

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

In the Matter of Transfer Application)	PRELIMINARY DETERMINATION
T-12752, Linn County)	PROPOSING APPROVAL OF A
)	CHANGE IN POINT OF
)	APPROPRIATION

Authority

Oregon Revised Statutes (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 Rules (OAR) Chapter 690, Division 380 implement the statutes and provides the Department’s procedures and criteria for evaluating transfer applications.

Applicant

DEVER FARMS, INC.
DAVID CHAMBERS
39338 GROSHONG RD NE
ALBANY, OR 97321

Findings of Fact

1. On September 25, 2017, DEVER FARMS, INC., DAVID CHAMBERS filed an application to change the point of appropriation under Certificate 27413. The Department assigned the application number T-12752.
2. Notice of the application for transfer was published on October 3, 2017, pursuant to OAR 690-380-4000. No comments were filed in response to the notice.
3. On October 15, 2018, the Department contacted the applicant 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 November 13, 2018. No response was received.
4. On November 14, 2018, the Department contacted the applicant 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 December 14, 2018.
5. On December 10, 2018, the applicant’s agent submitted a revised Table 1 and map, and Evidence of Use supporting documentation, resolving the deficiencies.

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.

6. On January 3, 2019, the Department mailed a copy of the draft Preliminary Determination proposing to approve Transfer Application T-12752 to the applicant. The draft Preliminary Determination cover letter set forth a deadline of February 1, 2019, for the applicant to respond.
7. On January 31, 2019, the applicant's agent requested additional time to submit the requested materials. The Department set forth a deadline of March 1, 2019, 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

8. The right to be transferred is as follows:

Certificate: 27413 in the name of F. J. AND VIRGINIA STAUBLE (perfected under Permit G-256)
Use: IRRIGATION of 43.0 ACRES
Priority Date: MAY 31, 1956
Rate: 0.54 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: STAUBLE WELL #1, a tributary of CROOKS CREEK

Authorized Point of Appropriation:

Twp	Rng	Mer	Sec	Q-Q	DLC	Measured Distances
10 S	3 W	WM	7	SE NW	72	SOUTH 6 DEGREES 10 MINUTES EAST 15 CHAINS FROM THE NE CORNER OF DLC 71

Authorized Place of Use:

IRRIGATION						
Twp	Rng	Mer	Sec	Q-Q	DLC	Acres
10 S	3 W	WM	7	SE NW	72	9.0
10 S	3 W	WM	7	NE SW	72	26.6
10 S	3 W	WM	7	SE SW	72	7.4
Total						43.0

9. Transfer Application T-12752 proposes to move the authorized point of appropriation approximately 69 feet NE from the existing point of appropriation to:

Twp	Rng	Mer	Sec	Q-Q	DLC	Measured Distances
10 S	3 W	WM	7	SE NW	72	2270 FEET SOUTH AND 1919 FEET EAST FROM THE NW CORNER OF SECTION 7

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. 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-12752.
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.
14. All other application requirements are met.

Determination and Proposed Action

The change in point of appropriation proposed in Transfer Application T-12752 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-12752 is approved, the final order will include the following:

1. *The change in point of appropriation proposed in Transfer Application T-12752 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 27413 and any related decree.*
3. *Water right Certificate 27413 is cancelled.*
4. *The quantity of water diverted at the new point of appropriation, shall not exceed the quantity of water lawfully available at the original point of appropriation.*
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 appropriation.*
 - 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 meter or measuring device; provided however, where the meter or measuring device is located within a private structure, the Watermaster shall request access upon reasonable notice.*
6. *Water shall be acquired from the same aquifer (water source) as the original point of appropriation.*

7. *Full beneficial use of the water shall be made, consistent with the terms of this order, on or before **October 1, 2020**. 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.*
8. *After satisfactory proof of beneficial use is received, a new certificate confirming the right transferred will be issued.*

Dated at Salem, Oregon this **MAR 21** 2019 ,



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

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>