

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

In the Matter of Transfer Application)
T-8376 and Permit Amendment) **FINAL ORDER**
Application T-9488, Morrow County,)
Oregon)

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. OAR Chapter 690, Division 380 implements the statutes and provides the Department’s procedures and criteria for evaluating transfer applications. ORS 537.211 establishes the process in which a water right permit holder may submit a request to change the place of use authorized under an existing water right permit.

Applicant

Glenn Chowning
P.O. Box 862
Hermiston, Oregon 97838

Findings of Fact

1. On December 13, 1999, Glenn Chowning filed an application to add an additional point of appropriation to Certificates 65153 and 80375, to change the point of appropriation under Certificate 51993, and to change the place of use under Certificates 51993, 65152, 65153, 75766, 80301, and 80375. The Department assigned the application number T-8376.
2. On June 6, 2003, Glenn Chowning filed an application to amend the place of use under Permit G-13419. The Department assigned the application number T-9488.

This is a final order in other than contested case. This order is subject to judicial review under ORS 183.484. Any petition for judicial review must be filed within the 60 day time period specified by ORS 183.484(2). Pursuant to ORS 536.075 and OAR 137-004-080 and OAR 690-01-005 you may either 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. The first right to be transferred under application T-8376 is:

Certificate: 51993 in the name of Jerry A. Brewer
Use: Irrigation
Priority Date: March 11, 1959
Quantity: 0.50 cubic foot per second
Rate/Duty: 1/80 cfs per acre, not to exceed 3.0 acre-feet per acre
Acres: 51.5 acres
Source: A well in the Columbia River Basin

Authorized Point of Appropriation:

Township		Range		Meridian	Sec	¼ ¼		Survey Coordinates
3	N	26	E	W.M.	10	NE	SW	1380 feet North and 1320 feet East from the SW Corner of Section 10. (Shown on Certificate 31194 as 75 feet North and 20 feet East from Center of SW¼)

Authorized Place of Use:

Township		Range		Meridian	Sec	¼ ¼		Acres
3	N	26	E	W.M.	10	NW	NW	33.6
3	N	26	E	W.M.	10	SW	NW	17.9
TOTAL ACRES								51.5

4. The second right to be transferred under application T-8376 is:

Certificate: 75766 in the name of Jerry A. Brewer
Use: Supplemental irrigation
Priority Date: February 5, 1981
Quantity: 0.44 cubic foot per second
Rate/Duty: 1/40 cfs per acre, not to exceed 4.5 acre-feet per acre, provided further that although declared herein to be for supplemental irrigation in part the right allowed may, in the interest of conserving the ground water supplies, be exercised at times when water is available in the ground water supply provided that the total quantity diverted from all sources of supply does not exceed the limitation allowed herein.
Acres: 51.5 acres
Source: Columbia River, tributary to the Pacific Ocean

Authorized Point of Diversion:

Township		Range		Meridian	Sec	¼ ¼		Lot	Survey Coordinates
4	N	25	E	W.M.	2	NE	NW	7	150 feet South and 2990 feet West from the NE Corner of Section 2.

Authorized Place of Use:

Township		Range		Meridian	Sec	¼ ¼		Acres
3	N	26	E	W.M.	10	NW	NW	33.6
3	N	26	E	W.M.	10	SW	NW	17.9
TOTAL ACRES								51.5

5. The third right to be transferred under application T-8376 is:

Certificate: 80301 in the name of Glenn Chowning
Use: Irrigation
Priority Date: February 7, 1974
Quantity: 1.28 cubic feet per second (cfs), provided further the total amount diverted under all water rights perfected under Permit 37293 does not exceed 99.92 cfs.
Rate/Duty: 1/40 cfs per acre, not to exceed 4.5 acre-feet per acre
Acres: 51.5 acres
Source: Columbia River, a tributary of the Pacific Ocean

Authorized Point of Diversion:

Township		Range		Meridian	Sec	¼ ¼		Lot	Survey Coordinates
4	N	25	E	W.M.	2	NE	NW	7	150 feet South and 2990 feet West from the NE Corner of Section 2.

