

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

In the Matter of Transfer Application)	FINAL ORDER APPROVING
T-12561, Yamhill County)	ADDITIONAL POINTS OF
)	DIVERSION, A CHANGE IN PLACE
)	OF USE, AND A PARTIAL
)	DIMINUTION OF A GROUNDWATER
)	CERTIFICATE OF REGISTRATION

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

ROBINSON FARM LLC
C/O RICHARD ROBINSON
PO BOX 100
AMITY, OR 97101

Findings of Fact

1. On January 9, 2017, ROBINSON FARM LLC c/o RICHARD ROBINSON filed an application for additional points of diversion under Certificate 89239 and to change the place of use under Certificates 76822, 76824, and 89239. The Department assigned the application number T-12561.
2. Notice of the application for transfer was published on January 24, 2017, pursuant to OAR 690-380-4000. No comments were filed in response to the notice.
3. On April 20, 2018, the Department contacted Robinson Farm LLC by written correspondence to notify the applicant and the applicant's agent of the deficiencies in the application. The Department requested that the deficiencies be resolved by May 21, 2018.

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.

4. On May 18, 2018, the Department received revised maps to correctly identify the acres being transferred.
5. On June 12, 2018, the Department mailed a copy of the draft Preliminary Determination proposing to approve Transfer Application T-12561 to the applicant. The draft Preliminary Determination cover letter set forth a deadline of July 13, 2018, 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.
6. On June 28, 2018, the Department issued a Preliminary Determination proposing to approve Transfer T-12561 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 July 3, 2018, and in the News Register newspaper on July 3 and July 10, 2018 pursuant to ORS 540.520 and OAR 690-380-4020. No protests were filed in response to the notice.
7. On July 5, 2018, the applicant submitted an Affidavit for the Partial Diminution of a Ground Water Certificate of Registration.
8. The portion of the first right to be transferred is as follows:

Certificate: 76822 in the name of TRESTLE VIEW FARMS (perfected under Permit S-13718)

Use: IRRIGATION of 6.53 ACRES

Priority Date: MAY 15, 1939

Rate: 0.08 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 for each acre irrigated during the irrigation season of each year.

Source: SOUTH YAMHILL RIVER, a tributary of the YAMHILL RIVER

Authorized Point of Diversion:

Twp	Rng	Mer	Sec	Q-Q	DLC	Measured Distances
5 S	4 W	WM	5	SW NE	38	378 FEET NORTH AND 620 FEET EAST FROM THE EASTERLY SE CORNER OF DLC 37

Authorized Place of Use:

IRRIGATION							
Twp	Rng	Mer	Sec	Q-Q	GLot	DLC	Acres
5 S	4 W	WM	5	SW NE		40	0.80
5 S	4 W	WM	5	SE NW	1		0.30
5 S	4 W	WM	5	SE NW		40	5.20
5 S	4 W	WM	5	NE SW		40	0.03
5 S	4 W	WM	5	NW SE		40	0.20
Total							6.53

9. Transfer Application T-12561 proposes to change the place of use of the right to:

IRRIGATION						
Twp	Rng	Mer	Sec	Q-Q	DLC	Acres
5 S	4 W	WM	7	NE SE	43	6.53

10. The portion of the second right to be transferred is as follows:

Certificate: 76824 in the name of TRESTLE VIEW FARMS (perfected under Permit S-30415)

Use: IRRIGATION of 18.7 ACRES

Priority Date: APRIL 30, 1965

Rate: 0.23 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.

Source: SOUTH YAMHILL RIVER, a tributary of the YAMHILL RIVER

Authorized Point of Diversion:

Twp	Rng	Mer	Sec	Q-Q	DLC	Measured Distances
5 S	4 W	WM	5	SW NE	38	378 FEET NORTH AND 620 FEET EAST FROM THE EASTERLY SE CORNER OF DLC 37

Authorized Place of Use:

IRRIGATION							
Twp	Rng	Mer	Sec	Q-Q	GLot	DLC	Acres
5 S	4 W	WM	5	SW NE		38	5.2
5 S	4 W	WM	5	SW NE	1		0.6
5 S	4 W	WM	5	SW NE		40	0.7
5 S	4 W	WM	5	SE NW		38	2.5
5 S	4 W	WM	5	SE NW	1		1.0
5 S	4 W	WM	5	SE SW		40	3.0
5 S	4 W	WM	8	NE NW		40	5.7
Total							18.7

11. Transfer Application T-12561 proposes to change the place of use of the right to:

IRRIGATION						
Twp	Rng	Mer	Sec	Q-Q	DLC	Acres
5 S	4 W	WM	7	SW NE	43	2.0
5 S	4 W	WM	7	SE NE	43	8.9
5 S	4 W	WM	7	NE SE	43	6.4
5 S	4 W	WM	7	NW SE	43	1.4
Total						18.7

12. The portion of the third right to be transferred is as follows:

Certificate: 89239 in the name of CHARLIE W. REED (perfected under Permit S-19336)

Use: IRRIGATION of 7.2 ACRES

Priority Date: SEPTEMBER 14, 1949

Rate: 0.09 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, and shall conform to such reasonable rotation system as may be ordered by the proper state officer.

