

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

In the Matter of Transfer Application) FINAL ORDER APPROVING CHANGES IN
T-13561, Polk County) 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

PERRYDALE HILLS VINEYARD, LLC
SAMUEL COELHO, MANAGER
PO BOX 710
AMITY, OR 97101

Findings of Fact

1. On November 19, 2020, PERRYDALE HILLS VINEYARD, LLC, AND SAMUEL COELHO, MANAGER filed an application for a change in place of use under Certificates 29446, 32695, and 39204. The Department assigned the application number T-13561.
2. Notice of the application for transfer was published on December 22, 2020, pursuant to OAR 690-380-4000. No comments were filed in response to the notice.
3. On January 26, 2021, the Department sent a deficiency letter to the applicant and agent, requesting revisions of Table 1 and corresponding map under Certificate 29446.
4. On February 1, 2021, the Department received the requested revisions.

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. On February 20, 2021, the Department mailed a copy of the draft Preliminary Determination proposing to approve Transfer Application T-13561 to the applicant. The draft Preliminary Determination cover letter set forth a deadline of March 22, 2021, 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.
6. On May 1, 2021, the Department discovered that the quarter-quarter for the change in place of use for Certificate 32695 was listed in the draft Preliminary Determination incorrectly. It read SW NW, and should have read NWSW. For Certificate 39204, the acres for the authorized place of use were written incorrectly. They read 0.2 acres in the NW NW quarter-quarter, and 4.8 in the SW NW quarter-quarter. They should have read 0.01 and 4.99 acres, respectively. This revised draft Preliminary Determination is to correct these scrivener's errors.
7. On May 22, 2021, the Department mailed a copy of the revised draft Preliminary Determination proposing to approve Transfer Application T-13561 to the applicant. The revised draft Preliminary Determination cover letter set forth a deadline of June 21, 2021, for the applicant to respond. The applicant requested that the Department proceed with issuance of a Preliminary Determination.
8. On July 8, 2021, the Department issued a Preliminary Determination proposing to approve Transfer T-13561 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 July 13, 2021, pursuant to ORS 540.520 and OAR 690-380-4020. No protests were filed in response to the notice.
9. The portion of the first right to be transferred is as follows:

Certificate:	29446 in the name of JACOB BAKKER (perfected under Permit S-25372)
Use:	IRRIGATION of 3.98 ACRES
Priority Date:	MARCH 5, 1958
Rate:	0.05 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 2.5 acre feet per acre for each acre irrigated during the irrigation season of each year, and shall conform to such reasonable rotation system as may be ordered by the proper state officer.
Source:	SALT CREEK, a tributary of YAMHILL RIVER

Authorized Point of Diversion:

Twp	Rng	Mer	Sec	Q-Q	DLC
6 S	5 W	WM	14	SW NW	47

Authorized Place of Use:

IRRIGATION						
Twp	Rng	Mer	Sec	Q-Q	DLC	Acres
6 S	5 W	WM	14	SW NW	46	3.98

10. Certificate 29446 does not describe the measured distance of the point of diversion, however information is available from the applicant, indicating that the point of diversion is located as follows:

Twp	Rng	Mer	Sec	Q-Q	DLC	Measured Distances
6 S	5 W	WM	14	SW NW	47	10 FEET NORTH AND 1100 FEET EAST FROM THE NW CORNER OF KIMSEY DLC

11. Transfer Application T-13561 proposes to change the place of use of the right to:

IRRIGATION						
Twp	Rng	Mer	Sec	Q-Q	DLC	Acres
6 S	5 W	WM	14	SW NW	46	0.36
6 S	5 W	WM	14	SE NW	46	0.6
6 S	5 W	WM	14	NE SW	46	0.27
6 S	5 W	WM	14	NW SW	46	2.75
Total						3.98

12. The portion of the second right to be transferred is as follows:

Certificate: 32695 in the name of JACOB BAKKER (perfected under Permit S-29285)
Use: IRRIGATION of 3.28 ACRES
Priority Date: DECEMBER 27, 1963
Rate: 0.04 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 2.5 acre feet per acre for each acre irrigated during the irrigation season of each year, and shall conform to such reasonable rotation system as may be ordered by the proper state officer.
Source: SALT CREEK, a tributary of YAMHILL RIVER

Authorized Point of Diversion:

Twp	Rng	Mer	Sec	Q-Q	DLC
6 S	5 W	WM	14	SW NW	47

Authorized Place of Use:

IRRIGATION						
Twp	Rng	Mer	Sec	Q-Q	DLC	Acres
6 S	5 W	WM	14	SW NW	46	3.28

13. Certificate 32695 does not describe the measured distance of the point of diversion, however information is available from the applicant, indicating that the point of diversion is located as follows:

Twp	Rng	Mer	Sec	Q-Q	DLC	Measured Distances
6 S	5 W	WM	14	SW NW	47	10 FEET NORTH AND 1100 FEET EAST FROM THE NW CORNER OF KIMSEY DLC

14. Transfer Application T-13561 proposes to change the place of use of the right to:

IRRIGATION						
Twp	Rng	Mer	Sec	Q-Q	DLC	Acres
6 S	5 W	WM	14	NW SW	46	3.28

15. The third right to be transferred is as follows:

Certificate: 39204 in the name of JACOB BAKKER (perfected under Permit S-35565)
Use: IRRIGATION of 5.0 ACRES
Priority Date: AUGUST 27, 1970
Rate: 0.06 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 2.5 acre feet per acre for each acre irrigated during the irrigation season of each year, and shall conform to such reasonable rotation system as may be ordered by the proper state officer.
Source: SALT CREEK, a tributary of YAMHILL RIVER

Authorized Point of Diversion:

Twp	Rng	Mer	Sec	Q-Q	DLC	Measured Distances
6 S	5 W	WM	14	SW NW	47	10 FEET NORTH AND 1100 FEET EAST FROM THE NW CORNER OF DLC 46

Authorized Place of Use:

IRRIGATION						
Twp	Rng	Mer	Sec	Q-Q	DLC	Acres
6 S	5 W	WM	14	NW NW	47	0.01
6 S	5 W	WM	14	SW NW	47	4.99
Total						5.0

16. Transfer Application T-13561 proposes to change the place of use of the right to:

IRRIGATION						
Twp	Rng	Mer	Sec	Q-Q	DLC	Acres
6 S	5 W	WM	14	NW SW	46	5.0

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

17. 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 rights are subject to forfeiture under ORS 540.610.
18. 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 Transfer Application T-13561.
19. The proposed change would not result in enlargement of the rights.
20. The proposed change would not result in injury to other water rights.
21. All other application requirements are met.

Conclusions of Law

The changes in place of use proposed in Transfer Application T-13561 are 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 places of use proposed in Transfer Application T-13561 are 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 Certificates 29446, 32695, 39204, and any related decree.
3. Water right Certificates 29446 and 32695 are cancelled. New certificates will be issued describing those portions of the rights not affected by this transfer.
4. Water right Certificate 39204 is cancelled.
5. The former place of use of the transferred rights shall no longer receive water under the rights.
6. Full beneficial use of the water shall be made, consistent with the terms of this order, on or before **October 1, 2022**. 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.

7. After satisfactory proof of beneficial use is received, new certificates confirming the rights transferred will be issued.

SEP 08 2021

Dated in Salem, Oregon on _____



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

Mailing date: ~~_____~~ **SEP 09 2021**