

4. On August 22, 2019, the Department mailed a copy of the draft Preliminary Determination proposing to approve Transfer Application T-13183 to the applicant. The draft Preliminary Determination cover letter set forth a deadline of September 23, 2019, for the applicant to respond.
5. On August 22, 2019, the applicant's agent requested to extend to complete full beneficial use of the water to October 1, 2022, and provided information to the Department that indicates a portion of the lands being transferred are not located within the boundaries of the Greenberry Irrigation District.
6. On September 4, 2019, the applicant submitted a report of ownership for Section 18, T12S, R5W, WM, tax lot 1300 only.
7. On September 5, 2019, the Department contacted the applicant by written correspondence to notify the applicant and the applicant's agent, that reports of ownership for tax lot 700 located in Section 17, T12S, R5W, WM, and tax lot 200 located in Section 20, T12S, R5W, WM, need to be submitted according to the guidelines as required by the cover letter sent to the applicant on August 22, 2019. The Department did not received a response.
8. On October 1, 2019, the Department mailed a copy of the Preliminary Determination proposing to deny Transfer Application T-13183 to the applicant. The Department did not receive a report of ownership information for tax lot 200 and 700 identified in Finding of Fact 7. The applicant's agent contacted the Department by phone the same day and provided the necessary information to demonstrate that the applicant is authorized to pursue the transfer. Included was an electronic message from the applicant identifying a submittal date of September 23, 2019, being the deadline identified in the draft Preliminary Determination cover letter.
9. On October 24, 2019, the Department issued a revised Preliminary Determination proposing to approve Transfer T-13183 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 October 29, 2019, and in the Corvallis Gazette Times newspaper on October 29 and November 5, 2019 pursuant to ORS 540.520 and OAR 690-380-4020. No protests were filed in response to the notice.

10. The portion of the first right to be transferred is as follows:

Certificate: 41818 in the name of C. W. MANN (perfected under Permit S-33269)
Use: IRRIGATION of 0.7 ACRE
Priority Date: FEBRUARY 14, 1968
Rate: 0.01 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: MARYS RIVER, a tributary of WILLAMETTE RIVER

Authorized Point of Diversion:

| Twp | Rng | Mer | Sec | Q-Q | DLC | Measured Distances |
|------|-----|-----|-----|-------|-----|--------------------------------------------------------------------------------|
| 12 S | 5 W | WM | 18 | NE SE | 53 | POD 1 - 2470 FEET SOUTH AND 90 FEET EAST FROM THE NE CORNER OF LIGGETTS DLC 52 |

Authorized Place of Use:

| IRRIGATION | | | | | | |
|------------|-----|-----|-----|-------|-----|-------|
| Twp | Rng | Mer | Sec | Q-Q | DLC | Acres |
| 12 S | 5 W | WM | 17 | SW NW | 53 | 0.7 |

11. Transfer Application T-13183 proposes to move the authorized point of diversion approximately 1.2 miles downstream to:

| Twp | Rng | Mer | Sec | Q-Q | DLC | Measured Distances |
|------|-----|-----|-----|-------|-----|---------------------------------------------------------------------------|
| 12 S | 5 W | WM | 20 | NE NE | 54 | POD 2 - 30 FEET NORTH AND 1220 FEET WEST FROM THE NE CORNER OF SECTION 20 |

12. Transfer Application T-13183 also proposes to change the place of use of the right to:

| IRRIGATION | | | | | | |
|------------|-----|-----|-----|-------|-----|-------|
| Twp | Rng | Mer | Sec | Q-Q | DLC | Acres |
| 12 S | 5 W | WM | 17 | SW SW | 54 | 0.7 |

13. The portion of the second right to be transferred is as follows:

Certificate: 52333 in the name of CROCKER FARMS (perfected under Permit S-39279)

Use: IRRIGATION of 9.8 ACRES

Priority Date: JULY 8, 1974

Rate: 0.12 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: MARYS RIVER, a tributary of WILLAMETTE RIVER

Authorized Point of Diversion:

| Twp | Rng | Mer | Sec | Q-Q | DLC | Measured Distances |
|------|-----|-----|-----|-------|-----|---------------------------------------------------------------------------|
| 12 S | 5 W | WM | 20 | SE SE | 54 | POD 2 - 30 FEET NORTH AND 1220 FEET WEST FROM THE SE CORNER OF SECTION 17 |

Authorized Place of Use:

| IRRIGATION | | | | | | |
|------------|-----|-----|-----|-------|-----|-------|
| Twp | Rng | Mer | Sec | Q-Q | DLC | Acres |
| 12 S | 5 W | WM | 20 | NE NW | 54 | 9.8 |

14. Transfer Application T-13183 proposes to change the place of use of the right to:

| IRRIGATION | | | | | | |
|------------|-----|-----|-----|-------|-----|-------|
| Twp | Rng | Mer | Sec | Q-Q | DLC | Acres |
| 12 S | 5 W | WM | 18 | NE SE | 52 | 3.7 |
| 12 S | 5 W | WM | 18 | NE SE | 54 | 0.8 |
| 12 S | 5 W | WM | 18 | SE SE | 52 | 5.3 |
| Total | | | | | | 9.8 |

