

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

In the Matter of Transfer Application            )     PRELIMINARY DETERMINATION  
T-12036, Polk County                            )     PROPOSING APPROVAL OF A  
  )     CHANGE IN POINTS 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**

ACMPC OREGON 2 LLC  
DBA HALLS FERRY FARMS  
PO BOX 717  
JEFFERSON, OR 97352

**Findings of Fact**

1. On April 16, 2015, ACMPC OREGON 2, LLC (dba Halls Ferry Farms) filed an application to change the points of appropriation under Certificates 28469 and 68265. The Department assigned the application number T-12036.
2. Notice of the application for transfer was published on April 28, 2015, pursuant to OAR 690-380-4000. No comments were filed in response to the notice.
3. On April 4, 2016, the Department mailed a copy of the draft Preliminary Determination proposing to approve Transfer Application T-12036 to the applicant. The draft Preliminary Determination cover letter set forth a deadline of May 4, 2016, 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.

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

**Certificate:** 28469 in the name of GORDON DAGUE (perfected under Permit G-431)  
**Use:** IRRIGATION of 28.8 ACRES  
**Priority Date:** JANUARY 9, 1957  
**Rate:** 0.36 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 cubic foot per second per acre, or its equivalent for

Pursuant to OAR 690-380-4030, any person may file a protest or standing statement within 30 days after the last date of publication of notice of this preliminary determination.

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:** A WELL, tributary of WILLAMETTE RIVER BASIN

**Authorized Point of Appropriation:**

Twp	Rng	Mer	Sec	Q-Q	DLC	Measured Distances
7 S	4 W	WM	36	SE NW	60	40 FEET NORTH AND 600 FEET WEST FROM THE SE CORNER OF DLC 60

**Authorized Place of Use:**

IRRIGATION						
Twp	Rng	Mer	Sec	Q-Q	DLC	Acres
7 S	4 W	WM	36	SW NE	60	4.1
7 S	4 W	WM	36	SW NE	61	7.9
7 S	4 W	WM	36	SE NW	60	16.8
Total						28.8

5. Transfer Application T-12036 proposes to move the authorized point of appropriation approximately 65 feet from the existing point of appropriation to:

Twp	Rng	Mer	Sec	Q-Q	GPS Coordinates
7 S	4 W	WM	36	SE NW	NEW WELL 12 - LATITUDE 44.919614 LONGITUDE -123.123632

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

**Certificate:** 68265 in the name of GREEN VILLA FARMS (perfected under Permit G-8684)

**Use:** IRRIGATION OF 118.4 ACRES AND SUPPLEMENTAL IRRIGATION OF 123.1 ACRES

**Priority Date:** APRIL 3, 1978

**Rate:** 3.02 CUBIC FEET PER SECOND, BEING 0.28 CFS FROM WELL 3, 0.82 CFS FROM WELL 5, AND 1.92 CFS FROM WELL 7 or its equivalent in case of rotation, measured at the well.

**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 cubic foot per second (or its equivalent) and 2.5 acre-feet for each acre irrigated during the irrigation season of each year. This right is limited to any deficiency in the available supply of any prior right existing for the same land.

**Source:** THREE WELLS in the WILLAMETTE RIVER BASIN

**Authorized Points of Appropriation:**

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
8 S	4 W	WM	2	NE SW	WELL 7 - 1525 FEET NORTH AND 1485 FEET EAST FROM THE SW CORNER OF SECTION 2
8 S	4 W	WM	2	SE SW	WELL 5 - 1310 FEET NORTH AND 2050 FEET EAST FROM THE SW CORNER OF SECTION 2
8 S	4 W	WM	11	NW NW	WELL 3 - 865 FEET SOUTH AND 700 FEET EAST FROM THE SW CORNER OF SECTION 2

**Authorized Place of Use:**

IRRIGATION								
Well #	Twp	Rng	Mer	Sec	Q-Q	GLot	DLC	Acres
5, 7	8 S	4 W	WM	2	SW SW		60	7.3
5, 7	8 S	4 W	WM	2	SW SW	6		10.9
5, 7	8 S	4 W	WM	2	SE SW			31.9
5, 7	8 S	4 W	WM	2	SW SE			3.7
3	8 S	4 W	WM	10	SE NE	4		12.8
5, 7	8 S	4 W	WM	11	NW NE			12.0
5, 7	8 S	4 W	WM	11	SW NE			7.0
5, 7	8 S	4 W	WM	11	NE NW			15.0
3	8 S	4 W	WM	11	SW NW	7		8.9
5, 7	8 S	4 W	WM	11	SE NW	6		8.9
<b>Total</b>								<b>118.4</b>

