

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

In the Matter of Transfer Application)	FINAL ORDER APPROVING A CHANGE IN
T-12516, Umatilla County)	PLACE OF USE AND PARTIAL
)	CANCELLATION OF A WATER RIGHT
)	PERMIT

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.

Applicants

STANFIELD HUTTERIAN FARM
C/O HERB STAHL
36345 DESPAIN GULCH RD.
STANFIELD, OR 97875

HALE FARMS, LLC
73120 HWY 207
ECHO, OR 97826

Findings of Fact

1. On October 31, 2016, STANFIELD HUTTERIAN FARM and HALE FARMS, LLC filed an application to change the place of use under Certificates 87111, 87773, 87795, and 91692. The Department assigned the application number T-12516.
2. Notice of the application for transfer was published on November 8, 2016, pursuant to OAR 690-380-4000. No comments were filed in response to the notice.

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.

3. On November 18, 2020, the agent for the applicant submitted a revised application to clarify the place of use and disposition of layered rights.
4. On May 19, 2023, the Department mailed a copy of the draft Preliminary Determination proposing to approve Transfer Application T-12516 to the applicants. The draft Preliminary Determination cover letter set forth a deadline of June 20, 2023, for the applicants to respond. The applicants 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.
5. On July 25, 2023, the Department issued a Preliminary Determination proposing to approve Transfer T-12516 and mailed a copy to the applicants. Additionally, notice of the Preliminary Determination for the transfer application was published on the Department's weekly notice on August 1, 2023, pursuant to ORS 540.520 and OAR 690-380-4020. No protests were filed in response to the notice.

6. The portion of the first right to be transferred is as follows:

Certificate: 87111 in the name of HALE FARMS LLC (perfected under Permit S-37121)
Use: IRRIGATION of 179.0 ACRES
Priority Dates: OCTOBER 3, 1973 PLUS ONE MINUTE and DECEMBER 11, 1973 PLUS ONE MINUTE
Rate: 1.94 CUBIC FEET PER SECOND (cfs), or its equivalent in case of rotation, measured at the point of diversion, and is further described and limited to:

The rate, duty and priority dates for 179.0 acres are:

Priority Date	Rate (CFS)	Duty (AF)
October 3, 1973 plus one minute	1.53	423.6
December 11, 1973 plus one minute	0.41	113.4
Total:	1.94	537.0

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-SIXTIETH 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 3.0 acre-feet per acre for each acre irrigated during the irrigation season of each year.

Season of Use: MARCH 1 THROUGH OCTOBER 31

Authorized Point of Diversion:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
5 N	30 E	WM	8	SW NW	2910 FEET NORTH AND 120 FEET EAST FROM THE SW CORNER OF SECTION 8

Authorized Place of Use:

IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
3 N	29 E	WM	13	NE SW	30.1
3 N	29 E	WM	13	NW SW	31.0
3 N	29 E	WM	13	SW SW	31.0
3 N	29 E	WM	13	SE SW	30.1
3 N	29 E	WM	14	NE SE	0.6
3 N	30 E	WM	7	NE NE	3.9
3 N	30 E	WM	7	NW NE	9.5
3 N	30 E	WM	7	SW NE	28.6
3 N	30 E	WM	7	SE NE	14.2
Total:					179.0

