

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

In the Matter of Transfer Application)	FINAL ORDER APPROVING
T-13182, Marion County)	ADDITIONAL POINTS OF
)	APPROPRIATION AND CHANGE IN
)	PLACE OF USE

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

STEVEN V. AND
CONSTANCE A. JOHNSON
10404 HAZELGREEN RD
SILVERTON, OR 97381

Findings of Fact

1. On May 16, 2019, STEVEN V. AND CONSTANCE A. JOHNSON filed an application for additional points of appropriation and to change the place of use under Certificates 40143 and 94117. The Department assigned the application number T-13182.
2. Notice of the application for transfer was published on May 21, 2019, pursuant to OAR 690-380-4000. No comments were filed in response to the notice.
3. On May 23, 2019, the Department contacted the agent with some deficiencies in the application. The maps and tables required updates to match the acreage listed in the ownership update, received July 26, 2013.
4. On May 28, 2019, the agent responded with revisions for the requested tables and maps in the application.

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.

5. On June 10, 2019, the Department contacted the agent to clarify points in the application. The question was raised as to transferring a certain amount of acreage, or keeping it as a remaining right for certificate 40143.
6. On June 18, 2019, the agent verified that the applicant intends to transfer all of the acreage in certificate 40143.
7. On June 26, 2019, the Department mailed a copy of the draft Preliminary Determination proposing to approve Transfer Application T-13182 to the applicants. The draft Preliminary Determination cover letter set forth a deadline of July 27, 2019, for the applicant to respond. The applicant requested that the Department extend the Completion date to 10/1/2024 and to proceed with issuance of a Preliminary Determination and provided the necessary information to demonstrate that the applicant is authorized to pursue the transfer.
8. On August 27, 2019, the Department issued a Preliminary Determination proposing to approve Transfer T-13182 and mailed a copy to the applicant. Additionally, notice of the Preliminary Determination for the transfer application was published on the Department's weekly notice on August 27, 2019, and in the Silverton Appeal newspaper on November 6 and November 13, 2019, pursuant to ORS 540.520 and OAR 690-380-4020. No protests were filed in response to the notice.
9. The portion of the first right to be transferred is as follows:

Certificate: 40143 in the name of GEORGE VACHTER (perfected under Permit S-33568)

Use: IRRIGATION of 26.0 ACRES

Priority Date: MAY 13, 1968

Rate: 0.33 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: PUDDING RIVER, a tributary of WILLAMETTE RIVER

Authorized Point of Diversion:

Twp	Rng	Mer	Sec	Q-Q	DLC	Measured Distances
6 S	1 W	WM	32	SW NW	42	760 FEET NORTH AND 100 FEET EAST FROM THE SE CORNER OF DAVID H. SMITH DLC 42

Authorized Place of Use:

IRRIGATION						
Twp	Rng	Mer	Sec	Q-Q	DLC	Acres
6 S	1 W	WM	31	SE NE	42	9.4
6 S	1 W	WM	32	SW NW	42	16.6
TOTAL						26.0

10. Transfer application T-13182 proposes to change the place of use of the right to:

IRRIGATION						
Twp	Rng	Mer	Sec	Q-Q	DLC	Acres
6 S	1 W	WM	31	SE NE	42	1.7
6 S	1 W	WM	32	SW NW	42	16.6
6 S	1 W	WM	32	SW NW		3.9
6 S	1 W	WM	32	NW SW		3.8
TOTAL						26.0

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

Certificate: 94117 in the name of STEVE V. JOHNSON AND CONSTANCE A. JOHNSON (perfected under Permit G-11940)

Use: IRRIGATION of 40.0 ACRES

Priority Date: JUNE 24, 1992

Rate: 0.50 CUBIC FOOT PER SECOND (CFS), FURTHER LIMITED TO 0.50 CFS FROM WELL 1, 0.32 CFS FROM WELL 2, AND 0.48 CFS FROM WELL 3, NOT TO EXCEED A MAXIMUM CUMULATIVE TOTAL OF 0.50 CFS

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 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.

