shall be installed under the general supervision of the Department. The water user shall maintain and operate the measuring device as required by the Department.
7. The approved changes shall be completed and full beneficial use of the water shall be made on or before **October 1, 2010**. A Claim of Beneficial Use prepared by a Certified Water

Rights 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. When satisfactory proof of the completed changes is received, a new certificate confirming the right transferred will be issued.

Dated at Salem, Oregon this 15th day of June 2009.


Phillip C. Ward, Director *FW*

Mailing date: JUN 23 2009