BEFORE THE WATER RESOURCES DEPARTMENT OF THE STATE OF OREGON

In the Matter of Transfer Application)	FINAL ORDER APPROVING A CHANGE IN
T-13808, Lake County)	POINT OF APPROPRIATION AND CHANGE
)	IN PLACE OF USE

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

JUSTIN R. AND JAYNA L. FERRELL 29261 ABERT RIM RD. LAKEVIEW, OR 97630

Findings of Fact

- 1. On August 30, 2021, JUSTIN R. AND JAYNA L. FERRELL filed an application for a change in point of appropriation and to change the place of use under Certificate 46978. The Department assigned the application number T-13808.
- 2. Notice of the application for transfer was published on September 7, 2021, pursuant to OAR 690-380-4000. No comments were filed in response to the notice.
- 3. On February 15, 2022, the agent for the applicant submitted a revised Table 2 to reflect the correct acreage for the lands to be transferred.
- 4. On November 28, 2022, the Department sent a copy of the draft Preliminary Determination proposing to deny Transfer Application T-13808 to the applicant. The draft Preliminary Determination cover letter set forth a deadline of December 28, 2022, for the applicant to respond. The applicant provided additional evidence of use and 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.

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.

- 6. The portion of the right to be transferred is as follows:

Certificate:

46978 in the name of JACK & VIRGINIA BRIDGMAN (perfected under Permit

G-6240)

Use:

IRRIGATION of 82.62 ACRES

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Priority Date: OCTOBER 16, 1974

Rate:

0.8 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 3.0 acre-feet per acre for each acre irrigated during the irrigation season of

each year.

Source:

BRIDGMAN WELL, a tributary of THOMAS CREEK

Authorized Point of Appropriation:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances	
38 S	19 E	WM	25	NW NE	630 FEET SOUTH AND 1260 FEET EAST FROM THE N1/4 CORNER OF SECTION 15	

Authorized Place of Use:

IRRIGATION						
Twp	Rng	Mer	Sec	Q-Q	Acres	
38 S	19 E	WM	24	NE SE	7.55	
38 S	.19 E	WM	24	NW SE	10.78	
38 S	19 E	WM	24	SW SE	12.53	
38 S	19 E	WM	24	SE SE	9.17	
38 S	19 E	WM	25	NE NE	5 <i>.</i> 83	
38 S	19 E	WM	.25	NW NE	5.57	
38 S	19 E	WM	25	SW NE	10.77	
38 S	19 E	WM	25	SE NE	11.02	
38 S	19 E	WM	25	NW SE	9.40	
		Total	82.62			

7. Transfer Application T-13808 proposes to move the authorized point of appropriation approximately 1.4 miles from the existing point of appropriation to:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
38 S	20 E	WM	31	SW NW	2532.5 FEET SOUTH AND 111.0 FEET EAST FROM THE NW CORNER OF SECTION 31

8. Transfer Application T-13808 also proposes to change the place of use of the right to:

IRRIGATION						
Twp	Rng	Mer	Sec	Q-Q	Acres	
38 S	20 E	WM	31	SW NW	7.69	
38 S	20 E	. WM	31	SE NW	0.67	
38 S	20 E	WM	31	NE SW	2.84	
38 S	20 E	WM	31	NW SW	35.57	
38·S	20 E	WM	31	SW SW	33.16	
38 S	20 E	WM	31	SE SW	2.69	
				Total	82.62	

9. The proposed place of use has existing surface water irrigation rights, as described in inchoate transfer T-9170.

Transfer Review Criteria (OAR 690-380-4010)

- 10. Evidence was submitted with the application indicating that water has been used within the last five years according to the terms and conditions of the right. The information in the record is not sufficient to initiate cancellation proceedings under ORS 540.631.
- 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-13808.
- 12. The proposed change would 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.

Conclusions of Law

The change in point of appropriation and change in place of use proposed in Transfer Application T-13808 are consistent with the requirements of ORS 537.705 and 540.505 to 540.580 and OAR 690-380-5000.

WHI / THA

Now, therefore, it is ORDERED:

- 1. The change in point of appropriation and change in place of use proposed in Transfer Application T-13808 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 Certificate 46978 and any related decree.
- 3. Water right Certificate 46978 is cancelled. A new certificate will be issued describing that portion of the right not affected by this transfer and cancellation.

- 4. The quantity of water diverted at the new point of appropriation (Well #2), shall not exceed the quantity of water lawfully available at the original point of appropriation (Bridgeman Well).
- 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 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. Water shall be acquired from the same aquifer (water source) as the original point of appropriation.
- 7. The former place of use of the transferred right shall no longer receive water under the right.
- 8. Full beneficial use of the water shall be made, consistent with the terms of this order, on or before **October 1, 2024**. 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, a new certificate confirming the right transferred will be issued.

Dated in Salem, Oregon on

APR 2 1 2023

Lisa J. Jaramillo, Transfer and Conservation Section Manager, for

DOUGLAS E. WOODCOCK, ACTING DIRECTOR

Oregon Water Resources Department

Mailing date: APR 2 5 2023