

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

In the Matter of Transfer Application)	FINAL ORDER APPROVING A
T-13023, Klamath County)	CHANGE IN POINT OF
)	APPROPRIATION AND PLACE OF
)	USE

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

MOSS RANCH LLC
8555 W. LANGELL VALLEY RD.
BONANZA, OR 97623

Findings of Fact

1. On September 7, 2018, MOSS RANCH LLC filed an application to change the point of appropriation and to change the place of use under Certificate 65412. The Department assigned the application number T-13023.
2. Notice of the application for transfer was published on September 18, 2018, pursuant to OAR 690-380-4000. No comments were filed in response to the notice.
3. On October 10, 2019, the Department contacted the applicant by written correspondence to notify the applicant of a deficiency in the application. The applicant requested to change the place of use of 1.4 acres in SWNE of Section 31, T39S, R12E, WM. The Department determined a pond has existed, covering the 1.4 acres for the past 5 years, therefore these acres are not subject to transfer. The Department requested that the deficiency be resolved by November 8, 2019.

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.

4. On November 8, 2019, the applicant submitted a revised Table 2 and map, removing the 1.4 acres from the application.
5. On January 2, 2020, the applicant submitted an Affidavit for the Voluntary Cancellation of a Portion of a Water Right Certificate, resolving the deficiency.
6. On January 23, 2020, the Department mailed a copy of the draft Preliminary Determination proposing to approve Transfer Application T-13023 to the applicant. The draft Preliminary Determination cover letter set forth a deadline of February 24, 2020, 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 May 28, 2020, the Department issued a Preliminary Determination proposing to approve Transfer T-13023 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 June 2, 2020, pursuant to ORS 540.520 and OAR 690-380-4020. No protests were filed in response to the notice.
8. The portion of the right to be transferred is as follows:

Certificate: 65412 in the name of INDIAN HILLS RANCH C/O MERLE NASH
(perfected under Permit G-7654)

Use: IRRIGATION of 347.6 ACRES

Priority Date: JUNE 9, 1977

Rate: 4.35 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 3 acre-feet per acre for each acre irrigated during the irrigation season of each year.

Source: WELL 1 in the LOST RIVER BASIN

Authorized Point of Appropriation:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
39 S	12 E	WM	31	SE NE	WELL 1 - 30 FEET NORTH AND 100 FEET WEST FROM THE E1/4 CORNER OF SECTION 31

Authorized Place of Use:

IRRIGATION						
Twp	Rng	Mer	Sec	Q-Q	Acres	Proposed Change
39 S	11 E	WM	25	SW SW	1.1	POA
39 S	11 E	WM	25	SE SW	40.9	POA
39 S	11 E	WM	25	SW SE	1.3	POA
39 S	11 E	WM	26	NE SE	3.4	POA
39 S	11 E	WM	26	NW SE	4.7	POA
39 S	11 E	WM	26	SW SE	6.1	POA
39 S	11 E	WM	26	SE SE	26.9	POA

IRRIGATION						
Twp	Rng	Mer	Sec	Q-Q	Acres	Proposed Change
39 S	11 E	WM	35	NE NE	7.3	POA
39 S	11 E	WM	36	NW NE	3.6	POA
39 S	11 E	WM	36	NE NW	38.0	POA
39 S	11 E	WM	36	NW NW	32.7	POA
39 S	11 E	WM	36	SW NW	2.1	POA
39 S	11 E	WM	36	SE NW	12.8	POA
39 S	12 E	WM	31	NE NE	26.7	POA
39 S	12 E	WM	31	NW NE	5.3	POA/POU
39 S	12 E	WM	31	NW NE	34.7	POA
39 S	12 E	WM	31	SW NE	38.6	POA
39 S	12 E	WM	31	SE NE	37.1	POA
39 S	12 E	WM	31	NE NW	24.3	POA/POU
Total					347.6	

9. Transfer Application T-13023 proposes to move the authorized point of appropriation approximately 58.0 feet North from the existing point of appropriation to:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
39 S	12 E	WM	31	SE NE	WELL 2 - 88 FEET NORTH AND 100 FEET WEST FROM THE E1/4 CORNER OF SECTION 31

10. Transfer Application T-13023 also proposes to change the place of use of the right to:

IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
39 S	11 E	WM	25	SW SW	29.6

Transfer Review Criteria (OAR 690-380-4010)

11. 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.
12. 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-13023.
13. The proposed change would not result in enlargement of the right.
14. The proposed change would not result in injury to other water rights.
15. All other application requirements are met.

Partial Cancellation of a Water Right

16. On January 2, 2020, an affidavit certifying that a portion of a water right has been abandoned and requesting cancellation of the right was received from Randy Moss of Moss Ranch, LLC. The right to be cancelled is as follows:

Certificate: 65412 in the name of INDIAN HILLS RANCH C/O MERLE NASH
(perfected under Permit G-7654)
Use: IRRIGATION of 1.4 ACRES
Priority Date: JUNE 9, 1977
Rate: 0.01 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, 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 3 acre-feet per acre for each acre irrigated during the irrigation season of each year.
Source: WELL 1 in the LOST RIVER BASIN

Authorized Point of Appropriation:

Twp	Rng	Mer	Sec	Q - Q	Measured Distances
39 S	12 E	WM	31	SE NE	WELL 1 - 30 FEET NORTH AND 100 FEET WEST FROM THE E1/4 CORNER OF SECTION 31

Authorized Place of Use:

IRRIGATION					
Twp	Rng	Mer	Sec	Q - Q	Acres
39 S	12 E	WM	31	SW NE	1.4

Conclusions of Law

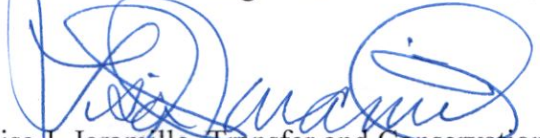
The change in point of appropriation and change in place of use proposed in Transfer Application T-13023 is consistent with the requirements of ORS 537.705 and 540.505 to 540.580 and OAR 690-380-5000 and the abandoned right should be cancelled.

Now, therefore, it is ORDERED:

1. The change in point of appropriation and change in place of use proposed in Transfer Application T-13023 is approved. The portion of the right that has been abandoned is cancelled.
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 65412 and any related decree.
3. Water right Certificate 65412 is cancelled.
4. The quantity of water diverted at the new point of appropriation (Well 2), shall not exceed the quantity of water lawfully available at the original point of appropriation (Well 1).
5. Water use measurement conditions:
 - a. Before water use may begin under this order, the water user shall install a totalizing flow meter, or, with prior approval of the Director, another suitable measuring device, at each new point of appropriation.

- b. The water user shall maintain the meters or measuring devices in good working order.
 - c. The water user shall allow the Watermaster access to the meters or measuring devices; provided however, where the meters or measuring devices are located within a private structure, the Watermaster shall request access upon reasonable notice.
6. Water shall be acquired from the same aquifer (water source) as the original point of appropriation.
 7. The former place of use of the transferred right shall no longer receive water under the right.
 8. 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.
 9. After satisfactory proof of beneficial use is received, a new certificate confirming the right transferred will be issued.

Dated in Salem, Oregon on JUL 09 2020


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

Mailing date: JUL 10 2020 _____