

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

In the Matter of Transfer Application) FINAL ORDER APPROVING A
T-12752, Linn County) 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

DEVER FARMS, INC.
DAVID CHAMBERS
39338 GROSHONG RD NE
ALBANY, OR 97321

Findings of Fact

1. On September 25, 2017, DEVER FARMS, INC., DAVID CHAMBERS filed an application to change the point of appropriation under Certificate 27413. The Department assigned the application number T-12752.
2. Notice of the application for transfer was published on October 3, 2017, pursuant to OAR 690-380-4000. No comments were filed in response to the notice.
3. On October 15, 2018, the Department contacted the applicant by written correspondence to notify the applicant and the applicant’s agent of the deficiencies in the application. The Department requested that the deficiencies be resolved by November 13, 2018. No response was received.
4. On November 14, 2018, the Department contacted the applicant by written correspondence to notify the applicant and the applicant’s agent of the deficiencies in the application. The Department requested that the deficiencies be resolved by December 14, 2018.

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 December 10, 2018, the applicant's agent submitted a revised Table 1 and map, and Evidence of Use supporting documentation, resolving the deficiencies.
6. On January 3, 2019, the Department mailed a copy of the draft Preliminary Determination proposing to approve Transfer Application T-12752 to the applicant. The draft Preliminary Determination cover letter set forth a deadline of February 1, 2019, for the applicant to respond.
7. On January 31, 2019, the applicant's agent requested additional time to submit the requested materials. The Department set forth a deadline of March 1, 2019, 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.
8. On March 21, 2019, the Department issued a Preliminary Determination proposing to approve Transfer T-12752 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 March 26, 2019, pursuant to ORS 540.520 and OAR 690-380-4020. No protests were filed in response to the notice.
9. The right to be transferred is as follows:

Certificate: 27413 in the name of F. J. AND VIRGINIA STAUBLE (perfected under Permit G-256)

Use: IRRIGATION of 43.0 ACRES

Priority Date: MAY 31, 1956

Rate: 0.54 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: STAUBLE WELL #1, a tributary of CROOKS CREEK

Authorized Point of Appropriation:

Twp	Rng	Mer	Sec	Q-Q	DLC	Measured Distances
10 S	3 W	WM	7	SE NW	72	SOUTH 6 DEGREES 10 MINUTES EAST 15 CHAINS FROM THE NE CORNER OF DLC 71

Authorized Place of Use:

IRRIGATION						
Twp	Rng	Mer	Sec	Q-Q	DLC	Acres
10 S	3 W	WM	7	SE NW	72	9.0
10 S	3 W	WM	7	NE SW	72	26.6
10 S	3 W	WM	7	SE SW	72	7.4
Total						43.0

10. Transfer Application T-12752 proposes to move the authorized point of appropriation approximately 69 feet NE from the existing point of appropriation to:

Twp	Rng	Mer	Sec	Q-Q	DLC	Measured Distances
10 S	3 W	WM	7	SE NW	72	2270 FEET SOUTH AND 1919 FEET EAST FROM THE NW CORNER OF SECTION 7

Transfer Review Criteria (OAR 690-380-4010)

11. 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.
12. 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-12752.
13. The proposed change would not result in enlargement of the right.
14. The proposed change would not result in injury to other water rights.
15. All other application requirements are met.

Conclusions of Law

The change in point of appropriation proposed in Transfer Application T-12752 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-12752 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 27413 and any related decree.
3. Water right Certificate 27413 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 each point of appropriation.
 - 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 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, 2022**. 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 **MAR 30 2021** ,



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

Mailing date: **MAR 31 2021**