

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

In the Matter of Transfer Application            )    FINAL ORDER  
T-12052, Douglas County                         )    APPROVING A CHANGE IN  
   )    POINT OF DIVERSION

**Authority**

Oregon Revised Statute (ORS) 540.505 to 540.580 establishes 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 Rule (OAR) Chapter 690, Division 380 implements the statutes and provides the Department's procedures and criteria for evaluating transfer applications.

**Applicant**

LEONARD W. RILEY III  
117 ACORN DR  
ROSEBURG, OR 97470  
lwriii30@hotmail.com

**Findings of Fact**

1. On April 30, 2015, LEONARD W. RILEY III filed an application to change the point of diversion under Certificate 90075. The Department assigned the application number T-12052.
2. Notice of the application for transfer was published on May 5, 2015, pursuant to OAR 690-380-4000. No comments were filed in response to the notice.
3. On September 16, 2015 the applicant submitted a revised application, (Part 5) matching the acres in the table to the map.
4. On October 14, 2015 the applicant submitted a revised application map clarifying the location of the remaining right acres.
5. On October 14, 2015, the Department sent a copy of the draft Preliminary Determination proposing to approve Transfer Application T-12052 to the applicant. The draft Preliminary Determination cover letter set forth a deadline of November 16, 2015, for the applicant to respond. The applicant requested that the Department proceed with issuance of a

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.

Preliminary Determination and provided the necessary information to demonstrate that the applicant is authorized to pursue the transfer.

6. On November 20, 2015, the Department issued a Preliminary Determination proposing to approve Transfer Application T-12052 and sent a copy to the applicant. Additionally, notice of the Preliminary Determination for the transfer application was published on the Department's weekly notice on November 24, 2015, pursuant to ORS 540.520 and OAR 690-380-4020. No protests were filed in response to the notice.

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

**Certificate:** 90075 in the name of RICHARD GRAHAM AND JOANNE GRAHAM  
(perfected under Permit S-43279)

**Use:** IRRIGATION OF 2.0 ACRES AND LIVESTOCK USE

**Priority Date:** MAY 18, 1978

**Rate:** 0.025 CUBIC FOOT PER SECOND FOR IRRIGATION AND  
0.0024 CUBIC FOOT PER SECOND FOR STOCKWATER

**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:** NORTH UMPQUA RIVER, tributary to the UMPQUA RIVER

**Authorized Point of Diversion:**

Twp	Rng	Mer	Sec	Q-Q	GLot	Measured Distances
26 S	4 W	WM	17	NW NW	4	1000 FEET SOUTH AND 380 FEET EAST FROM THE NW CORNER OF SECTION 17

**Authorized Place of Use:**

IRRIGATION						
Twp	Rng	Mer	Sec	Q-Q	GLot	Acres
26 S	4 W	WM	18	NE NE	1	2.0

LIVESTOCK					
Twp	Rng	Mer	Sec	Q-Q	GLot
26 S	4 W	WM	18	NE NE	1

8. Transfer Application T-12052 proposes to move the authorized point of diversion approximately 360 feet downstream to:

Twp	Rng	Mer	Sec	Q-Q	GLot	Measured Distances
26 S	4 W	WM	17	NW NW	4	1310 FEET NORTH AND 50 FEET EAST FROM THE W¼ CORNER OF SECTION 17

9. The Oregon Department of Fish and Wildlife (ODFW) has determined that a fish screen is necessary at the new point of diversion to prevent fish from entering the diversion and that the diversion is currently equipped with an appropriate fish screen.

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

10. 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.
11. A diversion structure and ditch 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-12052.
12. The proposed change would not result in enlargement of the right.
13. The proposed change would not result in injury to other water rights.

**Conclusions of Law**

The change in point of diversion proposed in Transfer Application T-12052 is 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 point of diversion proposed in Transfer Application T-12052 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 90075 and any related decree.
3. Water right Certificate 90075 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 diversion shall not exceed the quantity of water lawfully available at the original point of diversion.
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 diversion.
  - 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 device; provided however, where the meter or measuring device 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, 2017**. 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, a new certificate confirming the right transferred will be issued.

Dated at Salem, Oregon this 30 day of December, 2015.

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

Mailing date: JAN 08 2016