SUPPLEMENTAL IRRIGATION								
Well #	Twp	Rng	Mer	Sec	Q-Q	GLot	DLC	Acres
5, 7	8 S	4 W	WM	2	SE SW			8.1
5, 7	8 S	4 W	WM	2	SW SE			23.0
5, 7	8 S	4 W	WM	11	NW NE			9.5
5, 7	8 S	4 W	WM	11	NE NW			25.0
5, 7	8 S	4 W	WM	11	NW NW			17.9
5, 7	8 S	4 W	WM	11	SW NW	7		12.0
5, 7	8 S	4 W	WM	11	SE NW	6		27.6
<b>Total</b>								<b>123.1</b>

7. Transfer Application T-12036 proposes to move the authorized point of appropriation, Well 5, approximately 52 feet from the existing point of appropriation to:

Twp	Rng	Mer	Sec	Q-Q	GPS Coordinates
8 S	4 W	WM	2	NE SW	NEW WELL 5 – LATITUDE 44.901671 LONGITUDE -123.145761

**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 rights. There is no information in the record that would demonstrate that the rights are 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 rights were present within the five-year period prior to submittal of Transfer Application T-12036.
10. The proposed change would not result in enlargement of the rights.
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 points of appropriation proposed in Transfer Application T-12036 appears to be consistent with the requirements of ORS 537.705 and 540.505 to 540.580 and OAR 690-380-5000. If protests are not filed pursuant to OAR 690-380-4030, the application will be approved.

*If Transfer Application T-12036 is approved, the final order will include the following:*

1. *The change in points of appropriation proposed in Transfer Application T-12036 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 Certificates 28469 and 68265 and any related decree.*
3. *Water right Certificates 28469 and 68265 are cancelled.*
4. *The quantity of water diverted at the new points of appropriation, shall not exceed the quantity of water lawfully available at the original points 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, 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 changes and full beneficial use of the water.*
7. *After satisfactory proof of beneficial use is received, new certificates confirming the rights transferred will be issued.*

Dated at Salem, Oregon this 21 day of April, 2016.



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

This Preliminary Determination was prepared by Sarah Henderson. If you have questions about the information in this document, you may reach me at 503-986-0890 or [Sarah.A.Henderson@wrds.state.or.us](mailto:Sarah.A.Henderson@wrds.state.or.us).

*Protests should be addressed to the attention of Water Rights Division, Water Resources Department, 725 Summer St. NE, Suite A, Salem, OR 97301-1266.*

**Notice Regarding Service Members:** Active duty service members have a right to stay proceedings under the federal Service Members Civil Relief Act. 50 U.S.C. App. §§501-597b. You may contact the Oregon State Bar or the Oregon Military Department for more information. The toll-free telephone number for the Oregon State Bar is: 1 (800) 452-8260. The toll-free telephone number of the Oregon Military Department is: 1 (800) 452-7500. The Internet address for the United States Armed Forces Legal Assistance Legal Services Locator website is: <http://legalassistance.law.af.mil>



# Oregon

Kate Brown, Governor

## Water Resources Department

725 Summer St NE, Suite A

Salem, OR 97301

(503) 986-0900

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April ~~21~~, 2016

VIA E-MAIL

ACMPC OREGON 2 LLC  
DBA HALLS FERRY FARMS  
PO BOX 717  
JEFFERSON, OR 97352

SUBJECT: Water Right Transfer Application T-12036

Please find enclosed the Preliminary Determination indicating that, based on the information available, the Department intends to approve application T-12036. This document is an intermediate step in the approval process; water may not be used legally as proposed in the transfer application until a Final Order has been issued by the Department. Please read this entire letter carefully to determine your responsibility for additional action.

A public notice is being published in the Department's weekly publication, simultaneously with issuance of the Preliminary Determination. The notice initiates a period in which any person may file either a protest opposing the decision proposed by the Department in the Preliminary Determination or a standing statement supporting the Department's decision. The protest period will end 30 days after the Department's notice.

If no protest is filed, the Department will issue a Final Order consistent with the Preliminary Determination. You should receive a copy of the Final Order about 30 days after the close of the protest period.

If a protest is filed, the application may be referred to a contested case proceeding. A contested case provides an opportunity for the proponents and opponents of the decision proposed in the Preliminary Determination to present information and arguments supporting their position in a quasi-judicial proceeding.

Please do not hesitate to contact me at 503-986-0890 or [Sarah.A.Henderson@wrdd.state.or.us](mailto:Sarah.A.Henderson@wrdd.state.or.us) if I may be of assistance.

Sincerely,

Sarah Henderson  
Transfer Specialist  
Transfer and Conservation Section

cc: Transfer Application file T-12036  
Joel M. Plahn, District 16 Watermaster (*via e-mail*)  
Eric Pond, Agent for the applicant (*via e-mail*)  
Will McGill, CWRE # (*via e-mail*)

encs