

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

In the Matter of Transfer Application	)	FINAL ORDER APPROVING AN
T-12756, Linn County	)	ADDITIONAL POINT 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**

JIM CATE  
CATE FARMS  
34750 SANTIAM HWY  
LEBANON, OR 97355

**Findings of Fact**

1. On October 2, 2017, JIM CATE of CATE FARMS filed an application for an additional point of appropriation under Certificates 92933 and 92935. The Department assigned the application number T-12756.
2. Notice of the application for transfer was published on October 10, 2017, pursuant to OAR 690-380-4000. No comments were filed in response to the notice.
3. On November 2, 2018, the Department mailed a copy of the draft Preliminary Determination proposing to approve Transfer Application T-12756 to the applicant. The draft Preliminary Determination cover letter set forth a deadline of December 3, 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 December 17, 2018, the Department issued a Preliminary Determination proposing to approve Transfer T-12756 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 Albany Democrat Herald newspaper on December 20, and 27, 2018, pursuant to ORS 540.520 and OAR 690-380-4020. No protests were filed in response to the notice. ✓

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

**Certificate:** 92933 in the name of JIM CATE (perfected under Permit G-16028)  
**Use:** IRRIGATION of 720.2 ACRES  
**Priority Date:** JANUARY 20, 2004  
**Rate:** 2.53 CUBIC FEET PER SECOND  
**Limit/Duty:** The amount of water used for irrigation under this right, 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 and 2.5 acre-feet for each acre irrigated during the irrigation season of each year.  
**Period of Use:** MARCH 1 THROUGH OCTOBER 31  
**Source:** A WELL (LINN 57038) in MILL CREEK BASIN

**Authorized Point of Appropriation:**

Twp	Rng	Mer	Sec	Q-Q	DLC	Measured Distances
11 S	2 W	WM	21	SE SW	55	1132.2 FEET NORTH AND 1651.4 FEET EAST FROM THE SW CORNER OF SECTION 22

**Authorized Place of Use:**

IRRIGATION							
Twp	Rng	Mer	Sec	Q-Q	GLot	DLC	Acres
11 S	2 W	WM	20	NE SE		55	1.2
11 S	2 W	WM	20	SE SE		55	5.2
11 S	2 W	WM	21	SW NE		50	2.5
11 S	2 W	WM	21	SW NW		50	19.0
11 S	2 W	WM	21	SE NW		50	23.2
11 S	2 W	WM	21	NE SW		50	29.0
11 S	2 W	WM	21	NE SW		55	11.0
11 S	2 W	WM	21	NW SW		55	10.5
11 S	2 W	WM	21	NW SW		50	22.8
11 S	2 W	WM	21	SW SW		55	39.0
11 S	2 W	WM	21	SE SW		55	37.0
11 S	2 W	WM	21	NW SE		50	14.0
11 S	2 W	WM	21	NW SE		55	10.0
11 S	2 W	WM	21	SW SE		55	36.4
11 S	2 W	WM	21	SE SE		55	4.2
11 S	2 W	WM	22	NE SW	3		1.9
11 S	2 W	WM	22	SE SW		56	4.7
11 S	2 W	WM	22	NE SE		49	6.5
11 S	2 W	WM	22	NE SE	1		12.3
11 S	2 W	WM	22	NW SE	2		14.2
11 S	2 W	WM	22	SW SE		56	39.8
11 S	2 W	WM	22	SE SE		56	7.3

