

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

In the Matter of Transfer Application) FINAL ORDER APPROVING OF A
T-12717, Marion County) CHANGE IN 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

POHLSCHNEIDER PROPERTIES LLC
17904 FRENCH PRAIRIE RD
SAINT PAUL, OR 97137

Findings of Fact

1. On July 20, 2017, POHLSCHNEIDER PROPERTIES LLC filed an application to change the points of appropriation under Certificates 87579 and 89734. The Department assigned the application number T-12717.
2. Notice of the application for transfer was published on July 25, 2017, pursuant to OAR 690-380-4000. No comments were filed in response to the notice.
3. On March 12, 2018, the Department contacted the applicant's agent in regards to a few deficiencies found in the application. On the same day, the applicant's agent submitted a revised application and map, clarifying the discrepancies outlined in the Department letter.
4. On March 12, 2018, the Department mailed a copy of the draft Preliminary Determination proposing to approve Transfer Application T-12717 to the applicant. The draft Preliminary Determination cover letter set forth a deadline of April 19, 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.

5. On April 24, 2018, the Department issued a Preliminary Determination proposing to approve Transfer T-12717 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 April 24, 2018, and in the Woodburn Independent newspaper on May 2, 2017 and May 9, 2018, 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: 87579 in the name of POHLSCHNEIDER PROPERTIES LLC (perfected under Permit G-11897)
Use: IRRIGATION OF 51.0 ACRES
Priority Date: SEPTEMBER 17, 1991
Rate: 0.64 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 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: A WELL, in the CHAMPOEG CREEK BASIN

Authorized Point of Appropriation:

Twp	Rng	Mer	Sec	Q-Q	DLC	Measured Distances
4 S	2 W	WM	32	NW NE	56	400 FEET SOUTH AND 400 FEET EAST FROM THE N1/4 CORNER OF SECTION 32

Authorized Place of Use:

IRRIGATION						
Twp	Rng	Mer	Sec	Q-Q	DLC	Acres
4 S	2 W	WM	32	NE NE	56	21.5
4 S	2 W	WM	32	NW NE	56	13.5
4 S	2 W	WM	32	SW NE	56	6.0
4 S	2 W	WM	32	SE NE	56	10.0
TOTAL						51.0

7. Transfer Application T-12717 proposes to move the authorized point of appropriation approximately 3600 feet from the existing point of appropriation to:

Twp	Rng	Mer	Sec	Q-Q	DLC	Measured Distances
4 S	2 W	WM	33	NE NW	56	WELL A - 582 FEET SOUTH AND 2620 FEET EAST FROM THE SW CORNER OF DLC 57

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

Certificate: 89734 in the name of POHLSCHNEIDER PROPERTIES LLC (perfected under Permit G-12275)
Use: IRRIGATION OF 132.5 ACRES
Priority Date: JUNE 25, 1992

Rate: 1.66 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

Source: TWO WELLS in the CHAMPOEG CREEK BASIN

Authorized Points of Appropriation:

Twp	Rng	Mer	Sec	Q-Q	DLC	Measured Distances
4 S	2 W	WM	28	SE SW	57	WELL 2 - 500 FEET NORTH AND 2970 FEET EAST FROM THE SW CORNER OF DLC 57
4 S	2 W	WM	32	NW NE	56	WELL 1 - 400 FEET SOUTH AND 400 FEET EAST FROM THE N1/4 CORNER OF SECTION 32

Authorized Place of Use:

IRRIGATION						
Twp	Rng	Mer	Sec	Q-Q	DLC	Acres
4 S	2 W	WM	32	NE NE	56	6.0
4 S	2 W	WM	32	SE NE	56	3.0
4 S	2 W	WM	33	NE NE	56	14.0
4 S	2 W	WM	33	NW NE	56	20.1
4 S	2 W	WM	33	SW NE	56	12.0
4 S	2 W	WM	33	SE NE	56	5.0
4 S	2 W	WM	33	NE NW	56	18.0
4 S	2 W	WM	33	NW NW	56	31.0
4 S	2 W	WM	33	SW NW	56	10.0
4 S	2 W	WM	33	SE NW	56	13.4
TOTAL						132.5

9. Transfer Application T-12717 proposes to change the authorized points of appropriation with approximate distances from the existing points of appropriation as follows:

Twp	Rng	Mer	Sec	Q-Q	DLC	Measured Distances	Distance from original well locations measured in feet	
							Well 1	Well 2
4 S	2 W	WM	33	NE NW	56	WELL A - 582 FEET SOUTH AND 2620 FEET EAST FROM THE SW CORNER OF DLC 57	3600	1150

Transfer Review Criteria (OAR 690-380-4010)

10. 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.
11. 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-12717.

12. The proposed change would not result in enlargement of the rights.
13. The proposed change would not result in injury to other water rights.
14. All other application requirements are met.

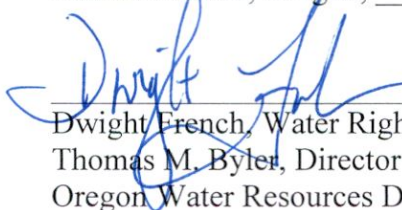
Conclusions of Law

The change in points of appropriation proposed in Transfer Application T-12717 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 points of appropriation proposed in Transfer Application T-12717 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 87579 and 89734 and any related decree.
3. Water right Certificates 87579 and 89734 are cancelled.
4. The quantity of water diverted at the new point 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, 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.
7. After satisfactory proof of beneficial use is received, new certificates confirming the rights transferred will be issued.

Dated at Salem, Oregon, JUN 18 2018.



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

Mailing date: JUN 19 2018