Period of Use: MARCH 1 THROUGH OCTOBER 31

Source: THREE WELLS IN WEST FORK LITTLE PUDDING RIVER BASIN

Authorized Points of Appropriation:

Twp	Rng	Mer	Sec	Q-Q	GLot	Measured Distances
6 S	1 W	WM	31	SE NE	1	WELL 1 - 40 FEET NORTH AND 510 FEET WEST FROM THE E1/4 CORNER OF SECTION 31
6 S	1 W	WM	31	NE SE		WELL 2 - 800 FEET SOUTH AND 520 FEET WEST FROM THE E1/4 CORNER OF SECTION 31
6 S	1 W	WM	31	SE NE	1	WELL 3 - 110 FEET NORTH AND 150 FEET WEST FROM THE E1/4 CORNER OF SECTION 31

Authorized Place of Use:

IRRIGATION								
Twp	Rng		Mer	Sec	Q-Q	GLot	DLC	Acres
6 S	1 W		WM	31	SE NE	1		0.4
6 S	1 W		WM	31	NE SE			11.6
6 S	1 W		WM	31	SE SE			11.9
6 S	1 W		WM	32	SW NW	2		4.7
6 S	1 W		WM	32	NW SW			8.2
6 S	1 W		WM	32	SW SW			3.2
TOTAL								40.0

12. Transfer Application T-13182 proposes additional points of appropriation as follows:

Twp	Rng	Mer	Sec	Q-Q	DLC	Measured Distances	Approximate distance from the authorized points of appropriation in miles (mi.)		
6 S	1 W	WM	31	SE NE	42	WELL 4 - 560 FEET NORTH AND 490 FEET WEST FROM THE E 1/4 CORNER OF SECTION 31	WELL 1	WELL 2	WELL 3
							0.1 mi.	0.3 mi.	0.1 mi.
6 S	1 W	WM	32	SW NW	42	WELL 5 - 1170 FEET NORTH AND 120 FEET EAST FROM THE E 1/4 CORNER OF SECTION 31	0.3 mi.	0.4 mi.	0.2 mi.

13. Transfer Application T-13182 also proposes to change the place of use of the right to:

IRRIGATION							
Twp	Rng	Mer	Sec	Q-Q	GLot	DLC	Acres
6 S	1 W	WM	31	SE NE		42	7.7
6 S	1 W	WM	31	SE NE	1		0.4
6 S	1 W	WM	31	NE SE			11.6
6 S	1 W	WM	32	SE SE			11.9
6 S	1 W	WM	32	SW NW	2		0.8
6 S	1 W	WM	32	NW SW			4.4
6 S	1 W	WM	32	SW SW			3.2
TOTAL							40.0

Transfer Review Criteria OAR 690-380-4010(2)

14. 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.
15. 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-13182.
16. The proposed changes would not result in injury to other water rights.
17. All other application requirements are met.

Conclusions of Law

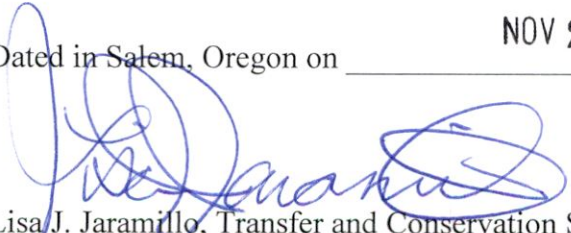
The additional points of diversion and change in place of use proposed in Transfer Application T-13182 appear to be consistent with the requirements of ORS 540.505 to 540.580 and OAR 690-380-5000.

Now, therefore, it is ORDERED:

1. The additional points of diversion and change in place of use proposed in Transfer Application T-13182 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 40143 and 94117 and any related decree.
3. Water right certificate 40143 is cancelled. A new certificate will be issued describing that portion of the right not affected by this transfer.
4. Water right certificate 94117 is cancelled.
5. The quantity of water diverted at the additional points of appropriation (Well 4 and Well 5), under the right described by Certificate 94117, together with that diverted at the original points of appropriation (Well 1, Well 2 and Well 3), shall not exceed the quantity of water lawfully available at the original points of appropriation (Well 1, Well 2 and Well 3).
6. 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 (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.
7. The former place of use of the transferred rights shall no longer receive water under these rights.
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 rights transferred will be issued.

Dated in Salem, Oregon on NOV 25 2019.


Lisa J. Jaramillo, Transfer and Conservation Section Manager, for
THOMAS M BYLER, DIRECTOR
Oregon Water Resources Department

Mailing date: NOV 26 2019