

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

In the Matter of Transfer Application                    )    PRELIMINARY DETERMINATION  
T-8290, Clackamas County                                )    PROPOSING APPROVAL OF A  
  )    CHANGE IN PLACE OF USE

**Authority**

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 diversion, place of use, or character of use authorized under an existing water right. OAR Chapter 690, Division 380 implements the statutes and provides the Department's procedures and criteria for evaluating transfer applications.

**Applicant**

IVERSON BROTHERS BULB FARM, INC.  
33739 MERIDIAN RD  
WOODBURN, OR 97071

**Receiving Landowner**

MARVIN RUFFING  
4904 ELLIOT PRAIRIE RD  
WOODBURN, OR 97071

**Findings of Fact**

**Background**

1. On June 10, 1999, Iverson Brothers Bulb Farm, Inc. filed an application to change the place of use under Certificates 23055 and 27752. The Department assigned the application number T-8290.
2. Certificates 23055 and 27752 were superseded by Certificates 83366 and 83367 respectively.
3. The receiving landowner will be responsible for completion of the proposed changes.
4. The entirety of the first right to be transferred is as follows:

**Certificate:** 83366 in the name of MARVIN L. and CHRISTINE B. RUFFING (perfected under Permit S-20957)

**Use:** IRRIGATION of 10.9 ACRES

**Priority Date:** APRIL 17, 1950

**Rate:** 0.124 CUBIC FOOT PER SECOND (cfs)

**Limit/Duty:** ONE-EIGHTIETH cfs per acre, not to exceed 2.5 acre-feet per acre during the irrigation season of each year

**Source:** AN UNNAMED STREAM, tributary to BUTTE CREEK

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.

**Authorized Point of Diversion:**

Twp	Rng	Mer	Sec	Q-Q	DLC	Survey Coordinates
5 S	1 W	WM	23	SE NE	CHASE DLC 46	1530 FEET SOUTH AND 1540 FEET EAST FROM THE NW CORNER OF CHASE DLC 46

**Authorized Place of Use:**

IRRIGATION						
Twp	Rng	Mer	Sec	Q-Q	DLC	Acres
5 S	1 W	WM	24	SW NW	CHASE DLC 46	10.9

5. Transfer Application T-8290 proposes to change the place of use of the right to:

IRRIGATION						
Twp	Rng	Mer	Sec	Q-Q	DLC	Acres
5 S	1 W	WM	23	NE NE	CHASE DLC 46	6.9
5 S	1 W	WM	23	NW NE	CHASE DLC46	4.0

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

**Certificate:** 83367 in the name of MARVIN L. AND CHRISTINE B. RUFFING (perfected under Permit G-366)

**Use:** IRRIGATION OF 11.1 ACRES AND SUPPLEMENTAL IRRIGATION of 10.9 ACRES

**Priority Date:** JUNE 19, 1956

**Rate:** 0.24 CUBIC FOOT PER SECOND (cfs)

**Limit/Duty:** ONE-EIGHTIETH cfs per acre, not to exceed 2.5 acre-feet per acre during the irrigation season

**Source:** A WELL in the BUTTE CREEK BASIN

**Authorized Point of Appropriation:**

Twp	Rng	Mer	Sec	Q-Q	DLC	Survey Coordinates
5 S	1 W	WM	23	NE NE	CHASE DLC 46	12 CHAINS SOUTH AND 23.5 CHAINS EAST FROM THE NW CORNER OF DLC 46

**Authorized Place of Use:**

IRRIGATION						
Twp	Rng	Mer	Sec	Q-Q	DLC	Acres
5 S	1 W	WM	23	SE NE	CHASE DLC 46	11.1

SUPPLEMENTAL IRRIGATION						
Twp	Rng	Mer	Sec	Q-Q	DLC	Acres
5 S	1 W	WM	24	SW NW	CHASE DLC 46	10.9

7. Transfer Application T-8290 proposes to change the place of use of the right to:

IRRIGATION						
Twp	Rng	Mer	Sec	Q-Q	DLC	Acres
5 S	1 W	WM	23	NE NE	CHASE DLC 46	7.2
5 S	1 W	WM	23	NW NE	CHASE DLC 46	3.9

SUPPLEMENTAL IRRIGATION						
Twp	Rng	Mer	Sec	Q-Q	DLC	Acres
5 S	1 W	WM	23	NE NE	CHASE DLC 46	6.9
5 S	1 W	WM	23	NW NE	CHASE DLC 46	4.0

8. Notice of the application for transfer was published on June 22, 1999, pursuant to OAR 690-380-4000. No comments were filed in response to the notice.
9. On July 18, 2007, the Department mailed a copy of the *draft* Preliminary Determination proposing to approve Transfer Application T-8290 to the applicant. The cover letter that accompanied the *draft* Preliminary Determination set forth a deadline of August 20, 2007, for the applicant to respond with comments. The applicant did not submit any comments by the deadline.

***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 rights, and there is no information in the record that would demonstrate that the rights are 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 rights were present within the five-year period prior to submittal of Application T-8290.
12. The proposed change would not result in enlargement of the rights.
13. The proposed change would not result in injury to other water rights.

**Determination and Proposed Action**


The change in place of use proposed in Transfer Application T-8290 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 application T-8290 is approved, the final order will include the following:*

1. *The change in place of use proposed in application T-8290 is approved.*
2. *Water right certificates 83366 and 83367 are cancelled.*

3. *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 83366 and 83367 and any related decree.*
4. *The former place of use of the transferred rights shall no longer receive water under the rights.*
5. *When required by the Department, the water user shall install, maintain and operate an in-line flow meter, weir, or other suitable device for measuring and recording the quantity of water diverted. The type and plans of the measuring device must be approved by the Department prior to beginning construction and shall be installed under the general supervision of the Department.*
6. *The approved changes shall be completed and full beneficial use of the water shall be made on or before October 1, 2008. A Claim of Beneficial Use prepared by a Certified Water Rights 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. *When satisfactory proof of the completed change is received, new certificates confirming the rights transferred will be issued.*

Dated at Salem, Oregon this 28<sup>th</sup> day of August 2007.

  
Phillip C. Ward, Director

This Preliminary Determination was prepared by Susan Douthit. If you have questions about the information in this document, you may reach me at 503-986-0858 or Susan.M.Douthit@wrdd.state.or.us.

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