7. Transfer Application T-12516 proposes to change the place of use of the right to:

IRRIGATION						
Twp	Rng	Mer	Sec	Q-Q	GLot	Acres
4 N	30 E	WM	5	NW NE	2	1.2
4 N	30 E	WM	5	SW NE		5.1
4 N	30 E	WM	5	NE NW	2	6.1
4 N	30 E	WM	5	NW NW	2	0.9
4 N	30 E	WM	5	SW NW		11.8
4 N	30 E	WM	5	SE NW		13.3
4 N	30 E	WM	5	NE SW		2.5
4 N	30 E	WM	7	NE NE		2.5
4 N	30 E	WM	7	NW NE		13.2
4 N	30 E	WM	7	SW NE		1.1
4 N	30 E	WM	7	SE NE		0.2
4 N	30 E	WM	7	NE NW		0.8
4 N	30 E	WM	7	SW NW		7.2
4 N	30 E	WM	7	SE NW		8.0
4 N	30 E	WM	7	NE SW		7.7
4 N	30 E	WM	7	NW SW		24.8
4 N	30 E	WM	7	NE SE		10.5
4 N	30 E	WM	7	NW SE		2.9
4 N	30 E	WM	8	NW NW		0.3
4 N	30 E	WM	10	SW NE		5.2
4 N	30 E	WM	10	SE NW		5.4

IRRIGATION						
Twp	Rng	Mer	Sec	Q-Q	GLot	Acres
4 N	30 E	WM	10	NE SW		5.3
4 N	30 E	WM	16	NE NE		1.7
4 N	30 E	WM	17	NE SE		3.5
4 N	30 E	WM	17	SW SE		7.4
4 N	30 E	WM	17	SE SE		24.4
4 N	30 E	WM	20	NE NE		1.0
4 N	30 E	WM	21	SW SW		5.0
					Total	179.0

8. The second right to be transferred is as follows:

Certificate: 87773 in the name of STANFIELD HUTTERIAN FARM,
C/O JOHN STAHL (perfected under Permit S-37121)

Use: IRRIGATION of 54.3 ACRES

Priority Date: OCTOBER 3, 1973 for 0.97 CUBIC FOOT PER SECOND (cfs) AND
DECEMBER 11, 1973, for 0.30 cfs

Rate: 1.27 cfs

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-FORTIETH 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 4.5 acre-feet per acre for each acre irrigated during the irrigation season of each year.

Source: COLUMBIA RIVER, tributary to PACIFIC OCEAN

Authorized Point of Diversion:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
5 N	30 E	WM	8	SW NW	2910 FEET NORTH AND 120 FEET EAST FROM THE SW CORNER OF SECTION 8

Authorized Place of Use:

IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
4 N	30 E	WM	7	NW NE	1.5
4 N	30 E	WM	7	SW NE	1.1
4 N	30 E	WM	7	SE NE	0.2
4 N	30 E	WM	7	NE NW	0.8
4 N	30 E	WM	7	SW NW	7.2
4 N	30 E	WM	7	SE NW	8.0
4 N	30 E	WM	7	NE SW	7.7
4 N	30 E	WM	7	NW SW	24.8
4 N	30 E	WM	7	NE SE	0.1
4 N	30 E	WM	7	NW SE	2.9
Total:					54.3

9. Transfer Application T-12516 proposes to change the place of use of the right to:

IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
3 N	29 E	WM	13	NE NE	24.1
3 N	29 E	WM	13	NW NE	30.2
Total:					54.3

10. The third right to be transferred is as follows

Certificate: 87795 in the name of STANFIELD HUTTERIAN FARM, C/O JOHN STAHL
(perfected under Permit S-37121)

Use: IRRIGATION of 124.7 ACRES

Priority Date: DECEMBER 11, 1973

Rate: 2.92 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, is limited to a diversion of ONE-FORTIETH 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 4.5 acre-feet per acre for each acre irrigated during the irrigation season of each year.

Source: COLUMBIA RIVER, tributary to PACIFIC OCEAN

Authorized Point of Diversion:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
5 N	30 E	WM	8	SW NW	2910 FEET NORTH AND 120 FEET EAST FROM THE SW CORNER OF SECTION 8

Authorized Place of Use:

