

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

In the Matter of Transfer Application	)	FINAL ORDER APPROVING AN
T-13691, Marion County	)	ADDITIONAL POINT OF APPROPRIATION,
	)	A CHANGE IN CHARACTER OF USE, AND
	)	CORRECTING SCRIVENER'S ERROR

**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**

DAVID L. AND CHERYL M. BLANCHARD  
9992 SARATOGA DR. NE  
SALEM, OR 97305

**Findings of Fact**

1. On April 27, 2021, DAVID L. AND CHERYL M. BLANCHARD filed an application for an additional point of appropriation and to change the character of use under Certificate 39893. The Department assigned the application number T-13691.
2. Notice of the application for transfer was published on May 11, 2021, pursuant to OAR 690-380-4000. No comments were filed in response to the notice.
3. Review of Transfer Application T-13691 revealed that the Certificate 39893 and final proof survey map inadvertently transposed the acreage in the NESE quarter-quarter for 24.5 acres and in the NWSE quarter-quarter for 0.2 acres. The correct acreage is in the NWSE quarter-quarter for 18.5 acres and in the NESE quarter-quarter for 6.2 acres; T6S, R1W, WM.

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 September 22, 2021, the Department mailed a copy of the draft Preliminary Determination proposing to approve Transfer Application T-13691 to the applicants. The draft Preliminary Determination cover letter set forth a deadline of October 22, 2021, 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 and requested a later completion date of 10/1/2027, citing time needed to complete water distribution system updates.
5. On February 15, 2022, the Department issued a Preliminary Determination proposing to approve Transfer T-13691 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 February 15, 2022, and in the Statesman Journal newspaper on February 21 and 28, 2022, 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:** 39893 in the name of BOB K. COMBS (perfected under Permit G-3052)  
**Use:** IRRIGATION OF 12.2 ACRES  
**Priority Date:** JANUARY 3, 1966  
**Rate:** 0.13 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, and shall be limited to a diversion of 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 a tributary of SCISM CREEK (PUDDING RIVER)

**Authorized Point of Appropriation:**

Twp	Rng	Mer	Sec	Q-Q	DLC	Measured Distances
6 S	1 W	WM	18	NW SE	57	WELL 1 - 520 FEET SOUTH AND 1260 FEET WEST FROM THE NE CORNER OF HALL DLC 57

**Authorized Place of Use:**

IRRIGATION						
Twp	Rng	Mer	Sec	Q-Q	DLC	Acres
6 S	1 W	WM	18	NE SW	57	6.2
6 S	1 W	WM	18	NW SE	57	6.0
TOTAL						12.2



- Transfer Application T-13691 proposes an additional point of appropriation approximately 486.5 feet from the existing point of appropriation to:

Twp	Rng	Mer	Sec	Q-Q	DLC	Measured Distances
6 S	1 W	WM	18	NW SE	57	WELL 2 - 150 FEET SOUTH AND 1580 FEET WEST FROM THE NE CORNER OF DLC 57

- Transfer Application T-13691 proposes to change the character of use to nursery use.

**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.
- 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-13691.
- The proposed changes would not result in enlargement of the rights, if conditioned as follows: The rate of diversion for the change in character of use from irrigation to the proposed nursery operation use shall be limited to 0.13 cubic foot per second and shall be further limited to a total volume diverted of 30.5 acre feet (12.2 acres X 2.5 acre feet per acre) during the original season of use, being March 1 to October 31.
- The proposed changes, as conditioned, would not result in injury to other water rights.
- All other application requirements are met.

**Conclusions of Law**

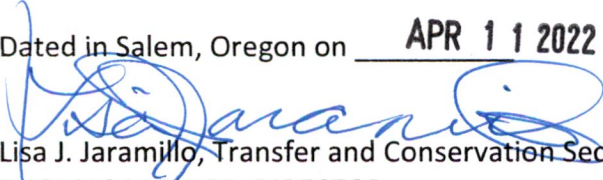
The additional point of appropriation and change in character of use proposed in Transfer Application T-13691 are consistent with the requirements of ORS 537.705 and 540.505 to 540.580 and OAR 690-380-5000.

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

- The additional point of appropriation and change in character of use proposed in Transfer Application T-13691 are approved.
- 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 39893 and any related decree.
- Water right Certificate 39893 is cancelled. A new certificate will be issued to describe the correction in Finding No. 3 and to describe portions of the right not affected by this transfer.

4. The quantity of water diverted at the additional point of appropriation (Well 2), together with that diverted at the original point of appropriation (Well 1), shall not exceed the quantity of water lawfully available at the original point of appropriation (Well 1).
5. The rate of diversion for the change in character of use from irrigation to the proposed nursery operation use shall be limited to 0.13 cubic foot per second and shall be further limited to a total volume diverted of 30.5 acre feet (12.2 acres X 2.5 acre feet per acre) during the original season of use, being March 1 to October 31.
6. The change in character of use from irrigation to the proposed nursery use shall be further limited such that:
  - a) The amount of water used for NURSERY OPERATIONS is limited to a diversion of 0.13 cubic foot per second per acre and 30.5 acre feet during the irrigation season of each year March 1 to October 31.
  - b) For the irrigation of containerized nursery plants, the amount of water diverted is limited to 0.13 cubic foot per second (or its equivalent) and 30.5 acre feet during the irrigation season of each year, March 1 to October 31.
  - c) For the irrigation of in-ground nursery plants, the amount of water diverted is limited to 0.13 cubic foot per second (or its equivalent) and 30.5 acre feet during the irrigation season of each year, March 1 to October 31.
  - d) For the irrigation of any other crop, the amount of water diverted is limited to 0.13 cubic foot per second (or its equivalent) and 30.5 acre feet during the irrigation season of each year. The use of water for irrigation of any other crop shall be limited to 12.2 acres.
7. Full beneficial use of the water shall be made, consistent with the terms of this order, on or before **October 1, 2027**. 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 changes 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 in Salem, Oregon on APR 11 2022

  
Lisa J. Jaramillo, Transfer and Conservation Section Manager, for  
THOMAS M BYLER, DIRECTOR  
Oregon Water Resources Department

Mailing date: APR 12 2022