Authorized Place of Use:

Township		Range		Meridian	Sec	¼ ¼		Acres
3	N	26	E	W.M.	10	NE	NE	8.9
3	N	26	E	W.M.	10	NW	NE	8.8
3	N	26	E	W.M.	10	SE	NE	5.7
3	N	26	E	W.M.	10	NE	NW	5.5
3	N	26	E	W.M.	10	NE	SE	9.6
3	N	26	E	W.M.	10	SW	SE	13.0
TOTAL ACRES								51.5

6. The fourth right to be transferred under application T-8376 is:

Certificate: 65152 in the name of Hillview Dairy, Incorporated
Use: Irrigation
Priority Date: September 12, 1975
Quantity: 0.19 cubic foot per second
Rate/Duty: 1/80 cfs per acre, not to exceed 3.0 acre-feet per acre
Acres: 15.0 acres
Source: Hillview Sump 5 in the Juniper Canyon Basin

Authorized Point of Appropriation:

Township		Range		Meridian	Sec	¼ ¼		Survey Coordinates
4	N	25	E	W.M.	13	SE	NE	3800 feet North and 2460 feet East from the S¼ Corner of Section 13.

Authorized Place of Use:

Township		Range		Meridian	Sec	¼ ¼		Acres
4	N	25	E	W.M.	13	SE	NE	15.0
TOTAL ACRES								15.0

7. The fifth right to be transferred under application T-8376 is:

Certificate: 65153 in the name of Hillview Dairy, Incorporated
Use: Irrigation and supplemental irrigation
Priority Date: September 12, 1975
Quantity: 1.48 cubic feet per second
Rate/Duty: 1/80 cfs per acre, not to exceed 3.0 acre-feet per acre. 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.
Acres: Primary irrigation 103.4 acres; Supplemental irrigation of 15.0 acres.
Source: Hillview Well 4 in the Juniper Canyon Basin

Authorized Point of Appropriation:

Township		Range		Meridian	Sec	¼ ¼		Survey Coordinates
4	N	25	E	W.M.	13	SE	NE	3840 feet North and 2440 feet East from the S¼ Corner of Section 13.

Authorized Place of Use:

Primary Irrigation

Township		Range		Meridian	Sec	¼ ¼		Acres
4	N	25	E	W.M.	13	NE	NE	8.5
4	N	25	E	W.M.	13	NW	NE	29.4
4	N	25	E	W.M.	13	SW	NE	34.7
4	N	25	E	W.M.	13	SE	NE	15.9
4	N	25	E	W.M.	13	NE	NW	6.5
4	N	25	E	W.M.	13	SE	NW	8.4
TOTAL ACRES								103.4

Supplemental Irrigation

Township		Range		Meridian	Sec	¼ ¼		Acres
4	N	25	E	W.M.	13	SE	NE	15.0
TOTAL ACRES								15.0

8. The sixth right to be transferred under application T-8376 is:

Certificate: 80375 in the names of Hillview Dairy, Inc. and NW Farm Credit SVCS
Use: Irrigation
Priority Date: February 4, 1982
Quantity: 0.14 cubic foot per second
Rate/Duty: 1/80 cfs per acre, not to exceed 3.0 acre-feet per acre
Acres: 11.5 acres
Source: Deep Well 2 in the Umatilla Basin

Authorized Point of Appropriation:

Township		Range		Meridian	Sec	¼ ¼		Survey Coordinates
4	N	25	E	W.M.	13	SW	NE	150 feet North and 1150 feet East of the Center ¼ Corner of Section 13.

