

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

In the Matter of Transfer Application	)	FINAL ORDER
T-12397, Morrow County	)	APPROVING A CHANGE IN PLACE
	)	OF USE AND CORRECTION OF A
	)	SCRIVENER'S ERROR

**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**

GLENN S. CHOWNING  
TERRA POMA LAND LLC  
PO BOX 862  
HERMISTON OR 97838

**Findings of Fact**

1. On May 26, 2016, GLENN S. CHOWNING (TERRA POMA LAND, LLC) filed an application to change the place of use under Certificates 86390, 86931, 86496, and 86497. The Department assigned the application number T-12397.
2. Notice of the application for transfer was published on June 7, 2016, pursuant to OAR 690-380-4000. No comments were filed in response to the notice.
3. Processing of the transfer application revealed a scrivener's error in Certificate 86497. The certificate lists 6.9 acres in the SW $\frac{1}{4}$  NE $\frac{1}{4}$ , Sec. 9, T4N, R25E, WM. Based upon aerial photos and the claim of beneficial use map for this certificate, the correct location should be described as 6.9 acres in the SE $\frac{1}{4}$  NE $\frac{1}{4}$ , Sec. 13, T4N, R25E, WM. The correct location will be described in the remaining right certificate.

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 April 26, 2017, the Department sent a copy of the draft Preliminary Determination proposing to approve Transfer Application T-12397 to the applicant. The draft Preliminary Determination cover letter set forth a deadline of May 26, 2017, for the applicant to respond. The applicant requested the completion date be extended to October 1, 2020 and for 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 June 23, 2017, the Department issued a Preliminary Determination proposing to approve Transfer Application T-12397 and sent a copy to the applicant. Additionally, notice of the Preliminary Determination for the transfer application was published in the Department's weekly notice on June 27, 2017 pursuant to ORS 540.520 and OAR 690-380-4020. No protests were filed in response to the notice.

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

**Certificate:** 86390 in the name of GLENN S. CHOWNING (perfected under Permit G-5952)

**Use:** IRRIGATION OF 15.0 ACRES

**Priority Date:** SEPTEMBER 12, 1975

**Rate:** 0.19 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 3.0 acre-feet per acre for each acre irrigated during the irrigation season of each year.

**Source:** HILLVIEW SUMP NO. 5 within the JUNIPER CANYON BASIN

**Authorized Point of Appropriation:**

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
4 N	25 E	WM	13	SE NE	HILLVIEW SUMP NO. 5 - 3800 FEET NORTH AND 2460 FEET EAST FROM THE S¼ CORNER OF SECTION 13

**Authorized Place of Use:**

IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
4 N	25 E	WM	13	SE SE	15.0

7. Transfer Application T-12397 proposes to change the place of use of the right to:

IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
4 N	25 E	WM	13	NE NE	1.65
4 N	25 E	WM	13	SE NE	5.10
4 N	25 E	WM	13	NE SE	8.25
Total					15.00

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

**Certificate:** 86391 in the name of GLENN S. CHOWNING (perfected under Permit G-5953)

**Uses:** IRRIGATION OF 4.65 ACRES AND SUPPLEMENTAL IRRIGATION OF 15.0 ACRES

**Priority Date:** SEPTEMBER 12, 1975

**Rate:** 0.25 CUBIC FOOT PER SECOND (CFS), IN ANY COMBINATION, BEING NO MORE THAN 0.12 CFS FROM DEEP WELL NO. 2 AND 0.25 CFS FROM HILLVIEW WELL NO. 4

**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 3.0 acre-feet per acre for each acre irrigated during the irrigation season of each year. The right shall be limited to any deficiency in the available supply of any prior right for the same land and shall not exceed the limitation allowed herein.

