

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

In the Matter of Transfer Application)
T-13250, Marion County)
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)
)
)

FINAL ORDER APPROVING A
SUBSTITUTION OF A
SUPPLEMENTAL GROUNDWATER
RIGHT FOR A PORTION OF A
PRIMARY SURFACE WATER RIGHT

Authority

Oregon Revised Statutes (ORS) 540.505 to 540.580 establish the process in which a water right holder may submit a request to transfer the point of diversion, 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

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

Findings of Fact

1. On September 10, 2019, MIKE AND CONNIE DAVIDSON, TRUSTEES, DAVIDSON LIVING TRUST filed an application to substitute a supplemental groundwater right under Certificate 94423 for a portion of a primary surface water right under Certificate 40138. The Department assigned the application number T-13250.
2. Notice of the application for transfer was published on September 17, 2019, pursuant to OAR 690-380-4000. No comments were filed in response to the notice.
3. The supplemental groundwater right to be substituted for the primary surface water right is:
Certificate: 94423 in the name of DAVIDSON LIVING TRUST; MIKE AND CONNIE DAVIDSON, TRUSTEES (perfected under Permit G-3655)
Use: SUPPLEMENTAL IRRIGATION OF 57.0 ACRES
Priority Date: APRIL 17, 1967
Rate: 0.56 CUBIC FOOT PER SECOND

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.

Limit/Duty: The amount of water used for irrigation under this right, 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 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: TWO WELLS, tributaries of WILLAMETTE RIVER

Authorized Points of Appropriation:

Twp	Rng	Mer	Sec	Q-Q	DLC	Measured Distances
4 S	2 W	WM	31	NW NW	89	WELL 2 (ADDITIONAL) – 435 FEET SOUTH AND 985 FEET EAST FROM THE SW CORNER OF SECTION 30
4 S	3 W	WM	25	SW SE	65	WELL 5 (ORIGINAL) – 570 FEET NORTH AND 440 FEET WEST FROM THE SE CORNER OF COYLE DLC 65

Authorized Place of Use:

SUPPLEMENTAL IRRIGATION						
Twp	Rng	Mer	Sec	Q-Q	DLC	Acres
4 S	3 W	WM	25	SE SW	65	10.1
4 S	3 W	WM	25	SW SE	65	28.0
4 S	3 W	WM	36	NW NE	65	12.6
4 S	3 W	WM	36	NE NW	65	6.3
Total						57.0

4. The portion of the primary surface water right to be used as a supplemental right under the substitution with Certificate 94423 is as follows:

Certificate: 40138 in the name of DAVIDSON FARMS, INC. (perfected under Permit S-32529)

Use: 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 under this right, 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 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: WILLAMETTE RIVER, a tributary of COLUMBIA RIVER

Authorized Point of Diversion:

Twp	Rng	Mer	Sec	Q-Q	GLot	Measured Distances
4 S	3 W	WM	35	SE NE	5	POD - 1020 FEET SOUTH AND 970 FEET WEST FROM THE NW CORNER OF LOUIS BERGEVIN DLC 64

Authorized Place of Use:

IRRIGATION						
Twp	Rng	Mer	Sec	Q-Q	DLC	Acres
4 S	3 W	WM	25	SE SW	65	10.1
4 S	3 W	WM	25	SW SE	65	28.0
4 S	3 W	WM	36	NW NE	65	12.6
4 S	3 W	WM	36	NE NW	65	6.3
					Total	57.0

Transfer Review Criteria [OAR 690-380-4010(2)]

5. 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 rights are subject to forfeiture under ORS 540.610.
6. A pump, pipeline, and sprinkler system sufficient to use the full amount of water allowed under the existing rights were present within the five-year period prior to submittal of Transfer Application T-13250.
7. The proposed change would not result in enlargement of the right.
8. The proposed change would not result in injury to other water rights.
9. All other application requirements are met.

Conclusions of Law

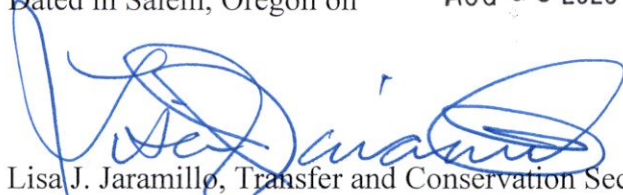
The substitution of a supplemental groundwater right for a portion of a primary surface water right proposed in Transfer Application T-13250 is consistent with the requirements of ORS 540.505 to 540.580 and OAR 690-380-5000.

Now, therefore, it is ORDERED:

1. The substitution of a supplemental groundwater right for a portion of a primary surface water right proposed in Transfer Application T-13250 is approved and shall be effective upon issuance of this order.
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 40138 and 94423, and any related decree.

3. The substitution of a supplemental groundwater right for a portion of a primary surface water right may be terminated upon a request by the water right holder or by order of the Director if the Director determines the use of the groundwater as the primary water right causes injury to other water rights. Upon termination, the substituted primary and supplemental water rights shall revert to their original status.

Dated in Salem, Oregon on **AUG 06 2020**



Lisa J. Jaramillo, Transfer and Conservation Section Manager, for
THOMAS M BYLER, DIRECTOR
Oregon Water Resources Department

AUG 07 2020

Mailing date: _____