Authorized Place of Use:

Township		Range		Meridian	Sec	¼ ¼		Acres
4	N	25	E	W.M.	13	NE	SE	1.8
4	N	25	E	W.M.	13	NW	SE	9.7
TOTAL ACRES								11.5

9. The permit to be amended under application T-9488 is as follows:

Permit: G-13419, in the name of Terra Poma Land Co. LLC, Glenn Chowning
Use: Irrigation and supplemental irrigation
Priority Date: February 7, 1997
Quantity: 3.59 cubic feet per second (cfs), being 1.68 cfs for primary irrigation and 1.91 cfs for supplemental irrigation.
Rate/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 ONE-EIGHTIETH of one cubic foot per second per acre or its equivalent for each acre irrigated and shall be further limited to a diversion of not to exceed 2.5 acre-feet for each acre irrigated during the irrigation season of each year.
Acres: Irrigation of 134.2 acres, supplemental irrigation of 153.0 acres;
Source: Wells 2 and 4, in the Columbia River Basin
Date Of Complete Application of Water: October 1, 2007.

Authorized Points of Appropriation:

Township		Range		Meridian	Sec	¼ ¼		Survey Coordinates
4	N	25	E	W.M.	13	SE	NE	Well 2 – 3800 feet North and 2460 feet East from the S¼ Corner of Section 13.
4	N	25	E	W.M.	13	SE	SE	Well 4 – 365 feet North and 50 feet West from the SE Corner of Section 13.

Authorized Place of Use:

Primary Irrigation

Township		Range		Meridian	Sec	¼ ¼		Acres
4	N	25	E	W.M.	13	SE	SW	23.80
4	N	25	E	W.M.	13	NE	SE	20.10
4	N	25	E	W.M.	13	NW	SE	14.70
4	N	25	E	W.M.	13	SW	SE	36.80
4	N	25	E	W.M.	13	SE	SE	38.80
TOTAL ACRES								134.20

Supplemental Irrigation

Township		Range		Meridian	Sec	¼ ¼		Acres
4	N	25	E	W.M.	13	NE	NE	8.50
4	N	25	E	W.M.	13	NW	NE	29.40
4	N	25	E	W.M.	13	SW	NE	34.70
4	N	25	E	W.M.	13	SE	NE	30.90
4	N	25	E	W.M.	13	NE	NW	6.50
4	N	25	E	W.M.	13	SE	NW	8.40
4	N	25	E	W.M.	13	NE	SE	17.44
4	N	25	E	W.M.	13	NW	SE	17.16
TOTAL ACRES								153.00

10. Application T-8376 proposes to add an additional point of appropriation approximately 1320 feet from the existing point of appropriation under Certificate 65153 to:

Township		Range		Meridian	Sec	¼ ¼		Survey Coordinates
4	N	25	E	W.M.	13	SW	NE	Deep Well 2 - 150 feet North and 1150 feet East from the Center of Section 13.

11. Application T-8376 proposes to add an additional point of appropriation approximately 1320 feet from the existing point of appropriation under Certificate 80375 to:

Township		Range		Meridian	Sec	¼ ¼		Survey Coordinates
4	N	25	E	W.M.	13	SE	NE	Hillview Well 4 (Deep Well 1) – 3840 feet North and 2440 feet East of the S¼ Corner of Section 13.

12. Application T-8376 proposes to move the authorized point of appropriation approximately 6.5 miles from the existing point of appropriation under Certificate 51993 to:

Township		Range		Meridian	Sec	¼ ¼		Survey Coordinates
4	N	25	E	W.M.	13	SE	NE	Hillview Well 4 (Deep Well 1) – 3840 feet North and 2440 feet East of the S¼ Corner of Section 13.
4	N	25	E	W.M.	13	SW	NE	Deep Well 2 - 150 feet North and 1150 feet East from the Center of Section 13.

