

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

In the Matter of Transfer Application) **FINAL ORDER APPROVING A**
T-12443, Marion County) **CHANGE IN PLACE OF USE**

Authority

Oregon Revised Statutes (ORS) 540.505 to 540.580 establish the process in which a water right holder may submit a request to transfer the point of diversion, 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

GOODING FARMS, INC.
5357 ST PAUL HWY
ST PAUL, OR 97137

Findings of Fact

1. On July 22, 2016, GOODING FARMS, INC. filed an application to change the place of use under Certificate 19469. The Department assigned the application number T-12443.
2. Notice of the application for transfer was published on August 9, 2016, pursuant to OAR 690-380-4000. No comments were filed in response to the notice.
3. On February 7, 2017, the Department contacted the applicant and the applicant's agent by written correspondence, for clarification of a deficiency in the location of the authorized lands listed on the Evidence of Use Affidavit and Table 2 of the Application form. The Department requested that the deficiency be resolved by March 16, 2017.
4. On March 3, 2017, the Department received a revised Evidence of Use Affidavit.

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 March 16, 2017, the Department mailed a copy of the draft Preliminary Determination proposing to approve Transfer Application T-12443 to the applicant. The draft Preliminary Determination cover letter set forth a deadline of April 14, 2017, for the applicant to respond. The applicant's agent 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.
6. On May 1, 2017, the Department issued a Preliminary Determination proposing to approve Transfer T-12443 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 May 9, 2017, pursuant to ORS 540.520 and OAR 690-380-4020. No protests were filed in response to the notice.
7. The portion of the right to be transferred is as follows:

Certificate: 19469 in the name of BURNELL OLSON
(perfected under Permit S-18054)

Use: IRRIGATION of 15.5 ACRES

Priority Date: OCTOBER 28, 1947

Rate: 0.19 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: WILLAMETTE RIVER, a tributary of COLUMBIA RIVER

Authorized Point of Diversion:

Twp	Rng	Mer	Sec	Q-Q	DLC	Measured Distance
4 S	3 W	WM	1	NW SE	70	NONE

Authorized Place of Use:

IRRIGATION						
Twp	Rng	Mer	Sec	Q-Q	DLC	Acres
4 S	3 W	WM	1	SE NE	70	8.9
4 S	3 W	WM	1	NE SE	70	6.6
TOTAL						15.5

8. Certificate 19469 does not describe the location of the point of diversion, however information is available from Permit S-43135 (Certificate 86107) indicating that the point of diversion is located as follows:

Twp	Rng	Mer	Sec	Q-Q	DLC	Survey Coordinates
4 S	3 W	WM	1	NW SE	70	POD #1 - 1750 FEET NORTH AND 2000 FEET WEST FROM THE SE CORNER OF SECTION 1

9. Transfer Application T-12443 proposes to change the place of use of the right to:

IRRIGATION						
Twp	Rng	Mer	Sec	Q-Q	DLC	Acres
4 S	2 W	WM	6	NW SW	37	15.5

Transfer Review Criteria [OAR 690-380-4010(2)]

- 10. 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.
- 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 Transfer Application T-12443.
- 12. The proposed change would not result in enlargement of the right.
- 13. 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-12443 is consistent with the requirements of ORS 540.505 to 540.580 and OAR 690-380-5000.

Now, therefore, it is ORDERED:

- 1. The change in place of use proposed in Transfer Application T-12443 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 19469 and any related decree.
- 3. Water right Certificate 19469 is cancelled. A new certificate will be issued describing that portion of the right not affected by this transfer.
- 4. The former place of use of the transferred right shall no longer receive water under the right.
- 5. 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.

6. After satisfactory proof of beneficial use is received, a new certificate confirming the right transferred will be issued.

Dated at Salem, Oregon this 14 day of June, 2017.



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

Mailing date: JUN 19 2017