

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

In the Matter of Transfer Application)	FINAL ORDER APPROVING A
T-11926, Marion County)	CHANGE IN POINT OF
))	APPROPRIATION

Authority

Oregon Revised Statute (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 Rule (OAR) Chapter 690, Division 380 implements the statutes and provides the Department’s procedures and criteria for evaluating transfer applications.

Applicant

DITCHEN BERRY FARM, LLC
9712 NUSOM RD
SILVERTON, OR 97381

Findings of Fact

1. On August 25, 2014, DITCHEN BERRY FARM LLC filed an application to change the point of appropriation under Certificate 79717. The Department assigned the application number T-11926.
2. Notice of the application for transfer was published on September 9, 2014, pursuant to OAR 690-380-4000. No comments were filed in response to the notice.
3. On June 29, 2015, the Department sent a copy of the draft Preliminary Determination proposing to approve Transfer Application T-11926 to the applicant. The draft Preliminary Determination cover letter set forth a deadline of July 29, 2015, for the applicant to respond.
4. On July 27, 2015, the applicant informed the department that a portion of the place of use included in the transfer application is not owned by Ditchen Berry Farm, LLC. The applicant requested 4.4 acres in the SE1/4SW1/4 of Section 3, T6S R1E to be excluded and the completion deadline extended to October 1, 2018. Additionally, the applicant requested the Department to proceed with issuance of a Preliminary Determination and provided the necessary information to demonstrate that the applicant is authorized to pursue the transfer.

<p>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.</p>

5. On August 7, 2015, the Department issued a Preliminary Determination proposing to approve Transfer Application T-11926 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 August 11, 2015, 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: 79717 in the name of KRAEMER FARMS (perfected under Permit G-11688)

Use: IRRIGATION of 57.1 ACRES

Priority Date: JUNE 19, 1990

Rate: 0.25 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 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.

Period of Use: March 1 through October 31

Source: STETSON WELL within the PUDDING RIVER BASIN

Authorized Point of Appropriation:

Twp	Rng	Mer	Sec	Q-Q	DLC	Measured Distances
6 S	1 E	WM	3	NW SE	37	1930 FEET NORTH AND 1960 FEET EAST FROM THE SW CORNER OF BURBAGE DLC 37

Authorized Place of Use:

IRRIGATION						
Twp	Rng	Mer	Sec	Q-Q	DLC	Acres
6 S	1 E	WM	3	SW NE	37	3.3
6 S	1 E	WM	3	SE NW	37	10.1
6 S	1 E	WM	3	NE SW	37	23.1
6 S	1 E	WM	3	SE SW	37	9.4
6 S	1 E	WM	3	NW SE	37	7.3
6 S	1 E	WM	3	SW SE	37	3.9
Total:						57.1

7. Transfer Application T-11926 proposes to move the authorized point of appropriation approximately 0.23 mile from the existing point of appropriation to:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
6 S	1 E	WM	3	NE SW	WELL 2: 1960 FEET NORTH AND 780 FEET EAST FROM THE SW CORNER OF DLC 37

Transfer Review Criteria (OAR 690-380-4010)

8. 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.
9. 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-11926.
10. The proposed change would not result in enlargement of the right.
11. The proposed change would not result in injury to other water rights.
12. All other application requirements are met.

Determination and Proposed Action

The change in point of appropriation proposed in Transfer Application T-11926 is consistent with the requirements of ORS 537.705 and 540.505 to 540.580 and OAR 690-380-5000.

Conclusion of Law

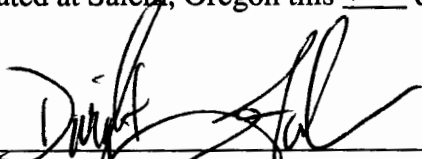
The change in point of appropriation proposed in Transfer Application T-11926 is consistent with the requirements of ORS 537.705 and 540.505 to 540.580 and OAR 690-380-5000.

Now, therefore it is ORDERED:

1. The change in point of appropriation proposed in Transfer Application T-11926 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 79717 and any related decree.
3. Water right Certificate 79717 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, 2018**. 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 17 day of September, 2015.



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

Mailing date: SEP 22 2015