IRRIGATION						
Twp	Rng	Mer	Sec	Q-Q	GLot	Acres
4 N	30 E	WM	5	NW NE	2	1.2
4 N	30 E	WM	5	SW NE		5.1
4 N	30 E	WM	5	NE NW	2	6.1
4 N	30 E	WM	5	NW NW	2	0.9
4 N	30 E	WM	5	SW NW		11.8
4 N	30 E	WM	5	SE NW		13.3
4 N	30 E	WM	5	NE SW		2.5
4 N	30 E	WM	7	NE NE		2.5
4 N	30 E	WM	7	NW NE		11.7
4 N	30 E	WM	8	NE NE*		0.3
4 N	30 E	WM	10	SW NE		5.2
4 N	30 E	WM	10	SE NW		5.4
4 N	30 E	WM	10	NE SW		5.3
4 N	30 E	WM	16	NE NE		1.7
4 N	30 E	WM	17	NE SE		2.8
4 N	30 E	WM	17	SW SE		12.5

IRRIGATION						
Twp	Rng	Mer	Sec	Q-Q	GLot	Acres
4 N	30 E	WM	17	SE SE		34.8
4 N	30 E	WM	20	NE NE		1.1
4 N	30 E	WM	20	NW NE		0.5
Total:						124.7

11. A scrivener's error was identified on Certificate 87795. The certificate incorrectly describes the irrigated acres of 0.3 acres in the NE¼ NE¼ of Section 8, T4N, R30E, WM. Based on the current transfer application map and Claim of Beneficial Use map from transfer T-9620, the Department is led to conclude that Certificate 87795 should be corrected to reflect the quarter-quarter description within Section 8 be changed to the NW¼ NW¼, Section 8, T4N, R30E, WM.
12. Transfer Application T-12516 proposes to change the place of use of the above described right to:

IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
3 N	29 E	WM	13	NE NE	6.1
3 N	29 E	WM	13	SW NE	30.2
3 N	29 E	WM	13	SE NE	30.2
3 N	29 E	WM	13	NE SE	28.0
3 N	29 E	WM	13	NW SE	30.2
Total:					124.7

13. The portion of the fourth right to be transferred is as follows:

Certificate: 91692 in the name of STANFIELD HUTTERIAN FARM, C/O HERB STAHL (perfected under Permit S-37121)

Use: IRRIGATION of 4.2 ACRES

Priority Dates: OCTOBER 3, 1973 PLUS ONE MINUTE, DECEMBER 11, 1973 PLUS ONE MINUTE

Rate: 0.045 CUBIC FOOT PER SECOND (CFS), BEING 0.036 CFS FOR OCTOBER 3, 1973 PLUS ONE MINUTE AND 0.009 CFS FOR DECEMBER 11, 1973 PLUS ONE MINUTE

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-SIXTIETH 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 3.0 acre-feet per acre for each acre irrigated during the irrigation season of each year.

Period of Use: MARCH 1 THROUGH OCTOBER 31

Source: COLUMBIA RIVER, TRIBUTARY TO THE PACIFIC OCEAN

Authorized Point of Diversion:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
5 N	30 E	WM	8	SW NW	2910 FEET NORTH AND 120 FEET EAST FROM THE SW CORNER OF SECTION 8

Authorized Place of Use:

IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
4 N	30 E	WM	17	NE SE	1.2
4 N	30 E	WM	17	SW SE	1.0
4 N	30 E	WM	17	SE SE	1.8
4 N	30 E	WM	20	NE NE	0.2
Total:					4.2

14. Transfer Application T-12516 proposes to change the place of use of the right to:

IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
4 N	30 E	WM	17	SE SE	4.2

15. Portions of the authorized places of use as described in Findings of Fact #5, 7, 9, and 12, above, are appurtenant to lands described under Permits S-55114, S-55262, S-55263 and S-55173. These permits provide for pre-planned (only) annual use of water from the Columbia River, tributary to the Pacific Ocean, within certain constraints and permissions as outlined in the permits.
16. The proposed places of use as described in Finding of Facts #6, 8, 11, and 13, above, are appurtenant to lands described under Permits S-55114, S-55262, S-55263 and S-55173. These permits are for use of water from the Columbia River, tributary to the Pacific Ocean. Use of water under these permits is subject to the following annual use condition:
- a. If water under Permits S-55114, S-55262, S-55263 and S-55173 is planned for use as supplemental irrigation, then pre-existing primary rights for the same place of use cannot be transferred to another place of use or character of use.

