

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

In the Matter of Transfer Application)	FINAL ORDER
T-10645, Benton County)	APPROVING A CHANGE IN POINTS
)	OF APPROPRIATION AND PLACE OF
)	USE

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

Larry Venell
30742 Venell Place
Corvallis, OR 97333

Findings of Fact

Background

1. On June 2, 2008, Larry Venell filed an application to change the points of appropriation and to change the place of use under Certificate 38407. The Department assigned the application number T-10645.
2. The portion of the right to be transferred is as follows:

Certificate: 38407 in the name of HILBERT SIM FARMS INC. (perfected under Permit G-4327)
Use: IRRIGATION OF 114.5 ACRES
Priority Date: SEPTEMBER 19, 1968
Rate: 1.43 CUBIC FEET PER SECOND (CFS), BEING 0.76 CFS FROM WELL 1 AND 0.67 CFS FROM 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.

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 per acre for each acre irrigated during the irrigation season of each year; and shall be further limited to appropriation of water only to the extent that it does not impair or substantially interfere with existing surface rights of others.

Sources: WELLS 1 AND 2 within the WILLAMETTE RIVER BASIN

Authorized Points of Appropriation:

Twp	Rng	Mer	Sec	Q-Q	GLot	Measured Distances
13 S	4 W	WM	19	NE NW	7	WELL 1 - 1990 FEET NORTH AND 1370 FEET EAST FROM THE W¼ CORNER OF SECTION 19
13 S	4 W	WM	19	SW NW	2	WELL 2 - 330 FEET NORTH AND 800 FEET EAST FROM THE W¼ CORNER OF SECTION 19

Authorized Place of Use:

IRRIGATION							
WELL 1							
Twp	Rng	Mer	Sec	Q-Q	GLot	DLC	Acres
13 S	4 W	WM	18	SW SW		77	0.7
13 S	4 W	WM	18	SW SW	12		2.0
13 S	4 W	WM	18	SE SW	5		12.9
13 S	4 W	WM	19	NE NW	7		15.2
13 S	4 W	WM	19	NW NW	7		30.4

IRRIGATION						
WELL 2						
Twp	Rng	Mer	Sec	Q-Q	GLot	Acres
13 S	4 W	WM	19	NW NW	7	2.8
13 S	4 W	WM	19	SW NW	6	35.6
13 S	4 W	WM	19	SE NW	2	4.0
13 S	4 W	WM	19	NE SW	3	0.1
13 S	4 W	WM	19	NW SW	3	10.8

3. Transfer Application T-10645 proposes to move the authorized points of appropriation between approximately 10 and 1700 feet from the existing points of appropriation to:

Twp	Rng	Mer	Sec	Q-Q	GLot	Measured Distances
13 S	4 W	WM	19	SW NW	2	WELL 3 - 340 FEET NORTH AND 800 FEET EAST FROM THE W¼ CORNER OF SECTION 19

4. Transfer Application T-10645 also proposes to change the place of use of the right to:

IRRIGATION						
Twp	Rng	Mer	Sec	Q-Q	GLot	Acres
13 S	4 W	WM	18	SW NE	2	6.4
13 S	4 W	WM	18	SE NW	2	6.0
13 S	4 W	WM	18	NE SW		12.4
13 S	4 W	WM	18	SE SW	5	8.3
13 S	4 W	WM	18	NW SE	3	16.6
13 S	4 W	WM	18	SW SE	4	3.9
13 S	4 W	WM	19	NW NW	7	15.1
13 S	4 W	WM	19	SW NW	6	35.0
13 S	4 W	WM	19	NW SW	5	10.8

5. Notice of the application for transfer was published on June 17, 2008, pursuant to OAR 690-380-4000. No comments were filed in response to the notice.
6. On September 11, 2009, the Department mailed a copy of the draft Preliminary Determination proposing to approve Transfer Application T-10645 to the applicant. The draft Preliminary Determination cover letter set forth a deadline of October 12, 2009, 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.
7. On September 23, 2009, the Department issued a Preliminary Determination proposing to approve Transfer Application T-10645 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 September 29, 2009, and in the Corvallis Gazette-Times newspaper on October 3, 10, and 17, 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)

8. 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.
9. A pump, pipeline, and sprinkler system sufficient to use the full amount of water allowed under the existing right was present within the five-year period prior to submittal of Transfer Application T-10645.
10. The proposed changes would not result in enlargement of the right.
11. The proposed changes would not result in injury to other water rights.


Conclusions of Law

The change in points of appropriation and change in place of use proposed in Transfer Application T-10645 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 change in points of appropriation and change in place of use proposed in Transfer Application T-10645 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 38407 and any related decree.
3. Water right certificate 38407 is cancelled.
4. The quantity of water diverted at the new point of appropriation shall not exceed the quantity of water lawfully available at the original points of appropriation.
5. Water shall be acquired from the same aquifer (water source) as the original points of appropriation.
6. The former place of use of the transferred right shall no longer receive water under the right.
7. The approved changes shall be completed and full beneficial use of the water shall be made on or before **October 1, 2011**. 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 16th day of November 2009.


Phillip C. Ward, Director *pc*

Mailing Date: DEC 11 2009