IRRIGATION							
Twp	Rng	Mer	Sec	Q-Q	GLot	DLC	Acres
11 S	2 W	WM	27	NE NE		56	6.0
11 S	2 W	WM	27	NW NE		56	37.6
11 S	2 W	WM	27	SW NE		58	20.7
11 S	2 W	WM	27	SW NE		56	4.4
11 S	2 W	WM	27	SE NE		58	12.9
11 S	2 W	WM	27	SE NE		56	0.8
11 S	2 W	WM	27	NE NW		56	4.5
11 S	2 W	WM	27	NE NW		55	22.5
11 S	2 W	WM	27	NW NW		55	17.0
11 S	2 W	WM	27	SW NW		55	9.7
11 S	2 W	WM	27	SE NW		55	8.2
11 S	2 W	WM	27	SE NW		56	0.7
11 S	2 W	WM	27	NE SE		58	5.3
11 S	2 W	WM	27	NW SE		58	10.7
11 S	2 W	WM	28	NE NE		55	31.0
11 S	2 W	WM	28	NW NE		55	36.7
11 S	2 W	WM	28	SW NE		55	13.7
11 S	2 W	WM	28	SE NE		55	12.8
11 S	2 W	WM	28	NE NW		55	38.1
11 S	2 W	WM	28	NW NW		55	39.9
11 S	2 W	WM	28	SW NW		55	14.0
11 S	2 W	WM	28	SE NW		55	14.4
11 S	2 W	WM	29	NE NE		55	5.2
11 S	2 W	WM	29	SE NE		55	1.7
						Total	720.2

6. Transfer Application T-12756 proposes an additional point of appropriation approximately 0.8 mile SW from the existing point of appropriation to:

Twp	Rng	Mer	Sec	Q-Q	DLC	Measured Distances
11 S	2 W	WM	21	SW SE	55	0 FEET NORTH AND 2500 FEET WEST FROM THE SE CORNER OF SECTION 21

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

**Certificate:** 92935 in the name of JIM CATE (perfected under Permit G-16340)

**Use:** IRRIGATION of 64.3 ACRES

**Priority Date:** APRIL 30, 2007

**Rate:** 0.8 CUBIC FOOT PER SECOND

**Limit/Duty:** The amount of water used for irrigation under this right, 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 and 2.5 acre-feet for each acre irrigated during the irrigation season of each year.

**Period of Use:** MARCH 1 THROUGH OCTOBER 31

**Source:** A WELL (LINN 57038) in OAK CREEK BASIN

**Authorized Point of Appropriation:**

Twp	Rng	Mer	Sec	Q-Q	DLC	Measured Distances
11 S	2 W	WM	22	SE SW	55	WELL 1 - 1132.2 FEET NORTH AND 1651.4 FEET EAST FROM THE SW CORNER OF SECTION 22

**Authorized Place of Use:**

IRRIGATION						
Twp	Rng	Mer	Sec	Q-Q	DLC	Acres
11 S	2 W	WM	21	NW NE	50	3.8
11 S	2 W	WM	21	SW NE	50	9.7
11 S	2 W	WM	21	NE NW	50	11.3
11 S	2 W	WM	21	NW NW	50	9.3
11 S	2 W	WM	21	SW NW	50	13.9
11 S	2 W	WM	21	SE NW	50	16.3
Total						64.3

8. Transfer Application T-12756 proposes an additional point of appropriation approximately 0.8 mile SW from the existing point of appropriation to:

Twp	Rng	Mer	Sec	Q-Q	DLC	Measured Distances
11 S	2 W	WM	21	SW SE	55	0 FEET NORTH AND 2500 FEET WEST FROM THE SE CORNER OF SECTION 21

**Transfer Review Criteria (OAR 690-380-4010)**

9. 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.
10. 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-12756.
11. The proposed change would not result in enlargement of the rights.
12. The proposed change would not result in injury to other water rights.
13. All other application requirements are met.

**Conclusions of Law**

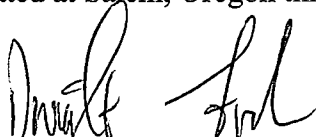
The additional point of appropriation proposed in Transfer Application T-12756 is consistent with the requirements of ORS 537.705 and 540.505 to 540.580 and OAR 690-380-5000.

**Now, therefore, it is ORDERED:**

1. The additional point of appropriation proposed in Transfer Application T-12756 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 92933 and 92935, and any related decree.
3. Water right Certificates 92933 and 92935 are cancelled.
4. The quantity of water diverted at the additional point of appropriation, together with that diverted at the original point of appropriation, shall not exceed the quantity of water lawfully available at the original point of appropriation.
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 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.
6. Water shall be acquired from the same aquifer (water source) as the original point of appropriation.
7. 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.
8. After satisfactory proof of beneficial use is received, new certificates confirming the rights transferred will be issued.

Dated at Salem, Oregon this FEB 19 2019,



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

Mailing date: FEB 20 2019