

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

In the Matter of Transfer Application)	FINAL ORDER APPROVING
T-12895, Marion County)	ADDITIONAL POINTS 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

SANDY RIDGE BERRY FARMS
4902 RIVER ROAD NORTH
KEIZER, OR 97303

Findings of Fact

1. On April 10, 2018, SANDY RIDGE BERRY FARMS filed an application for additional points of appropriation under Certificates 85732 and 85733. The Department assigned the application number T-12895.
2. Notice of the application for transfer was published on April 17, 2018, pursuant to OAR 690-380-4000. No comments were filed in response to the notice.
3. On August 20, 2018, the Department mailed a copy of the draft Preliminary Determination proposing to approve Transfer Application T-12895 to the applicant. The draft Preliminary Determination cover letter set forth a deadline of September 18, 2018, 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.

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 September 14, 2018, on behalf of the applicant, the applicant's agent requested the Department to place a temporary hold on the application. The applicant received a higher estimate to bring power to the additional points of appropriation (APOA) than originally quoted. The applicant needed additional time to determine a new location that might be less expensive. The Department granted a deadline of November 16, 2018, to provide a response.
5. On October 15, 2018, the applicant's agent submitted a revised Table 1 and map, identifying locations for three additional POAs.
6. On November 6, 2018, the Department received a revised review from the Department's Groundwater section.
7. On November 27, 2018, the Department mailed a copy of the revised draft Preliminary Determination proposing to approve Transfer Application T-12895 to the applicant. The revised draft Preliminary Determination cover letter set forth a deadline of December 28, 2018, for the applicant to respond.
8. On December 3, 2018, the applicant requested that the Department proceed with issuance of a Preliminary Determination. The applicant also requested to extend the date to complete full beneficial use of the water to October 1, 2023.
9. On December 17, 2018, the Department issued a Preliminary Determination proposing to approve Transfer T-12895 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 December 18, 2018, and in the Statesman Journal newspaper on December 19, and 26, 2018, pursuant to ORS 540.520 and OAR 690-380-4020. No protests were filed in response to the notice.
10. The first right to be transferred is as follows:

Certificate: 85732 in the name of JAMES AND BETTY HOLLIN
(perfected under Permit G-12181)

Use: IRRIGATION OF 2.8 ACRES AND SUPPLEMENTAL IRRIGATION
207.9 ACRES (DEFICIENCY OF RATE)

Priority Date: JULY 12, 1991

Rate: 1.14 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-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 2.5 acre feet per acre for each acre irrigated during the irrigation season of each year.

Period of Use: March 1 through October 31 of each year

Source: TWO WELLS, in the LITTLE PUDDING RIVER BASIN

Authorized Points of Appropriation:

Twp	Rng	Mer	Sec	Q-Q	GLot	Measured Distances
6 S	2 W	WM	14	SW NW	4	WELL 1 - 1750 FEET SOUTH AND 1000 FEET EAST FROM THE NW CORNER OF SECTION 14
6 S	2 W	WM	15	NE NE		WELL 2 - 1140 FEET SOUTH AND 150 FEET WEST FROM THE NW CORNER OF SECTION 14

Authorized Place of Use:

IRRIGATION						
Twp	Rng	Mer	Sec	Q-Q	GLot	Acres
6 S	2 W	WM	14	SE NW	3	1.30
6 S	2 W	WM	14	SE NW	11	1.00
6 S	2 W	WM	14	NE SW	11	0.50
Total						2.80

SUPPLEMENTAL IRRIGATION						
Twp	Rng	Mer	Sec	Q-Q	GLot	Acres
6 S	2 W	WM	14	NE NW		30.50
6 S	2 W	WM	14	NW NW		38.90
6 S	2 W	WM	14	SW NW	4	39.20
6 S	2 W	WM	14	SE NW	3	28.70
6 S	2 W	WM	14	NE SW	3	2.60
6 S	2 W	WM	14	NE SW	11	4.00
6 S	2 W	WM	14	NW SW	4	19.00
6 S	2 W	WM	14	NW SW	13	1.20
6 S	2 W	WM	15	NE NE		37.80
6 S	2 W	WM	15	NW NE		6.00
Total						207.90

11. Transfer Application T-12895 proposes additional points of appropriation with approximate distances from the existing points of appropriation as follows:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances	Approximate distance in miles (mi.)	
						WELL 1	WELL 2
6 S	2 W	WM	14	NE NW	WELL 7 - 1155 FEET SOUTH AND 1780 FEET EAST FROM THE NW CORNER OF SECTION 14	0.2 mi.	0.4 mi.
6 S	2 W	WM	14	NW NW	WELL 4 - 110 FEET SOUTH AND 1135 FEET EAST FROM THE NW CORNER OF SECTION 14	0.3 mi.	0.3 mi.
6 S	2 W	WM	14	SE NW	WELL 5 - 1780 FEET SOUTH AND 2335 FEET EAST FROM THE NW CORNER OF SECTION 14	0.3 mi.	0.5 mi.
6 S	2 W	WM	14	SE NW	WELL 6 - 1780 FEET SOUTH AND 2000 FEET EAST FROM THE NW CORNER OF SECTION 14	0.2 mi.	0.4 mi.

