

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

In the Matter of Transfer Application) FINAL ORDER
T-9638, Marion County) APPROVING A CHANGE IN POINTS
) OF APPROPRIATION

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 appropriation, 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

JULIAN RUIZ
4896 WACONDA ROAD NE
SALEM OR 97303

Findings of Fact

Background

1. On February 3, 2004, Julian Ruiz filed an application to change the points of appropriation under Permit G-12587. The Department assigned the application number T-9638.
2. On March 13, 2009, the Department issued Water Right Certificate 85375 confirming Permit G-12587.
3. The portion of the right to be transferred is as follows:

Certificate: 85375 in the name of SPRING LAKE FARMS (perfected under Permit G-12587)

Use: IRRIGATION of 36.9 ACRES

Priority Date: MARCH 1, 1993

Rate: 0.46 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 a diversion of ONE-EIGHTIETH of one cubic foot per second, or its equivalent for each acre irrigated, and shall be further limited to a diversion of not to exceed

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.

2.5 acre-feet per acre for each acre irrigated during the irrigation season of each year.

Period of Use: MARCH 1 THROUGH JUNE 30 AND SEPTEMBER 1 THROUGH OCTOBER 31 FOR WELL 4. MARCH 1 THROUGH OCTOBER 31 FOR WELLS 1, 2, AND 3.

Source: WELLS 1, 2, 3, AND 4, within the WILLAMETTE RIVER BASIN

Authorized Points of Appropriation:

| Twp | Rng | Mer | Sec | Q-Q | DLC | Measured Distances |
|-----|-----|-----|-----|-------|-----|---|
| 6 S | 2 W | WM | 7 | SE NW | 62 | WELL 1 - 1260 FEET NORTH AND 330 FEET WEST FROM THE C ¹ / ₄ CORNER OF SECTION 7 |
| 6 S | 2 W | WM | 7 | SW NE | 62 | WELL 2 - 230 FEET NORTH AND 1100 FEET EAST FROM THE C ¹ / ₄ CORNER OF SECTION 7 |
| 6 S | 2 W | WM | 8 | NW NW | 61 | WELL 3 - 160 FEET SOUTH AND 300 FEET EAST FROM THE NW CORNER OF SECTION 8 |
| 6 S | 2 W | WM | 5 | SW SW | 61 | WELL 4 - 600 FEET NORTH AND 890 FEET EAST FROM THE NW CORNER OF SECTION 8 |

Authorized Place of Use:

| IRRIGATION | | | | | | |
|------------|-----|-----|-----|-------|-----|-------|
| Twp | Rng | Mer | Sec | Q-Q | DLC | Acres |
| 6 S | 2 W | WM | 5 | SW SW | 61 | 1.8 |
| 6 S | 2 W | WM | 5 | SE SW | 61 | 9.0 |
| 6 S | 2 W | WM | 8 | NE NW | 61 | 9.5 |
| 6 S | 2 W | WM | 8 | NW NW | 61 | 10.8 |
| 6 S | 2 W | WM | 8 | SW NW | 61 | 5.3 |
| 6 S | 2 W | WM | 8 | SE NW | 61 | 0.5 |

4. Transfer Application T-9638 proposes to move the authorized points of appropriation between approximately 1.0 to 0.25 mile from the existing points of appropriation to:

| Twp | Rng | Mer | Sec | Q-Q | DLC | Measured Distances |
|-----|-----|-----|-----|-------|-----|--|
| 6 S | 2 W | WM | 8 | NE NW | 61 | 70 FEET SOUTH AND 1825 FEET EAST FROM THE NW CORNER OF SECTION 8 |

5. Notice of the application for transfer was published on February 24, 2004, pursuant to OAR 690-380-4000. No comments were filed in response to the notice.
6. On February 12, 2010, the Department mailed a copy of the draft Preliminary Determination proposing to approve Transfer Application T-9638 to the applicant. The draft Preliminary Determination cover letter set forth a deadline of March 17, 2010, 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 March 17, 2010, the Department issued a Preliminary Determination proposing to approve Transfer Application T-9638 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 March 23, 2010, and in the Silverton Appeal-Tribune newspaper on April 7, 14, and 21, 2010, 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)

8. Water has been used within the last five years prior to the submittal of Transfer Application T-9638 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.
9. Pumps, pipelines, and sprinkler systems 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-9638.
10. The proposed change would not result in enlargement of the right.
11. The proposed change would not result in injury to other water rights.

Determination and Proposed Action

The change in point of appropriation proposed in Transfer Application T-9638 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-9638 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 85375 and any related decree.
3. Water right certificate 85375 is cancelled. A new certificate will be issued describing that portion of the right not affected by this transfer.
4. The quantity of water diverted at the new point of appropriation shall not exceed the quantity of water lawfully available at the original points of appropriation.
5. The period of use of water for irrigation purposes from the proposed well shall remain March 1 to October 31.
6. 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 the proposed point of appropriation.

- b. The water user shall maintain the meter or measuring device in good working order.
 - c. The water user shall allow the Watermaster access to the meter or measuring devices; provided however, where the meter or measuring devices are located within a private structure, the Watermaster shall request access upon reasonable notice.
7. Water shall be acquired from the same aquifer (water source) as the original points of appropriation.
 8. The approved change shall be completed and full beneficial use of the water shall be made on or before **October 1, 2012**. 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.
 9. When satisfactory proof of the completed change is received, a new certificate confirming the right transferred will be issued.

Dated at Salem, Oregon this 4th day of October, 2010.



Dwight French for
PHILLIP C. WARD, DIRECTOR

Mailing Date: ~~OCT 07 2010~~