13. Application T-8376 proposes to change the place of use of Certificate 51993 to:

Primary Irrigation

Township		Range		Meridian	Sec	¼ ¼		Acres
4	N	25	E	W.M.	13	NE	SE	11.3
4	N	25	E	W.M.	13	NW	SE	14.9
4	N	25	E	W.M.	13	SW	SE	23.4
4	N	25	E	W.M.	13	SE	SE	1.9
TOTAL ACRES								51.5

14. Application T-8376 proposes to change the place of use of Certificate 75766 to:

Supplemental Irrigation

Township		Range		Meridian	Sec	¼ ¼		Acres
4	N	25	E	W.M.	13	NE	SE	11.3
4	N	25	E	W.M.	13	NW	SE	14.9
4	N	25	E	W.M.	13	SW	SE	23.4
4	N	25	E	W.M.	13	SE	SE	1.9
TOTAL ACRES								51.5

15. Application T-8376 proposes to change the place of use of Certificate 80301 to:

Primary Irrigation

Township		Range		Meridian	Sec	¼ ¼		Acres
3	N	26	E	W.M.	10	NW	NW	33.6
3	N	26	E	W.M.	10	SW	NW	17.9
TOTAL ACRES								51.5

16. Application T-8376 proposes to change the place of use of Certificate 65152 to:

Primary Irrigation

Township		Range		Meridian	Sec	¼ ¼		Acres
4	N	25	E	W.M.	13	SE	SE	15.0
TOTAL ACRES								15.0

17. Application T-8376 proposes to change the place of use of Certificate 65153 to:

Primary Irrigation

Township		Range		Meridian	Sec	¼ ¼		Acres
4	N	25	E	W.M.	13	SW	SE	1.4
4	N	25	E	W.M.	13	SE	SE	12.0
TOTAL ACRES								13.4

Supplemental Irrigation

Township		Range		Meridian	Sec	¼ ¼		Acres
4	N	25	E	W.M.	13	SE	SE	15.0
TOTAL ACRES								15.0

18. Application T-8376 proposes to change the place of use of Certificate 80375 to:

Primary Irrigation

Township		Range		Meridian	Sec	¼ ¼		Acres
4	N	25	E	W.M.	13	NE	SE	9.2
4	N	25	E	W.M.	13	SE	SE	2.3
TOTAL ACRES								11.5

19. Application T-9488 proposes to amend the place of use of Permit G-13419 to:

Primary Irrigation

Township		Range		Meridian	Sec	¼ ¼		Acres
4	N	25	E	W.M.	13	NE	NE	4.20*
4	N	25	E	W.M.	13	SW	NE	0.20*
4	N	25	E	W.M.	13	SE	NE	24.00*
4	N	25	E	W.M.	13	SE	SW	23.80
4	N	25	E	W.M.	13	NE	SE	12.70*
4	N	25	E	W.M.	13	NW	SE	24.40*
4	N	25	E	W.M.	13	SW	SE	35.40*
4	N	25	E	W.M.	13	SE	SE	9.50*
TOTAL ACRES								134.20

Supplemental Irrigation

Township		Range		Meridian	Sec	¼ ¼		Acres
4	N	25	E	W.M.	13	NE	NE	4.30*
4	N	25	E	W.M.	13	NW	NE	29.40
4	N	25	E	W.M.	13	SW	NE	34.50*
4	N	25	E	W.M.	13	SE	NE	6.90*
4	N	25	E	W.M.	13	NE	NW	6.50
4	N	25	E	W.M.	13	SE	NW	8.40
4	N	25	E	W.M.	13	NE	SE	24.84*
4	N	25	E	W.M.	13	NW	SE	7.46*
4	N	25	E	W.M.	13	SW	SE	1.40*
4	N	25	E	W.M.	13	SE	SE	29.30*
TOTAL ACRES								153.00

* = place of use involved in the change

20. Notice of the application for transfer was published pursuant to ORS 540.520 and OAR 690-380-4000. No comments were filed in response to the notice.
21. Notice of the application for permit amendment was published pursuant to ORS 540.520(5). No comments were filed in response to the notice.
22. Water has been used within the last five years according to the terms and conditions of the rights, and no evidence is available that would demonstrate that any of the rights are subject to forfeiture under ORS 540.610.
23. A pump, pipeline, and sprinkler system sufficient to use the full amount of water allowed under the existing rights are present.
24. The authorized point of appropriation, Well 1, for Certificate 51993 is located within the Ordinance Critical Groundwater Area (OCGWA).
25. The proposed points of appropriation, Deep Well 2 and Hillview Well 4, to replace Well 1, will be subject to the same provisions of the OCGWA order as the original point of appropriation.
26. The proposed place of use for Permit G-13419 is owned and/or controlled by the permit holder.