Twp	Rng	Mer	Sec	Q-Q	Measured Distances	Approximate distance in miles (mi.)	
						WELL 1	WELL 2
6 S	2 W	WM	15	NE NE	WELL 3 - 50 FEET SOUTH AND 800 FEET WEST FROM THE NW CORNER OF SECTION 14	0.5 mi.	0.2 mi.

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

Certificate: 85733 in the name of JAMES AND BETTY HOLLIN
(perfected under Permit G-2983)

Use: IRRIGATION of 207.9 ACRES

Priority Date: JULY 21, 1965

Rate: 1.46 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-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 2.5 acre feet per acre for each acre irrigated during the irrigation season of each year.

Source: TWO WELLS, within the LITTLE PUDDING RIVER BASIN

Authorized Points of Appropriation:

Twp	Rng	Mer	Sec	Q-Q	GLot	Measured Distances
6 S	2 W	WM	14	SW NW	4	ORIGINAL WELL - 1750 FEET SOUTH AND 1000 FEET EAST FROM THE NW CORNER OF SECTION 14
6 S	2 W	WM	15	NE NE		ADDITIONAL WELL - 1140 FEET SOUTH AND 150 FEET WEST FROM THE NW CORNER OF SECTION 14

Authorized Place of Use:

IRRIGATION						
Twp	Rng	Mer	Sec	Q-Q	GLot	Acres
6 S	2 W	WM	14	NE NW		30.5
6 S	2 W	WM	14	NW NW		38.9
6 S	2 W	WM	14	SW NW	4	39.2
6 S	2 W	WM	14	SE NW	3	28.7
6 S	2 W	WM	14	NE SW	3	2.6
6 S	2 W	WM	14	NE SW	11	4.0
6 S	2 W	WM	14	NW SW	13	1.2
6 S	2 W	WM	14	NW SW	4	19.0
6 S	2 W	WM	15	NE NE		37.8
6 S	2 W	WM	15	NW NE		6.0
Total						207.9

13. Transfer Application T-12895 proposes additional points of appropriation with approximate distances from the existing points of appropriation as follows:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances	Approximate distance in miles (mi.)	
						ORIGINAL WELL	ADDITIONAL WELL
6 S	2 W	WM	14	NE NW	WELL 7 - 1155 FEET SOUTH AND 1780 FEET EAST FROM THE NW CORNER OF SECTION 14	0.2 mi.	0.4 mi.
6 S	2 W	WM	14	NW NW	WELL 4 - 110 FEET SOUTH AND 1135 FEET EAST FROM THE NW CORNER OF SECTION 14	0.3 mi.	0.3 mi.
6 S	2 W	WM	14	SE NW	WELL 5 - 1780 FEET SOUTH AND 2335 FEET EAST FROM THE NW CORNER OF SECTION 14	0.3 mi.	0.5 mi.
6 S	2 W	WM	14	SE NW	WELL 6 - 1780 FEET SOUTH AND 2000 FEET EAST FROM THE NW CORNER OF SECTION 14	0.2 mi.	0.4 mi.
6 S	2 W	WM	15	NE NE	WELL 3 - 50 FEET SOUTH AND 800 FEET WEST FROM THE NW CORNER OF SECTION 14	0.5 mi.	0.2 mi.

Transfer Review Criteria (OAR 690-380-4010)

14. Water has been used within the last five years according to the terms and conditions of the rights. There is no information in the record that would demonstrate that the rights are subject to forfeiture under ORS 540.610.
15. 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-12895.
16. The proposed change would not result in enlargement of the rights.
17. The proposed change would not result in injury to other water rights.
18. All other application requirements are met.

Conclusions of Law

The additional points of appropriation proposed in Transfer Application T-12895 are 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 additional points of appropriation proposed in Transfer Application T-12895 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 85732 and 85733 and any related decree.
3. Water right Certificates 85732 and 85733 are cancelled.
4. The quantity of water diverted at the new additional points of appropriation, together with that diverted at the original points of appropriation, shall not exceed the quantity of water lawfully available at the original points of appropriation.
5. Water shall be acquired from the same aquifer (water source) as the original point of appropriation.
6. Full beneficial use of the water shall be made, consistent with the terms of this order, on or before **October 1, 2023**. 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.

Dated at Salem, Oregon, JAN 31 2019.



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

Mailing date: FEB 01 2019