

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

In the Matter of Transfer Application                    )       FINAL ORDER APPROVING A  
T-13168, Lane, Linn County                            )       CHANGE IN PLACE OF USE

**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**

BANNOCKBURN FARMS INC.  
1541 NW 12TH ST  
CORVALLIS, OR 97330

**Findings of Fact**

1. On April 17, 2019, BANNOCKBURN FARMS, INC. filed an application to change the place of use under Certificate 80359. The Department assigned the application number T-13168.
2. Notice of the application for transfer was published on April 23, 2019, pursuant to OAR 690-380-4000. No comments were filed in response to the notice.
3. On November 8, 2019, the Department sent a copy of the draft Preliminary Determination proposing to approve Transfer Application T-13168 to the applicant. The draft Preliminary Determination cover letter set forth a deadline of December 8, 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.
4. On December 20, 2019, the Department issued a Preliminary Determination proposing to approve Transfer Application T-13168 and sent a copy to the applicant. Additionally, notice of the Preliminary Determination for the transfer application was published in the Department's weekly notice on December 24, 2019, pursuant to ORS 540.520 and OAR 690-380-4020. No protests were filed in response to the notice.

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.

5. The right to be transferred is as follows:

**Certificate:** 80359 in the name of HECTOR MACPHERSON; BANNOCKBURN FARMS, INC. (perfected under Permit S-42759)  
**Use:** IRRIGATION of 28.1 ACRES  
**Priority Date:** MARCH 1, 1978  
**Rate:** 0.35 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, is 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:** MCKENZIE RIVER, a tributary of WILLAMETTE RIVER

**Authorized Point of Diversion:**

Twp	Rng	Mer	Sec	Q-Q	DLC	Measured Distances
17 S	3 W	WM	9	NE NE	38	McKENZIE RIVER (POD #1) - 4440 FEET SOUTH AND 5250 FEET EAST FROM THE SE CORNER OF MANSFIELD DLC 79
12 S	4 W	WM	20	NE SE	60	MUDDY CREEK RE-DIVERSION (POD # 3) - 800 FEET SOUTH AND 50 FEET EAST FROM THE NW CORNER OF JOHN G WILSON DLC 60

**Authorized Place of Use:**

IRRIGATION						
Twp	Rng	Mer	Sec	Q-Q	DLC	Acres
12 S	4 W	WM	20	SW NE	48	10.3
12 S	4 W	WM	20	SE NW	48	1.2
12 S	4 W	WM	20	NE SW	48	2.4
12 S	4 W	WM	20	NW SE	48	8.7
12 S	4 W	WM	21	SW SW	60	5.5
Total						28.1

6. Transfer Application T-13168 also proposes to change the place of use of the right to:

IRRIGATION						
Twp	Rng	Mer	Sec	Q-Q	GLot	Acres
12 S	4 W	WM	20	NW NE		14.5
12 S	4 W	WM	20	SW NE	3	10.3
12 S	4 W	WM	20	NE NW	1	1.6
12 S	4 W	WM	20	SE NW	2	1.7
Total						28.1

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

- Water has been used within the last five years. There is no information in the record that would demonstrate that the right is subject to forfeiture under ORS 540.610.
- A diversion structure and ditch 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-13168.

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.
11. All other application requirements are met.

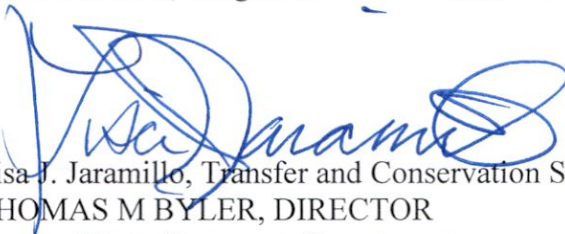
**Conclusions of Law**

The change in place of use proposed in Transfer Application T-13168 is consistent with the requirements of ORS 540.505 to 540.580 and OAR 690-380-5000.

**Now, therefore, it is ORDERED:**

1. The change in place of use proposed in Transfer Application T-13168 is approved.
2. Water right Certificate 80359 is cancelled. A new certificate will be issued describing that portion of the right not affected by this transfer.
3. 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 80359 and any related decree.
4. The former place of use of the transferred right shall no longer receive water under the right.
5. 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 change and full beneficial use of the water.
6. After satisfactory proof of beneficial use is received, a new certificate confirming the right transferred will be issued.

Dated in Salem, Oregon on **MAR 11 2020**



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

Mailing date: **MAR 12 2020**