27. The portion of Permit G-13419 that is located on the proposed place of use of the primary irrigation under Certificates 51993 and 75766 in application T-8376 will be claimed as supplemental irrigation at time of final proof of the permit.
28. The proposed place of use for Permit G-13419 is contiguous to the authorized place of use.
29. The proposed changes would not result in enlargement of the water rights and water right permit.
30. The change does not alter any other terms of Permit G-13419.
31. The proposed changes would not result in injury to other water rights.
32. A scrivener's error was found in Permit G-13419. The authorized place of use description on the permit lists the following acres as being primary irrigation:

Township		Range		Meridian	Sec	¼ ¼		Acres
4	N	25	E	W.M.	13	NE	NE	8.50
4	N	25	E	W.M.	13	NW	NE	29.40
4	N	25	E	W.M.	13	SW	NE	34.70
4	N	25	E	W.M.	13	SE	NE	30.90
4	N	25	E	W.M.	13	NE	NW	6.50
4	N	25	E	W.M.	13	SE	NW	8.40

The acreages should be described as supplemental irrigation.

Conclusions of Law

The changes in point of appropriation, additional points of appropriation and place of use proposed in application T-8376 are consistent with the requirements of ORS 537.705 and 540.505 to 540.580, and OAR 690-380-5000.

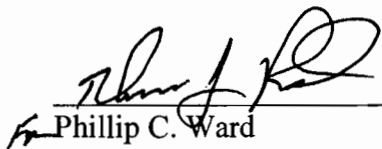
The change in place of use proposed by Permit Amendment Application T-9488 is consistent with the requirements of ORS 537.211.

Now, therefore, it is ORDERED:

1. The changes in point of appropriation, additional points of appropriation and place of use proposed in application T-8376 are approved.
2. The change in place of use proposed in application T-9488 is approved.

3. Water right Certificates 51993, 65152, 65153, 75766, 80301, and 80375 are cancelled. New certificates will be issued to confirm those portions of the rights described by Certificates 52993, 75766, and 80301, not involved in this transfer.
4. The right to 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 51993, 65152, 65153, 75766, 80301, 80375, and any related decree.
5. Water shall be acquired from the same aquifers (water sources) as the original points of appropriation.
6. The proposed changes under application T-8376 shall be completed on or before October 1, 2005.
7. A Claim of Beneficial Use for application T-8376, prepared by a Certified Water Rights Examiner, shall be submitted by the applicant to the Department by October 1, 2006.
8. The quantity of water diverted at the new 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.
9. Prior to diverting water at the new points of appropriation, the water user shall install and maintain in-line flow meters or other suitable devices for measuring and recording the quantity of water appropriated. The type and plans of the measuring devices must be approved by the Department prior to beginning construction and shall be installed under the general supervision of the Department.
10. The portion of Permit G-13419 that is located on the proposed place of use of the primary irrigation under Certificates 51993 and 75766 in application T-8376 will be claimed as supplemental irrigation at time of final proof of the permit.
11. All other terms and conditions of Permit G-13419 shall remain the same.
12. Permit G-13419, in the name of Terra Poma Land Co. LLC, Glenn Chowning, is amended as described herein.
13. When satisfactory proof of the completed changes is received for application T-8376, new certificates confirming the rights transferred under T-8376 will be issued.

Dated at Salem, Oregon this 8th day of August, 2005.



Phillip C. Ward
Director

Mailing date: AUG 12 2005