

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

In the Matter of Transfer Application)	FINAL ORDER APPROVING A
T-12476, Polk County)	CHANGE IN PLACE OF USE

Authority

Oregon Revised Statutes (ORS) 540.505 to 540.580 establish 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 Rules (OAR) Chapter 690, Division 380 implement the statutes and provides the Department's procedures and criteria for evaluating transfer applications.

Applicant

POWELL FAMILY TRUST;
OLSON FAMILY TRUST;
MARK W. OLSON FAMILY TRUST
6750 BETHEL RD
RICKREAL, OR 97371

Receiving Landowner

PEARLSTAD VINEYARDS, LLC
KEN PEARLMAN PROPRIETOR
203 GIRANELLI AVE
HALF MOON BAY, CA 94019

Findings of Fact

1. On September 14, 2016, POWELL FAMILY TRUST; OLSON FAMILY TRUST; MARK W. OLSON FAMILY TRUST filed an application to change the place of use under Certificate 91806. The Department assigned the application number T-12476.
2. PEARLSTAD VINEYARDS, LLC; KEN PEARLMAN PROPRIETOR is the receiving landowner who will be responsible for completion of the changes.
3. Notice of the application for transfer was published on September 20, 2016, pursuant to OAR 690-380-4000. No comments were filed in response to the notice.
4. On February 10, 2017, the Department mailed a copy of the draft Preliminary Determination proposing to approve Transfer Application T-12476 to the applicants. The draft Preliminary Determination cover letter set forth a deadline of March 10, 2017, for the applicants to respond. The applicants 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 March 6, 2017, the Department issued a Preliminary Determination proposing to approve Transfer T-12476 and emailed a copy to the applicants. Additionally, notice of the Preliminary Determination for the transfer application was published on the Department's weekly notice on March 7, 2017, pursuant to ORS 540.520 and OAR 690-380-4020. No protests were filed in response to the notice.

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

Certificate: 91806 in the name of PHILIP R. OLSON, MARK W. OLSON, DONALD S. POWELL (perfected under Permit S-11478)

Rate/Use: 0.005 FOR DOMESTIC USE FOR ONE FAMILY AND 0.013 FOR IRRIGATION OF 1.0 ACRE

Priority Date: OCTOBER 30, 1934

Limit/Duty: The amount of water used for irrigation, together with the amount secured under any other right existing for the same lands, shall be limited to 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: A SPRING, tributary of an UNNAMED STREAM

Authorized Point of Diversion:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
6 S	4 W	WM	15	SW SE	140 FEET NORTH AND 710 FEET EAST FROM THE NE CORNER OF DLC 44

Authorized Place of Use:

DOMESTIC					
Twp	Rng	Mer	Sec	Q-Q	DLC
6 S	4 W	WM	22	SW NW	44

IRRIGATION						
Twp	Rng	Mer	Sec	Q-Q	DLC	Acres
6 S	4 W	WM	22	SW NW	44	1.00

7. Transfer Application T-12476 proposes to change the place of use of the right to:

DOMESTIC					
Twp	Rng	Mer	Sec	Q-Q	DLC
6 S	4 W	WM	22	SE NW	44

IRRIGATION						
Twp	Rng	Mer	Sec	Q-Q	DLC	Acres
6 S	4 W	WM	22	SE NW	44	1.00

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

8. 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.
9. A pump, pipeline, and sprinkler system 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-12476.
10. The proposed change would not result in enlargement of the right.
11. The proposed change would not result in injury to other water rights.
12. All other application requirements are met.


Conclusions of Law

The change in place of use proposed in Transfer Application T-12476 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 place of use proposed in Transfer Application T-12476 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 91806 and any related decree.
3. Water right Certificate 91806 is cancelled. A new certificate will be issued describing that portion of the right not affected by this transfer.
4. The former place of use of the transferred right shall no longer receive water under the right.
5. 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.
6. After satisfactory proof of beneficial use is received, a new certificate confirming the right transferred will be issued.

Dated at Salem, Oregon this 17 day of April 2017.


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

Mailing date: APR 26 2017