

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

In the Matter of Transfer Application) FINAL ORDER APPROVING A
T-11422, Marion County) CHANGE IN POINT OF
) APPROPRIATION

Authority

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.

Applicant

CROSBY LAND COMPANY, LLC
ATTN: KEVIN CROSBY
PO BOX 70
WOODBURN, OR 97071

Findings of Fact

Background

1. On May 16, 2012, CROSBY LAND COMPANY, LLC filed an application to change the point of appropriation under Certificate 87468. The Department assigned the application number T-11422.
2. The right to be transferred is as follows:

Certificate: 87468 in the name of KEVIN CROSBY (perfected under Permit G-13143)
Use: IRRIGATION of 62.1 ACRES
Priority Date: JUNE 12, 1996
Rate: 0.78 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

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.

2.5 acre-feet per acre for each acre irrigated during the irrigation season of each year.

Source: A WELL within the WILLAMETTE BASIN

Authorized Point of Appropriation:

Twp	Rng	Mer	Sec	Q-Q	DLC	Measured Distances
4 S	1 W	WM	30	SE NE	58	920 FEET NORTH AND 50 FEET WEST FROM THE E¼ CORNER OF SECTION 30

Authorized Place of Use:

IRRIGATION						
Twp	Rng	Mer	Sec	Q-Q	DLC	Acres
4 S	1 W	WM	19	SE SE	69	2.2
4 S	1 W	WM	20	SW SW	69	18.5
4 S	1 W	WM	29	NW NW	69	14.6
4 S	1 W	WM	29	NW NW	58	2.5
4 S	1 W	WM	29	SW NW	58	1.0
4 S	1 W	WM	30	NE NE	69	8.8
4 S	1 W	WM	30	NE NE	58	9.3
4 S	1 W	WM	30	SE NE	58	5.2

- Transfer Application T-11422 proposes to move the authorized point of appropriation approximately 250 feet from the existing point of appropriation to:

Twp	Rng	Mer	Sec	Q-Q	DLC	Measured Distances
4 S	1 W	WM	30	SE NE	58	1900 FEET SOUTH AND 4140 FEET EAST OF THE SW CORNER OF AMABLE PETIT DLC 69

- Notice of the application for transfer was published on May 22, 2012, pursuant to OAR 690-380-4000. No comments were filed in response to the notice.
- On August 31, 2012, the Department sent a copy of the draft Preliminary Determination proposing to approve Transfer Application T-11422 to the applicant. The draft Preliminary Determination cover letter set forth a deadline of September 28, 2012, 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.
- On October 3, 2012, the Department issued a Preliminary Determination proposing to approve Transfer Application T-11422 and sent a copy to the applicant. Additionally, notice of the Preliminary Determination for the transfer application was published on the Department's weekly notice on October 16, 2012, pursuant to ORS 540.520 and OAR 690-380-4020. No protests were filed in response to the notice.

Transfer Review Criteria (OAR 690-380-4010)

- 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. Confirming Certificate 87468 was issued within the last five years on March 20, 2012.

8. 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-11422.
9. The proposed change would not result in enlargement of the right.
10. The proposed change would not result in injury to other water rights.

Conclusions of Law

The change in point of appropriation proposed in Transfer Application T-11422 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 point of appropriation proposed in application T-11422 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 87468 and any related decree.
3. Water right certificate 87468 is 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 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 the new point of appropriation.
 - b. The water user shall maintain the meter or measuring device in good working order.
 - c. The water user shall allow the Watermaster access to the meter or measuring device; provided however, where the meter or measuring device is 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, 2014**. 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, a new certificate confirming the right transferred will be issued.

Dated at Salem, Oregon this 16 day of November, 2012.



Dwight French, Water Right Services Administrator, for
PHILLIP C. WARD, DIRECTOR

Mailing Date NOV 20 2012