

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

In the Matter of Transfer Application)	FINAL ORDER APPROVING A
T-11473, Umatilla County)	CHANGE IN PLACE OF USE

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

Hale Farms, LLC
Attn. – Craig Reeder
73120 Hwy 207
Echo, OR 97826

Agent

GSI Water Solutions, Inc.
Attn. – Molly Reid
8019 W. Quinault Ave., Suite 201
Kennewick, WA 99336

Stoel Rives, LLP

Attn. – David E. Filippi/Kirk Maag
900 SW Fifth Ave., Suite 2600
Portland, OR 97204

Findings of Fact

Background

1. On September 13, 2012, Hale Farms, LLC filed an application to change the place of use under Certificates 52824, 76273 and 84116. The Department assigned the application number T-11473.

2. The first right to be transferred is as follows:

Certificate:	52824 in the name of LEON A. REESE (perfected under Permit G-8632)
Use:	IRRIGATION of 36.3 ACRES
Priority Date:	MAY 10, 1979
Rate:	0.45 CUBIC FOOT PER SECOND (cfs)
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 cfs per acre, or its equivalent for each acre irrigated, and shall be further limited to a diversion of not to exceed 3

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.

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

Source: A WELL within the STAGE GULCH BASIN

Authorized Point of Appropriation:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
3 N	30 E	WM	9	NW SW	520 FEET SOUTH AND 940 FEET EAST FROM THE W1/4 CORNER OF SECTION 9

Authorized Place of Use:

IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
3 N	30 E	WM	9	SW NW	0.8
3 N	30 E	WM	9	SE NW	0.4
3 N	30 E	WM	9	NE SW	2.3
3 N	30 E	WM	9	SW SW	32.0
3 N	30 E	WM	9	SE SW	0.8
Total:					36.3

3. Transfer Application T-11473 proposes to change the place of use of the right to:

IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
3 N	30 E	WM	8	NW NE	31.9
3 N	30 E	WM	8	SW NE	4.4
Total:					36.3

4. The second right to be transferred is as follows:

Certificate: 76273 in the name of LEON A. REESE (perfected under Permit G-5957)

Use: IRRIGATION of 70.8 ACRES

Priority Date: NOVEMBER 30, 1973

Rate: 0.88 cfs

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 cfs, or its equivalent for each acre irrigated, and shall be further limited to a diversion of not to exceed 3.0 acre-feet per acre for each acre irrigated during the irrigation season of each year.

Source: A WELL within the STAGE GULCH BASIN

Authorized Point(s) of Appropriation:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
3 N	30 E	WM	9	NW SW	520 FEET SOUTH AND 940 FEET EAST FROM THE W1/4 CORNER OF SECTION 9

Authorized Place of Use:

IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
3 N	30 E	WM	9	SW NW	9.5
3 N	30 E	WM	9	SE NW	12.4
3 N	30 E	WM	9	NE SW	28.6
3 N	30 E	WM	9	NW SW	19.2
3 N	30 E	WM	9	SE SW	1.1
Total:					70.8

5. Transfer Application T-11473 also proposes to change the place of use of the right to:

IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
3 N	30 E	WM	8	NE NE	11.4
3 N	30 E	WM	8	SW NE	27.5
3 N	30 E	WM	8	SE NE	31.9
Total:					70.8

6. The third right to be transferred is as follows:

Certificate: 84116 in the name of LEON REESE (perfected under Permit U-680)

Use: IRRIGATION of 20.55 ACRES

Priority Date: SEPTEMBER 16, 1954

Rate: 0.25 cfs

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 cfs, or its equivalent for each acre irrigated, and shall be further limited to a diversion of not to exceed 3.0 acre-feet per acre for each acre irrigated during the irrigation season of each year.