Transfer Review Criteria [OAR 690-380-4000(14), 690-380-4010(2) and 690-380-2110(2)]

17. Water has been used within the last five years according to the terms and conditions of the rights. There is no information in the records that would demonstrate that the rights are subject to forfeiture under ORS 540.610.
18. Pumping structure, booster station, 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-12516.

19. The water rights are subject to transfer as defined in ORS 540.505(4) and OAR 690-380-0100(14).
20. The proposed change would not result in enlargement of the rights.
21. The proposed change would not result in injury to other water rights.
22. All other application requirements are met.

Partial Cancellation of a Water Right Permit

23. On February 9, 2023, the applicants submitted a voluntary cancellation affidavit for the portion of the primary water right Permit S-54773 appurtenant to the lands of the transferred water right for Certificate 87111. This request is to cancel 179.0 acres of primary irrigation. The request, in part, is to cancel 31.0 acres within the NW¼ SW¼, Section 13, Township 3 North, Range 5 East, W.M.. However, this exceeds the 25.9 acres authorized on the permit at that location, thus only a total of 173.9 acres will be cancelled.

The portion of the water right permit to be cancelled is described as follows:

Permit: S-54773 in the name of ECHO IRRIGATION DISTRICT AND HALE FARMS, LLC
Use: IRRIGATION of 173.9 ACRES
Period of Use: March 1 – April 14 and October 1 – October 31 & November 1 – February 29
Rate: 4.35 cfs
Priority Date: JANUARY 30, 2008
Source: COLUMBIA RIVER, tributary to the PACIFIC OCEAN

Authorized Point of Diversion:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
5 N	30 E	WM	8	SW NW	2910 FEET NORTH AND 120 FEET EAST FROM THE SW CORNER OF SECTION 8

Place of Use to be Cancelled:

IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
3 N	29 E	WM	13	NE SW	30.1
3 N	29 E	WM	13	NW SW	25.9
3 N	29 E	WM	13	SW SW	31.0
3 N	29 E	WM	13	SE SW	30.1
3 N	29 E	WM	14	NE SE	0.6
3 N	30 E	WM	7	NE NE	3.9
3 N	30 E	WM	7	NW NE	9.5
3 N	30 E	WM	7	SW NE	28.6
3 N	30 E	WM	7	SE NE	14.2
Total					173.9

Conclusions of Law

The change in places of use proposed in Transfer Application T-12516 is consistent with the requirements of ORS 540.505 to 540.580 and OAR 690-380-5000 and the abandoned portion of Permit S-54773 for primary irrigation will be cancelled.

Now, therefore, it is ORDERED:

1. The change in places of use proposed in Transfer Application T-12516 is approved. The portion of Permit S-54773 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 Certificates 87111, 87773, 87795, 91692, and any related decree.
3. Water right Certificates 87111, 87773, 87795, and 91692 are cancelled. New certificates will be issued describing those portions of Certificates 87111 and 91692 not affected by this transfer. Superseding Permit S-55457 will be issued to describe the portion of Permit S-54773 not cancelled.
4. The former places of use of the transferred rights shall no longer receive water under the rights.
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 point of appropriation (new and existing).
 - b. The water user shall maintain the meter in good working order.
 - c. The water user shall allow the Watermaster access to the meter; provided however, where the meter is located within a private structure, the Watermaster shall request access upon reasonable notice.
6. Full beneficial use of the water shall be made, consistent with the terms of this order, on or before **October 1, 2025**. 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, new certificates confirming the rights transferred will be issued.

Dated in Salem, Oregon on **DEC 19 2023**


Lisa J. Jaramillo, Transfer and Conservation Section Manager, for
DOUGLAS E. WOODCOCK, ACTING DIRECTOR
Oregon Water Resources Department

Mailing date: **DEC 20 2023**