Source: SOUTH YAMHILL RIVER, a tributary to the YAMHILL RIVER

Authorized Point of Diversion:

Twp	Rng	Mer	Sec	Q-Q	DLC
5 S	4 W	WM	6	SE SE	37

Authorized Place of Use:

IRRIGATION							
Twp	Rng	Mer	Sec	Q-Q	GLot	DLC	Acres
5 S	4 W	WM	6	NW SE	4		0.5
5 S	4 W	WM	6	SW SE	3		1.7
5 S	4 W	WM	6	SE SE		37	2.0
5 S	4 W	WM	7	NE NE	8		1.6
5 S	4 W	WM	7	NW NE			1.4
Total							7.2

13. Transfer Application T-12561 proposes additional points of diversion to:

Twp	Rng	Mer	Sec	Q-Q	DLC	Measured Distances	Approximate distance downstream from original point of diversion in miles
5 S	4 W	WM	5	SE NW	38	TRESHAM POD - 378 FEET NORTH AND 620 FEET EAST FROM THE EASTERLY SE CORNER OF DLC 37	1.5 miles
5 S	4 W	WM	5	SW NW	40	ROBINSON POD - 375 FEET SOUTH AND 1880 FEET WEST FROM THE EASTERLY SE CORNER OF DLC 37	0.8 miles

14. Transfer Application T-12561 also proposes to change the place of use of the right to:

IRRIGATION						
Twp	Rng	Mer	Sec	Q-Q	DLC	Acres
5 S	4 W	WM	7	SE NE	43	7.2

15. The Department has determined that the lands to which the portions of Certificates 76822, 76824, and 89239 are to move to are already covered by Groundwater Registration Application GR-2000, Registration Certificate GR-1930.

16. The Oregon Department of Fish and Wildlife (ODFW) has determined that a fish screening and/or by-pass device is necessary at the new point of diversion to prevent fish from entering the diversion and/or safely transport fish back to the body of water from which the fish were diverted and that the diversion is not currently equipped with an appropriate fish screening and/or by-pass device. This diversion may be eligible for screening cost share funds.

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

17. 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 that the rights are subject to forfeiture under ORS 540.610.

18. 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-12561.

19. The proposed changes would not result in enlargement of the rights.

20. The proposed changes would not result in injury to other water rights.

21. All other application requirements are met.

Partial Diminution of a Groundwater Certificate of Registration

22. On July 5, 2018, the applicant submitted an Affidavit for the Partial Diminution of a Groundwater Registration. The portion of the registration to be diminished is as follows:

GR Application: GR-2000 in the name of Robinson Farms, LLC, Richard Robinson (Groundwater Registration Certificate GR-1930)

Use: Irrigation of 32.43 acres

Tentative

Priority Date: July 1954

Rate: 0.22 cfs (98.7 gallons per minute)

Source: A well, tributary to Salt Creek

Authorized Point of Appropriation:

Twp	Rng	Mer	Sec	Q-Q	DLC	Measured Distances
5 S	4 W	WM	7	SE NE	43	WELL 2: 2400 FEET SOUTH AND 85 FEET WEST FROM THE NE CORNER OF SECTION 7

Authorized Place of Use to be Diminished:

IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
5 S	4 W	WM	7	SW NE	2.00
5 S	4 W	WM	7	SE NE	16.10
5 S	4 W	WM	7	NE SE	12.93
5 S	4 W	WM	7	NW SE	1.40
Total					32.43

Conclusions of Law

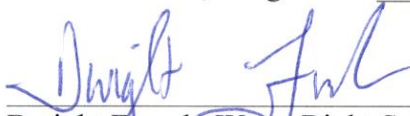
The additional points of diversion and change in place of use proposed in Transfer Application T-12561 are consistent with the requirements of ORS 540.505 to 540.580 and OAR 690-380-5000.

Now, therefore, it is ORDERED:

1. The additional points of diversion and change in place of use proposed in Transfer Application T-12561 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 Certificates 76822, 76824, and 89239, and any related decree.
3. Water right Certificates 76822, 76824, and 89239 are cancelled. New certificates will be issued describing that portion of the rights not affected by this transfer.
4. The quantity of water diverted at the additional points of diversion (Tresham and Robinson POD), together with that diverted at the original point of diversion (Reed POD), shall not exceed the quantity of water lawfully available at the original point of diversion (Reed POD).

5. Water use measurement conditions:
 - a. Before water use may begin under this order, the water user shall install a totalizing flow meter, or, with prior approval of the Director, another suitable measuring device, at each point of diversion (new and existing).
 - b. The water user shall maintain the meters or measuring devices in good working order.
 - c. The water user shall allow the Watermaster access to the meters or measuring devices; provided however, where the meters or measuring devices are located within a private structure, the Watermaster shall request access upon reasonable notice.
6. Prior to diverting water, the water user shall install a fish screening and/or by-pass device, as appropriate, at the new point of diversion consistent with the Oregon Department of Fish and Wildlife's (ODFW) design and construction standards. Prior to installation, the water user shall obtain written approval from ODFW that the required screen and/or by-pass device meets ODFW's criteria. Prior to submitting a Claim of Beneficial Use, the water user must obtain written approval from ODFW that the required screening and/or by-pass device was installed to the state's criteria. The water user shall maintain and operate the fish screen and/or by-pass device, as appropriate, at the point of diversion consistent with ODFW's operational and maintenance standards.
7. The former place of use of the transferred rights shall no longer receive water under the rights.
8. Full beneficial use of the water shall be made, consistent with the terms of this order, on or before **October 1, 2019**. 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 changes and full beneficial use of the water.
9. After satisfactory proof of beneficial use is received, new certificates confirming the rights transferred will be issued.

Dated at Salem, Oregon this AUG 14 2018.



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

Mailing date: AUG 15 2018