

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

In the Matter of Transfer Application)	FINAL ORDER APPROVING A
T-12601, Yamhill County)	CHANGE IN POINT 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

KCK FARMS
c/o KEVIN COLEMAN
11483 SE AMITY-DAYTON HWY
DAYTON, OR 97114

Agent

DOANN HAMILTON
PACIFIC-HYDRO-GEOLOGY, INC.
18487 S. VALLEY VISTA RD.
MULINO, OR 97042

Findings of Fact

1. On March 2, 2017, KCK FARMS filed an application to change the point of appropriation under Certificate 87998. The Department assigned the application number T-12601.
2. Notice of the application for transfer was published on March 14, 2017, pursuant to OAR 690-380-4000. No comments were filed in response to the notice.
3. On September 19, 2017, the Department sent a copy of the draft Preliminary Determination proposing to approve Transfer Application T-12601 to the applicant. The draft Preliminary Determination cover letter set forth a deadline of October 19, 2017, for the applicant to respond. On September 23, 2017, the agent and 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 October 31, 2017, the Department issued a Preliminary Determination proposing to approve Transfer T-12601 and mailed a copy to the applicant. Additionally, notice of the Preliminary Determination for the transfer application was published on the Department's

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.

weekly notice on November 7, 2017, pursuant to ORS 540.520 and OAR 690-380-4020. No protests were filed in response to the notice.

5. The right to be transferred is as follows:

Certificate: 87998 in the name of KCK FARMS (perfected under Permit G-13597)
Use: IRRIGATION AND AGRICULTURAL USE FOR NURSERY OPERATIONS OF 114.98 ACRES
Priority Date: JANUARY 12, 1998
Rate: 3.02 CUBIC FEET PER SECOND (cfs), BEING 0.49 CFS FROM WELL 1, 1.34 CFS FROM WELL 3 and 1.19 CFS FROM WELL 4 as measured at the well.
Period of Use: March 1 through October 31
Limit/Duty: The amount of water used for NURSERY OPERATIONS is limited to a diversion of 0.15 cubic foot per second. For the irrigation of containerized nursery plants, the amount of water diverted is limited to ONE-FORTIETH of one cubic foot per second (or its equivalent) and 5.0 acre feet per acre per year. For irrigation of in-ground nursery plants, the amount of water diverted is limited to ONE-EIGHTIETH of one cubic foot per second (or its equivalent) and 2.5 acre feet per acre per year. The use of water for NURSERY OPERATIONS may be made at any time of the year that the use is beneficial. For the irrigation of any other crop, the amount diverted is limited to ONE-EIGHTIETH of one cubic foot per second (or its equivalent) and 2.5 acre feet per acre during the irrigation season of each year.
Source: THREE WELLS within the PALMER CREEK BASIN

Authorized Points of Appropriation:

Twp	Rng	Mer	Sec	Q-Q	GLot	DLC	Measured Distances
4 S	4 W	WM	36	SW SE		91	WELL 1 - 495 FEET NORTH AND 625 FEET WEST FROM THE SE CORNER OF DLC 91
4 S	4 W	WM	36	NE SW		91	WELL 3 - 1429 FEET NORTH AND 1828 FEET WEST FROM THE SE CORNER OF DLC 91
4 S	4 W	WM	36	NW SW	3		WELL 4 - 1100 FEET NORTH AND 3200 FEET WEST FROM THE SE CORNER OF DLC 91

Authorized Place of Use:

IRRIGATION AND AGRICULTURAL USE FOR NURSERY OPERATIONS							
Twp	Rng	Mer	Sec	Q-Q	GLot	DLC	Acres
4 S	4 W	WM	35	NE SE	1		0.03
4 S	4 W	WM	35	SE SE	1		1.52
4 S	4 W	WM	36	SW NE		91	0.85
4 S	4 W	WM	36	SW NW	2		0.29
4 S	4 W	WM	36	SW NW		91	0.20
4 S	4 W	WM	36	SE NW		91	1.54
4 S	4 W	WM	36	NE SW		91	29.90
4 S	4 W	WM	36	NW SW		91	4.93
4 S	4 W	WM	36	SW SW		91	2.02
4 S	4 W	WM	36	NW SW	3		27.69
4 S	4 W	WM	36	SW SW	10		14.74

IRRIGATION AND AGRICULTURAL USE FOR NURSERY OPERATIONS							
Twp	Rng	Mer	Sec	Q-Q	GLot	DLC	Acres
4 S	4 W	WM	36	SE SW		91	16.05
4 S	4 W	WM	36	NW SE		91	15.22

6. Transfer Application T-12601 proposes to change the point of appropriation for Well No. 3 approximately 100 feet west to Well No. 5 located as follows:

Twp	Rng	Mer	Sec	Q-Q	DLC	Measured Distances
4 S	4 W	WM	36	NE SW	91	WELL No. 5 - 1395 FEET NORTH AND 1925 FEET WEST FROM THE SE CORNER OF DLC 91

Transfer Review Criteria (OAR 690-380-4010)

7. Water has been used within the last five years prior to the submittal of Transfer Application T-12601 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.
8. Wells, pumps, 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-12601.
9. The Department has determined that the new proposed point of appropriation Well No. 5 would develop the same groundwater aquifer as the authorized points of appropriation, Well No. 1, Well No. 3, and Well No. 4. Under OAR 690-380-2110, any request for a change in point of appropriation is restricted to the same aquifer.
10. The proposed change, as conditioned, would not result in enlargement of the right. The quantity of water diverted at the new point of appropriation, Well No. 5, shall not exceed 1.34 cfs, the rate authorized for Well No. 3.
11. The proposed change would not result in injury to other water rights.
12. All other application requirements are met.

Conclusions of Law

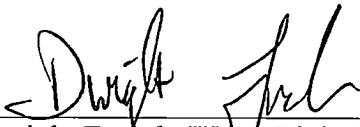
The change in point of appropriation proposed in Transfer Application T-12601 is consistent with the requirements of ORS 537.705 and 540.505 to 540.580 and OAR 690-380-5000.

Now, therefore, it is ORDERED:

1. The change in point of appropriation proposed in Transfer Application T-12601 is 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 87998 and any related decree.
3. Water right Certificate 87998 is cancelled.

4. The quantity of water diverted at the new point of appropriation (1.34 cfs) shall not exceed the quantity of water lawfully available at the original point of appropriation Well No. 3.
5. Water shall be acquired from the same aquifer (water source) as the original point of appropriation Well No. 3.
6. Full beneficial use of the water shall be made, consistent with the terms of this order, on or before **October 1, 2019**. 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.
7. After satisfactory proof of beneficial use is received, a new certificate confirming the right transferred will be issued.

Dated at Salem, Oregon this 19 day of January, 2018.



Dwight French, Water Right Services Administrator, for
Thomas M. Byler, Director
Oregon Water Resources Department

Mailing date: JAN 19 2018