

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

In the Matter of Transfer Application) FINAL ORDER APPROVING
T-13031, Marion 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.

Applicant

THE BUCK FAMILY TRUST
17728 BUTTEVILLE RD NE
WOODBURN, OR 97071

Findings of Fact

1. On September 20, 2018, The Buck Family Trust filed an application for additional points of appropriation under Certificate 35498. The Department assigned the application number T-13031.
2. On June 3, 2019, The Buck Family Trust amended the original application to request additional points of appropriation.
3. Notice of the application for transfer was published on September 25, 2018, pursuant to OAR 690-380-4000. No comments were filed in response to the notice.
4. Notice of the amended application for transfer was published on July 2, 2019, pursuant to OAR 690-380-4000. No comments were filed in response to the notice.
5. On August 5, 2019, the Department mailed a copy of the draft Preliminary Determination proposing to approve Transfer Application T-13031 to the applicant. The draft Preliminary Determination cover letter set forth a deadline of September 5, 2019, 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.
6. On August 16, 2019, the Department requested the agent to send the original notarized Consent by Deeded Landowner, to be added to the application file. It was received on August 27, 2019.

7. On September 10, 2019, the Department issued a Preliminary Determination proposing to approve Transfer T-13031 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 10, 2019, and in the Woodburn Independent newspaper on October 2 and 9, 2019, pursuant to ORS 540.520 and OAR 690-380-4020. No protests were filed in response to the notices.
8. The right to be transferred is as follows:

Certificate: 35498 in the name of DON'S INC. (perfected under Permit G-3195)
Use: IRRIGATION of 290.8 ACRES
Priority Date: MARCH 3, 1966
Rate: 1.16 CUBIC FEET 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.
Source: ONE WELL, tributary of MISSION CREEK

Authorized Point of Appropriation:

Twp	Rng	Mer	Sec	Q-Q	DLC	Measured Distances
4 S	2 W	WM	10	SW SW	85	2770 FEET NORTH AND 3900 FEET WEST FROM THE MOST SOUTHERLY SE CORNER OF PAPIN DLC 85

Authorized Place of Use:

IRRIGATION						
Twp	Rng	Mer	Sec	Q-Q	DLC	Acres
4 S	2 W	WM	9	SW NE	85	4.8
4 S	2 W	WM	9	SE NE	85	1.7
4 S	2 W	WM	9	NE SW	84	1.0
4 S	2 W	WM	9	SE SW	84	3.0
4 S	2 W	WM	9	NE SE	84	7.0
4 S	2 W	WM	9	NE SE	85	22.8
4 S	2 W	WM	9	NW SE	85	5.4
4 S	2 W	WM	9	NW SE	84	20.2
4 S	2 W	WM	9	SW SE	84	6.0
4 S	2 W	WM	9	SE SE	85	0.5
4 S	2 W	WM	9	SE SE	84	35.5
4 S	2 W	WM	10	NE SW	85	5.0
4 S	2 W	WM	10	NW SW	85	16.0
4 S	2 W	WM	10	SW SW	85	16.2
4 S	2 W	WM	10	SW SW	84	18.4
4 S	2 W	WM	10	SE SW	84	0.3
4 S	2 W	WM	10	SE SW	85	37.6
4 S	2 W	WM	10	SW SE	85	13.8
4 S	2 W	WM	15	NW NE	85	12.2
4 S	2 W	WM	15	NE NW	84	3.3
4 S	2 W	WM	15	NE NW	85	9.1

IRRIGATION						
Twp	Rng	Mer	Sec	Q-Q	DLC	Acres
4 S	2 W	WM	15	NW NW	84	34.6
4 S	2 W	WM	15	SW NW	84	0.3
4 S	2 W	WM	16	NE NE	84	16.0
4 S	2 W	WM	16	NW NE	84	0.1
TOTAL						290.8

9. Transfer Application T-13031 proposes additional points of appropriation (approximate distances from the existing point of appropriation listed below in feet.):

Twp	Rng	Mer	Sec	Q-Q	DLC	Measured Distances	Approximate distance from authorized point of appropriation - Well 1
4 S	2 W	WM	9	SE SE	85	WELL 3 - 2790 FEET NORTH AND 3915 FEET WEST FROM THE MOST SOUTHERLY SE CORNER OF PAPIN DLC 85	25 ft. SW
4 S	2 W	WM	15	NE NW	85	WELL 2 - 1486 FEET NORTH AND 2185 FEET WEST FROM THE MOST SOUTHERLY SE CORNER OF PAPIN DLC 85	2064 ft. SE

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-13031.
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

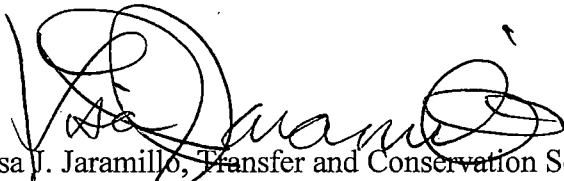
The additional points of appropriation proposed in Transfer Application T-13031 are consistent with the requirements of ORS 537.705 and 540.505 to 540.580 and OAR 690-380-5000.

Now, therefore, it is ORDERED:

1. The additional points of appropriation proposed in Transfer Application T-13031 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 35498 and any related decree.
3. Water right Certificate 35498 is cancelled.
4. Water diverted at the new additional points of appropriation (Well 2 and Well 3), together with that diverted at the original point of appropriation (Well 1), shall not exceed the quantity of water lawfully available at the original point of appropriation (Well 1).
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, 2021**. 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.
7. After satisfactory proof of beneficial use is received, a new certificate confirming the right transferred will be issued.

Dated in Salem, Oregon on DEC 18 2019



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

Mailing date: DEC 20 2019