

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

In the Matter of Transfer Application)
T-10329, Marion County)
)
)

FINAL ORDER APPROVING CHANGES
IN POINT OF APPROPRIATION AND
CHARACTER 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

ROCK RIDGE FARMS, LLC
19480 SW 97TH AVENUE
TUALATIN, OR 97062

Findings of Fact

Background

1. On March 5, 2007, Rock Ridge Farms, LLC filed an application to change the point of appropriation under Certificate 33546. The Department assigned the application number T-10329.
2. The applicant amended the application to include a change in character of use. The amended application and a revised map were submitted on December 12, 2007.
3. The portion of the right to be transferred is as follows:
Certificate: 33546 in the name of KENNETH CHAFFEY & SONS (perfected under Permit G-2481)
Use: IRRIGATION of 16.8 ACRES
Priority Date: AUGUST 14, 1963
Rate: 0.21 CUBIC FOOT PER SECOND (CFS)

This is an order in other than a contested case. This order is subject to judicial review under ORS 183.484. Any petition for judicial review must be filed within the 60 day time period specified by ORS 183.484(2). Pursuant to ORS 536.075 and OAR 137-004-0080, you may either 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: ONE-EIGHTIETH of one cfs per acre, not to exceed 2.5 acre-feet per acre per year

Source: A WELL within the Willamette River Basin

Authorized Point of Appropriation:

Twp	Rng	Mer	Sec	Q-Q	GLot	Survey Coordinates
3 S	1 W	WM	32	SE SE	9	400 FEET NORTH AND 330 FEET EAST FROM THE NW CORNER OF LOT 1 (NE ¼ NE ¼) OF SECTION 5, T. 4 S, R. 1 W, W.M.

Authorized Place of Use:

Twp	Rng	Mer	Sec	Q-Q	GLot	Acres	Type of Change
3 S	1 W	WM	32	SW SE	9	0.1	POA
3 S	1 W	WM	32	SE SE	9	15.7	POA
3 S	1 W	WM	32	SE SE	9	1.0	POA & USE

4. Transfer Application T-10329 proposes to move the authorized point of appropriation to three new points of appropriation located approximately 300-500 feet from the existing point of appropriation, described as follows:

Twp	Rng	Mer	Sec	Q-Q	GLot	Survey Coordinates
3 S	1 W	WM	32	SE SE	9	WELL 1 - 20 FEET NORTH AND 900 FEET WEST FROM THE SE CORNER OF SECTION 32
3 S	1 W	WM	32	SE SE	9	WELL 2 - 30 FEET NORTH AND 340 FEET WEST FROM THE SE CORNER OF SECTION 32
3 S	1 W	WM	32	SE SE	9	WELL 3 - 30 FEET NORTH AND 630 FEET WEST FROM THE SE CORNER OF SECTION 32

5. Transfer Application T-10329 also proposes to change the character of use for the 1.0 acre portion of the right indicated in Finding #3 above to INDUSTRIAL USE.
6. A portion of Groundwater Registration application GR-3351 (Certificate of Groundwater Registration GR-3103) is appurtenant to the same lands under Certificate 33546 proposed for the change in character of use in T-10329. Groundwater Registration modification T-10497, which proposes a similar change in the character of use under GR-3351, is being processed concurrently with T-10329.
7. Notice of the application for transfer was published on March 13, 2007, pursuant to OAR 690-380-4000. No comments were filed in response to the notice.
8. On April 8, 2008, the Department mailed a copy of the draft Preliminary Determination proposing to approve Transfer Application T-10329 to the applicant. The draft Preliminary Determination set forth a deadline of May 8, 2008, 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.

9. On October 2, 2008, the Department issued a Preliminary Determination proposing to approve Transfer T-10329 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 October 14, 2008, and in the Canby Herald newspaper on November 5, 12 and 19, 2008, pursuant to ORS 540.520 and OAR 690-380-4020. No protests were filed in response to the notice.

Transfer Review Criteria (OAR 690-380-4010)

10. Water has been used within the last five years according to the terms and conditions of the right, and there is no information in the record that would demonstrate that the right is subject to forfeiture under ORS 540.610.
11. 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 Application T-10329.
12. Because of the change in character of use from irrigation to industrial purposes for the 1.0 acre portion of land described in Finding #3 above, the proposed transfer could result in enlargement if not limited to the maximum rate and annual volume of water claimed for that 1.0 acre of irrigation. However, the Department has determined the proposed changes, as conditioned below, would not result in enlargement of the right.
13. The proposed changes would not result in injury to other water rights.

Conclusions of Law


The changes in point of appropriation and character of use proposed in Transfer Application T-10329 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. The changes in point of appropriation and character of use proposed in Transfer Application T-10329 are 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 33546 and any related decree.
3. Water right certificate 33546 is cancelled. A new certificate will be issued describing that portion of the right not affected by this transfer.
4. Water shall be acquired from the same aquifer (water source) as the original point of appropriation.
5. The quantity of water diverted at the new points of appropriation shall not exceed the quantity of water lawfully available at the original point of appropriation.

6. Water appropriated for industrial purposes on the 1.0 acre portion of land described in Finding #3 may be exercised at a maximum flow rate of 5.6 gpm (0.01 cfs), provided the total annual volume of water for industrial use does not exceed 2.5 acre-feet (814,625 gallons).
7. Prior to diverting water, the water user shall install an in-line flow meter or other suitable device for measuring and recording the quantity of water diverted. The type and plans of the measuring device must be approved by the Department prior to beginning construction and shall be installed under the general supervision of the Department. The water user shall maintain and operate the measuring device as required by the Department.
8. The approved changes shall be completed and full beneficial use of the water shall be made on or before **October 1, 2010**. A Claim of Beneficial Use prepared by a Certified Water Rights 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.
9. When satisfactory proof of the completed changes is received, a new certificate confirming the right transferred will be issued.

Dated at Salem, Oregon this 19th day of December 2008.


Phillip C. Ward, Director

Mailing date: JAN 02 2009