**Sources:** DEEP WELL NO. 2 AND HILLVIEW WELL NO. 4, within the JUNIPER CANYON BASIN

**Authorized Points of Appropriation:**

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
4 N	25 E	WM	13	SW NE	DEEP WELL NO. 2 - 330 FEET NORTH AND 1310 FEET EAST FROM THE C <sup>1</sup> / <sub>4</sub> CORNER OF SECTION 13
4 N	25 E	WM	13	SE NE	HILLVIEW WELL NO. 4 - 3840 FEET NORTH AND 2440 FEET EAST FROM THE S <sup>1</sup> / <sub>4</sub> CORNER OF SECTION 13

**Authorized Place of Use:**

IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
4 N	25 E	WM	13	SE SE	4.65

SUPPLEMENTAL IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
4 N	25 E	WM	13	SE SE	15.00

9. Transfer Application T-12397 proposes to change the place of use of the right to:

IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
4 N	25 E	WM	13	NE SE	4.65

SUPPLEMENTAL IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
4 N	25 E	WM	13	NE NE	1.65
4 N	25 E	WM	13	SE NE	5.10
4 N	25 E	WM	13	NE SE	8.25
Total					15.00

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

**Certificate:** 86496 in the name of GLENN S. CHOWNING (perfected under Permit G-9811)

**Use:** IRRIGATION OF 0.1 ACRE

**Priority Date:** FEBRUARY 4, 1982

**Rate:** 0.001 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 3.0 acre-feet per acre for each acre irrigated during the irrigation season of each year.

**Sources:** DEEP WELL NO. 2 AND HILLVIEW WELL NO. 4 within the UMATILLA RIVER BASIN

**Authorized Points of Appropriation:**

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
4 N	25 E	WM	13	SW NE	DEEP WELL NO. 2 - 330 FEET NORTH AND 1310 FEET EAST FROM THE C <sup>1</sup> / <sub>4</sub> CORNER OF SECTION 13
4 N	25 E	WM	13	SE NE	HILLVIEW WELL NO. 4 - 3840 FEET NORTH AND 2440 FEET EAST FROM THE S <sup>1</sup> / <sub>4</sub> CORNER OF SECTION 13

**Authorized Place of Use:**

IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
4 N	25 E	WM	13	SE SE	0.10

11. Transfer Application T-12397 proposes to change the place of use of the right to:

IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
4 N	25 E	WM	13	NE SE	0.10

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

**Certificate:** 86497 in the names of TERRA POMA LAND CO. LLC AND GLENN CHOWNING (perfected under Permit G-13419)  
**Use:** SUPPLEMENTAL IRRIGATION OF 19.75 ACRES  
**Priority Date:** FEBRUARY 7, 1997  
**Rate:** 0.13 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 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 OF EACH YEAR  
**Source:** HILLVIEW SUMP WELL NO. 5 within the COLUMBIA RIVER BASIN

**Authorized Point of Appropriation:**

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
4 N	25 E	WM	13	SE NE	HILLVIEW SUMP WELL NO. 5 - 3800 FEET NORTH AND 2460 FEET EAST FROM THE S¼ CORNER OF SECTION 13

**Authorized Place of Use:**

SUPPLEMENTAL IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
4 N	25 E	WM	13	SE SE	19.75

13. Transfer Application T-12397 proposes to change the place of use of the right to:

SUPPLEMENTAL IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
4 N	25 E	WM	13	NE NE	1.65
4 N	25 E	WM	13	SE NE	5.10
4 N	25 E	WM	13	NE SE	13.00
Total					19.75

**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. Pumps, pipelines, and sprinkler systems 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-12397.
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 change in place of use proposed in Transfer Application T-12397 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 place of use proposed in Transfer Application T-12397 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 Certificates 86390, 86391, 86496, 86497, and any related decree.
3. Water Right Certificate 86390 is cancelled.
4. Water Right Certificates 86391 and 86496 are cancelled. New certificates will be issued describing those portions of these rights not affected by this transfer.
5. Water Right Certificate 86497 is cancelled. A new certificate will be issued describing the portion of the right not affected by this transfer and to correct the scrivener's error described in Finding of Fact No. 3.
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 each point of appropriation, (new and existing).
  - b. The water user shall maintain the meters or measuring devices in good working order.
  - c. The water user shall allow the Watermaster access to the meters or measuring devices; provided however, where the meters or measuring devices are located within a private structure, the Watermaster shall request access upon reasonable notice.
7. The former place of use of the transferred rights shall no longer receive water under the rights.
8. Full beneficial use of the water shall be made, consistent with the terms of this order, on or before **October 1, 2020**. 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. After satisfactory proof of beneficial use is received, new certificates confirming the rights transferred will be issued.

Dated at Salem, Oregon this 3<sup>rd</sup> day of August, 2017.



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

Mailing date: AUG 15 2017