

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

In the Matter of Transfer Application)	FINAL ORDER
T-12228, Marion County)	APPROVING A CHANGE IN 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

JAMES B. ROTH
7558 INDIGO ST NE
SALEM, OR 97305
jimroth55@gmail.com

Findings of Fact

1. On December 30, 2015, JAMES B. ROTH filed an application to change the point of appropriation under Certificate 42212. The Department assigned the application number T-12228.
2. Notice of the application for transfer was published on January 12, 2016, pursuant to OAR 690-380-4000. No comments were filed in response to the notice.
3. On March 22, 2016, the Department sent a copy of the draft Preliminary Determination proposing to approve Transfer Application T-12228 to the applicant. The draft Preliminary Determination cover letter set forth a deadline of April 22, 2016, 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 June 3, 2016, the Department issued a Preliminary Determination proposing to approve Transfer Application T-12228 and sent a copy to the applicant. Additionally, notice of the Preliminary Determination for the transfer application was published in the Department's weekly notice on June 7, 2016, and in the Statesman Journal newspaper on June 22 and 29, 2016, pursuant to ORS 540.520 and OAR 690-380-4020. No protests were filed in response to the notices.
5. The portion of the right to be transferred is as follows:

Certificate: 42212 in the name of ROBERT ROTH (perfected under Permit G-3960)
Use: IRRIGATION OF 40.7 ACRES
Priority Date: JANUARY 22, 1968
Rate: 0.40 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, shall be 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 per acre for each acre irrigated during the irrigation season of each year.
Source: A WELL within the PUDDING RIVER BASIN

Authorized Point of Appropriation:

Twp	Rng	Mer	Sec	Q-Q	DLC	Measured Distances
7 S	2 W	WM	2	SW NW	59	1350 FEET SOUTH AND 1200 FEET WEST FROM THE NE CORNER OF WOODWORTH DLC 59

Authorized Place of Use:

IRRIGATION						
Twp	Rng	Mer	Sec	Q-Q	DLC	Acres
7 S	2 W	WM	2	NW NW	59	0.1
7 S	2 W	WM	2	SW NW	59	1.1
7 S	2 W	WM	3	NE NE	59	0.7
7 S	2 W	WM	3	SE NE	59	38.8
Total						40.7

6. Transfer Application T-12228 proposes to move the authorized point of appropriation approximately 1700 feet from the existing point of appropriation to:

Twp	Rng	Mer	Sec	Q-Q	DLC	Measured Distances
7 S	2 W	WM	3	SE NE	59	WELL 2 - 1260 FEET NORTH AND 1265 FEET WEST FROM THE E¼ CORNER OF SECTION 3

Transfer Review Criteria (OAR 690-380-4010)

7. 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.

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-12228.
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.

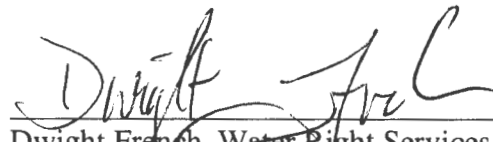
Conclusions of Law

The change in point of appropriation proposed in Transfer Application T-12228 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 Transfer Application T-12228 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 42212 and any related decree.
3. Water right Certificate 42212 is cancelled. A new certificate will be issued describing that portion of the right not affected by this transfer.
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 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, 2017**. 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, a new certificate confirming the right transferred will be issued.

Dated at Salem, Oregon this 9 day of September, 2016.



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

Mailing date: SEP 15 2016