

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

In the Matter of Transfer Application)
T-13975, Yamhill County)
)
) FINAL ORDER APPROVING A
) SUBSTITUTION OF A PORTION OF A
) SUPPLEMENTAL GROUNDWATER RIGHT
) FOR A PRIMARY SURFACE WATER RIGHT

Authority

Oregon Revised Statute (ORS) 540.524 establishes the process in which a water right holder may submit a request to substitute a supplemental groundwater right for a primary surface water right. Oregon Administrative Rules (OAR) Chapter 690, Division 380 implement the statute and provides the Department's procedures and criteria for evaluating substitution applications.

Applicant

NICHOLAS FAMILY VINEYARDS PROPERTY HOLDINGS LLC
3177 WILDFLOWER SUMMIT
ENCINITAS, CA. 92024

Findings of Fact

1. On April 14, 2022, Nicholas Family Vineyards Property Holdings LLC filed an application to substitute a portion of a supplemental groundwater right Certificate 95490 for a portion of a primary surface water right Certificate 83061. The Department assigned the application number T-13975.
2. Notice of the application for transfer was published on April 26, 2022, pursuant to ORS 540.524 and OAR 690-380-2330. No protests were filed in response to the notice.
3. The portion of the groundwater right to be exercised as a primary right under the substitution is as follows:

Certificate: 95490 in the name of STEVEN R. WHITESIDE (perfected under Permit G-13417)
Use: SUPPLEMENTAL IRRIGATION OF 14.6 ACRES
Priority Date: SEPTEMBER 29, 1997
Rate: 0.036 CUBIC FOOT PER SECOND

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.

Limit/Duty: The amount of water used for irrigation under this right, 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) and 2.5 acre-feet for each acre irrigated during the irrigation season of each year.

Period of Use: MARCH 1 THROUGH OCTOBER 31

Source: A WELL IN THE HESS CREEK BASIN

Authorized Point of Appropriation:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
3S	3W	WM	28	SE NE	WELL 1 - 1371 FEET SOUTH AND 285 FEET WEST FROM THE NE CORNER OF SECTION 28

Authorized Place of Use:

SUPPLEMENTAL IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
3S	3W	WM	28	SE NE	14.6

4. The portion of the primary surface water right to be substituted and used as supplemental use is as follows:

Certificate: 83061 in the name of ALLISON WHITESIDE (perfected under Permit S-49654)

Use: PRIMARY IRRIGATION OF 14.6 ACRES

Priority Date: JANUARY 10, 1986

Rate: 0.009 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 2.5 acre-feet per acre for each acre irrigated during the irrigation season of each year.

Source: HESS CREEK, tributary to WILLAMETTE RIVER

Authorized Point of Diversion:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
3 S	3 W	WM	28	SE NE	820 FEET NORTH AND 1310 FEET WEST FROM THE E1/4 CORNER OF SECTION 28

Authorized Place of Use:

PRIMARY IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
3 S	3 W	WM	28	SE NE	14.6

Transfer Review Criteria (OAR 690-380-2330)

5. Water has been used within the last five years. There is no information in the record that would demonstrate that the rights are subject to forfeiture under ORS 540.610.

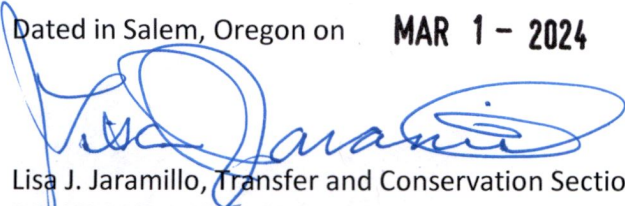
6. A pump, pipeline, and sprinkler system sufficient to use the full amount of water allowed under the existing rights were present within the five-year period prior to submittal of Transfer Application T-13975.
7. The proposed change would not result in enlargement of the rights.
8. The proposed change would not result in injury to other water rights.
9. All other application requirements are met.

Now, therefore it is ORDERED:

The substitution of a portion of a supplemental groundwater right for a portion of a primary surface water right proposed in Transfer Application T-13975 is consistent with the requirements of ORS 540.524 and OAR 690-380-2330.

1. The substitution of a portion of a supplemental groundwater right for a portion of a primary surface water right proposed in Transfer Application T-13975 is approved and shall be effective upon issuance of this order.
2. The right to the use of the water is restricted to beneficial use at the places of use described and is subject to all other conditions and limitations contained in Certificates 95490, 83061, and any related decree.
3. The substitution of a supplemental groundwater right for a portion of a primary surface water right may be terminated upon a request by the water right holder or by order of the Director if the Director determines the use of the groundwater as the primary water right causes injury to other water rights. Upon termination, the substituted primary and supplemental water rights shall revert to their original status.

Dated in Salem, Oregon on **MAR 1 - 2024**


Lisa J. Jaramillo, Transfer and Conservation Section Manager, for
DOUGLAS E. WOODCOCK, ACTING DIRECTOR
Oregon Water Resources Department

Mailing date: **MAR 3 - 2024**