

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

In the Matter of Transfer Application	)	PRELIMINARY DETERMINATION
T-12561, Yamhill County	)	PROPOSING APPROVAL OF
	)	ADDITIONAL POINTS OF
	)	DIVERSION, A CHANGE IN PLACE
	)	OF USE, AND A PARTIAL
	)	DIMINUTION OF A GROUNDWATER
	)	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.
4. On May 18, 2018, the Department received revised maps to correctly identify the acres being transferred.

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.

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. 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

7. 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

8. 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

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	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

10. 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

11. 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

12. 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

13. 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.
14. 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)]**

- 15. 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.
- 16. 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.
- 17. The proposed changes would not result in enlargement of the rights.
- 18. The proposed changes would not result in injury to other water rights.
- 19. All other application requirements are met.

**Partial Diminution of a Groundwater Registration**

- 20. On May 25, 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

**Determination and Proposed Action**

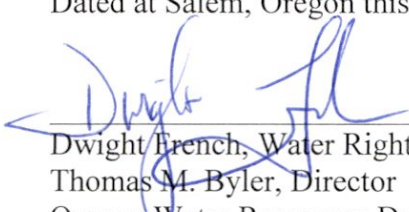
The additional points of diversion and change in place of use proposed in Transfer Application T-12561 appear to be consistent with the requirements of ORS 540.505 to 540.580 and OAR 690-380-5000. If protests are not filed pursuant to OAR 690-380-4030, the transfer application will be approved.

*If Transfer Application T-12561 is approved, the final order will include the following:*

- 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 JUN 28 2018.

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

This Preliminary Determination was prepared by Corey Courchane. If you have questions about the information in this document, you may reach me at 503-986-0825 or [corey.a.courchane@oregon.gov](mailto:corey.a.courchane@oregon.gov)

*Protests should be addressed to the attention of Water Rights Services 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>