

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

In the Matter of Transfer Application) FINAL ORDER APPROVING A
T-8290, Clackamas County) CHANGE IN 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 diversion, 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

IVERSON BROTHERS BULB FARM, INC.
33739 MERIDIAN RD
WOODBURN, OR 97071

Receiving Landowner

MARVIN RUFFING
4904 ELLIOT PRAIRIE RD
WOODBURN, OR 97071

Findings of Fact

Background

1. On June 10, 1999, Iverson Brothers Bulb Farm, Inc. filed an application to change the place of use under Certificates 23055 and 27752. The Department assigned the application number T-8290.
2. Certificates 23055 and 27752 were superseded by Certificates 83366 and 83367 respectively.
3. The receiving landowner will be responsible for completion of the proposed change.
4. The entirety of the first right to be transferred is as follows:

Certificate: 83366 in the name of MARVIN L. and CHRISTINE B. RUFFING (perfected under Permit S-20957)

Use: IRRIGATION of 10.9 ACRES

Priority Date: APRIL 17, 1950

Rate: 0.124 CUBIC FOOT PER SECOND (cfs)

Limit/Duty: ONE-EIGHTIETH cfs per acre, not to exceed 2.5 acre-feet per acre during the irrigation season of each year

NOTICE OF RIGHT TO PETITION FOR RECONSIDERATION OR JUDICIAL REVIEW

This is an order in other than a contested case. This order is subject to judicial review under ORS 183.484. Any petition for judicial review must be filed within the 60 day time period specified by ORS 183.484(2). Pursuant to ORS 536.075 and OAR 137-004-0080, you may either 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.

Source: AN UNNAMED STREAM, tributary to BUTTE CREEK

Authorized Point of Diversion:

Twp	Rng	Mer	Sec	Q-Q	DLC	Survey Coordinates
5 S	1 W	WM	23	SE NE	CHASE DLC 46	1530 FEET SOUTH AND 1540 FEET EAST FROM THE NW CORNER OF CHASE DLC 46

Authorized Place of Use:

IRRIGATION						
Twp	Rng	Mer	Sec	Q-Q	DLC	Acres
5 S	1 W	WM	24	SW NW	CHASE DLC 46	10.9

5. Transfer Application T-8290 proposes to change the place of use of the right to:

IRRIGATION						
Twp	Rng	Mer	Sec	Q-Q	DLC	Acres
5 S	1 W	WM	23	NE NE	CHASE DLC 46	6.9
5 S	1 W	WM	23	NW NE	CHASE DLC46	4.0

6. The entirety of the second right to be transferred is as follows:

Certificate: 83367 in the name of MARVIN L. AND CHRISTINE B. RUFFING (perfected under Permit G-366)

Use: IRRIGATION OF 11.1 ACRES AND SUPPLEMENTAL IRRIGATION of 10.9 ACRES

Priority Date: JUNE 19, 1956

Rate: 0.24 CUBIC FOOT PER SECOND (cfs)

Limit/Duty: ONE-EIGHTIETH cfs per acre, not to exceed 2.5 acre-feet per acre during the irrigation season

Source: A WELL in the BUTTE CREEK BASIN

Authorized Point of Appropriation:

Twp	Rng	Mer	Sec	Q-Q	DLC	Survey Coordinates
5 S	1 W	WM	23	NE NE	CHASE DLC 46	12 CHAINS SOUTH AND 23.5 CHAINS EAST FROM THE NW CORNER OF DLC 46

Authorized Place of Use:

IRRIGATION						
Twp	Rng	Mer	Sec	Q-Q	DLC	Acres
5 S	1 W	WM	23	SE NE	CHASE DLC 46	11.1

SUPPLEMENTAL IRRIGATION						
Twp	Rng	Mer	Sec	Q-Q	DLC	Acres
5 S	1 W	WM	24	SW NW	CHASE DLC 46	10.9

7. Transfer Application T-8290 proposes to change the place of use of the right to:

IRRIGATION						
Twp	Rng	Mer	Sec	Q-Q	DLC	Acres
5 S	1 W	WM	23	NE NE	CHASE DLC 46	7.2
5 S	1 W	WM	23	NW NE	CHASE DLC 46	3.9

SUPPLEMENTAL IRRIGATION						
Twp	Rng	Mer	Sec	Q-Q	DLC	Acres
5 S	1 W	WM	23	NE NE	CHASE DLC 46	6.9
5 S	1 W	WM	23	NW NE	CHASE DLC 46	4.0

8. Notice of the application for transfer was published on June 22, 1999, pursuant to OAR 690-380-4000. No comments were filed in response to the notice.
9. On July 18, 2007, the Department mailed a copy of the *draft* Preliminary Determination proposing to approve Transfer Application T-8290 to the applicant. The cover letter that accompanied the *draft* Preliminary Determination set forth a deadline of August 20, 2007, for the applicant to respond with comments. The applicant did not submit any comments by the deadline.
10. On August 28, 2007, the Department issued a Preliminary Determination proposing to approve Transfer Application T-8290 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 4, 2007, 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(2)]

11. Water has been used within the last five years according to the terms and conditions of the rights, and there is no information in the record that would demonstrate that the rights are subject to forfeiture under ORS 540.610.
12. 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 Application T-8290.
13. The proposed change would not result in enlargement of the rights.
14. The proposed change would not result in injury to other water rights.

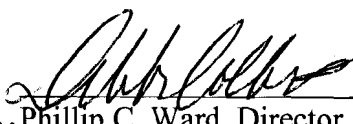
Conclusions of Law

The change in place of use proposed in Transfer Application T-8290 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 change in place of use proposed in Transfer Application T-8290 is approved.
2. Water right certificates 83366 and 83367 are cancelled.
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 Certificates 83366 and 83367 and any related decree.
4. The former place of use of the transferred rights shall no longer receive water under the rights.
5. When required by the Department, the water user shall install, maintain and operate an in-line flow meter, weir, 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.
6. The approved changes shall be completed and full beneficial use of the water shall be made on or before **October 1, 2009**. 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.
7. When satisfactory proof of the completed change is received, new certificates confirming the rights transferred will be issued.

Dated at Salem, Oregon this 5th day of October, 2007.



km Phillip C. Ward, Director

Mailing date: OCT 10 2007