Source: A WELL within the UMATILLA RIVER BASIN

Authorized Point of Appropriation:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
3 N	30 E	WM	9	NW SW	2068 FEET NORTH AND 911 FEET EAST FROM THE SW CORNER OF SECTION 9

Authorized Place of Use:

IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
3 N	30 E	WM	9	NE SW	0.87
3 N	30 E	WM	9	NW SW	19.68
Total:					20.55

7. Transfer Application T-11473 proposes to change the place of use of the right to:

IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
3 N	30 E	WM	8	NE NE	20.55

8. Permit S-54773 exists on portions of the proposed place of use as delineated in Findings of Fact #3, #5 and #7.
9. Notice of the application for transfer was published on September 18, 2012, pursuant to OAR 690-380-4000. No comments were filed in response to the notice.
10. On November 22, 2013, the Department e-mailed a copy of the draft Preliminary Determination proposing to approve Transfer Application T-11473 to the applicant. The draft Preliminary Determination cover letter set forth a deadline of December 30, 2013, for the applicant to respond. The applicant requested the Department proceed with issuance of a Preliminary Determination and provided the necessary information to demonstrate the applicant is authorized to pursue the transfer.
11. On December 27, 2013, the Department issued a preliminary determination proposing to approve Transfer Application T-11473 and provided a copy to the applicant. Additionally, notice of the preliminary determination for the transfer application was published on the Department's weekly notice on December 31, 2013 pursuant to ORS 540.520 and OAR 690-380-4020. No protests were filed in response to the notice.
12. Water has been used within the last five years according to the terms and conditions of the rights. There is no information in the record that would demonstrate the rights are subject to forfeiture under ORS 540.610.
13. 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-11473.
14. The primary irrigation water rights involved in this transfer have varying duty limitations associated with the primary irrigation use on the lands described in Findings of Fact #3, #5 and #7. The primary irrigation use of these rights, in combination with all other rights appurtenant to the places of use, is limited to the maximum duty (listed in acre-feet per acre), as stated in the water rights and summarized below:

Water Right	Period of Use			
	3/1 – 4/14	4/15 – 9/30	10-1 – 10/31	11/1 – 2/29
52824	3.0 af/ac	3.0 af/ac	3.0 af/ac	--
76273	3.0 af/ac	3.0 af/ac	3.0 af/ac	--
84116	3.0 af/ac	3.0 af/ac	3.0 af/ac	--
Permit S-54773	4.5 af/ac	-----	4.5 af/ac	1.5 af/ac

15. There is no intention to "layer" the primary water rights so as to preclude the future potential of using the primary water rights separately. Rather, the intention is to maintain the primary irrigation use for each of the water rights. Therefore, should the water right holder at some time in the future petition to use the water rights separately, an analysis of whether a separation of the water rights would result in enlargement or injury shall consider that the water rights originated (and were perfected) as separate, distinct primary water rights.

16. The groundwater rights affected by this order shall be further limited to the amount of water annually allocated to the relevant water right(s) in the Stage Gulch Critical Ground Water Area.
17. The proposed change would not result in injury to other water rights.

Conclusions of Law

The change in place of use proposed in Transfer Application T-11473 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:

1. Temporary Transfer T-11092 is terminated upon issuance of this Final Order.
2. The change in place of use proposed in Transfer Application T-11473 is approved.
3. The maximum duty during the period of allowed use for all primary irrigation water rights appurtenant to the lands described in Findings of Fact #3, #5 and #7 is limited to no more than the maximum duty (listed in acre-feet per acre), as stated in the water rights and summarized below:

Water Right	Period of Use			
	3/1 – 4/14	4/15 – 9/30	10-1 – 10/31	11/1 – 2/29
52824	3.0	3.0	3.0	--
76273	3.0	3.0	3.0	--
84116	3.0	3.0	3.0	--
Permit S-54773	4.5	-----	4.5	1.5

4. If the water right holder petitions to use the water rights separately, an analysis of whether a separation of the water rights would result in enlargement or injury shall consider that the water rights originated (and were perfected) as separate, distinct primary irrigation water rights.
5. 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 Certificates 52824, 76273 and 84116 and any related decree.
6. The groundwater rights affected by this order are limited to the amount of water annually allocated to the relevant water rights in the Stage Gulch Critical Groundwater Area, in accordance with OAR 690-507-0750 et seq.
7. Certificates 52824, 76273 and 84116 are cancelled.
8. The former place of use of the transferred right shall no longer receive water under the rights.
9. 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.

10. After satisfactory proof of beneficial use is received, new certificates confirming the rights transferred will be issued.

Dated at Salem, Oregon this 24 day of February, 2014.



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

Mailing Date: FEB 27 2014