15. The third right to be transferred is as follows:

Certificate: 61427 in the name of JAMES L. FESSLER (perfected under Permit S-40111)

Use: IRRIGATION of 51.2 ACRES

Priority Date: SEPTEMBER 4, 1975

Rate: 0.64 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: MARYS RIVER, a tributary of WILLAMETTE RIVER

Authorized Point of Diversion:

| Twp | Rng | Mer | Sec | Q-Q | DLC | Measured Distances |
|------|-----|-----|-----|-------|-----|--------------------------------------------------------------------------------|
| 12 S | 5 W | WM | 18 | SW NE | 52 | ORIGINAL POD - 1250 FEET SOUTH AND 1500 FEET WEST FROM THE NE CORNER OF DLC 52 |

Authorized Place of Use:

| IRRIGATION | | | | | | |
|------------|-----|-----|-----|-------|-----|-------|
| Twp | Rng | Mer | Sec | Q-Q | DLC | Acres |
| 12 S | 5 W | WM | 18 | SW NE | 52 | 4.2 |
| 12 S | 5 W | WM | 18 | SE NW | 52 | 3.2 |
| 12 S | 5 W | WM | 18 | NE SW | 52 | 9.0 |
| 12 S | 5 W | WM | 18 | SE SW | 52 | 2.1 |
| 12 S | 5 W | WM | 18 | NW SE | 52 | 23.0 |
| 12 S | 5 W | WM | 18 | SW SE | 52 | 9.7 |
| Total | | | | | | 51.2 |

16. Transfer Application T-13183 proposes to move the authorized point of diversion approximately 1.6 miles downstream to:

| Twp | Rng | Mer | Sec | Q-Q | DLC | Measured Distances |
|------|-----|-----|-----|-------|-----|---------------------------------------------------------------------------|
| 12 S | 5 W | WM | 20 | NE NE | 54 | POD 2 - 30 FEET NORTH AND 1220 FEET WEST FROM THE NE CORNER OF SECTION 20 |

17. Transfer Application T-13183 also proposes to change the place of use of the right to:

| IRRIGATION | | | | | | |
|------------|-----|-----|-----|-------|-----|-------|
| Twp | Rng | Mer | Sec | Q-Q | DLC | Acres |
| 12 S | 5 W | WM | 17 | NE SW | 53 | 0.6 |
| 12 S | 5 W | WM | 17 | NE SW | 54 | 3.6 |
| 12 S | 5 W | WM | 17 | NW SW | 54 | 0.4 |
| 12 S | 5 W | WM | 17 | SW SW | 54 | 26.1 |
| 12 S | 5 W | WM | 17 | SE SW | 54 | 19.9 |
| 12 S | 5 W | WM | 20 | NE NW | 54 | 0.6 |
| Total | | | | | | 51.2 |

18. The portion of the fourth right to be transferred is as follows:

Certificate: 61593 in the name of CROCKER FARMS (perfected under Permit S-44194)
Use: IRRIGATION of 4.0 ACRES
Priority Date: APRIL 16, 1979
Rate: 0.05 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: MARYS RIVER, a tributary of WILLAMETTE RIVER

Authorized Point of Diversion:

| Twp | Rng | Mer | Sec | Q-Q | DLC | Measured Distances |
|------|-----|-----|-----|-------|-----|-----------------------------------------------------------------------|
| 12 S | 5 W | WM | 18 | NE SE | 53 | POD 1 - 2470 FEET SOUTH AND 90 FEET EAST FROM THE NE CORNER OF DLC 52 |

Authorized Place of Use:

| IRRIGATION | | | | | | |
|------------|-----|-----|-----|-------|-----|-------|
| Twp | Rng | Mer | Sec | Q-Q | DLC | Acres |
| 12 S | 5 W | WM | 17 | SW NW | 53 | 1.7 |
| 12 S | 5 W | WM | 18 | SE NE | 53 | 2.3 |
| Total | | | | | | 4.0 |

19. Transfer Application T-13183 proposes to move the authorized point of diversion approximately 1.2 miles downstream to:

| Twp | Rng | Mer | Sec | Q-Q | DLC | Measured Distances |
|------|-----|-----|-----|-------|-----|---------------------------------------------------------------------------|
| 12 S | 5 W | WM | 20 | NE NE | 54 | POD 2 - 30 FEET NORTH AND 1220 FEET WEST FROM THE NE CORNER OF SECTION 20 |

20. Transfer Application T-13183 also proposes to change the place of use of the right to:

| IRRIGATION | | | | | | |
|------------|-----|-----|-----|-------|-----|-------|
| Twp | Rng | Mer | Sec | Q-Q | DLC | Acres |
| 12 S | 5 W | WM | 17 | SW SW | 54 | 1.6 |
| 12 S | 5 W | WM | 18 | SE SE | 54 | 2.4 |
| Total | | | | | | 4.0 |

21. 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)]

- 22. 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 rights are subject to forfeiture under ORS 540.610.
- 23. 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-13183.
- 24. The proposed changes would not result in enlargement of the rights.
- 25. The proposed changes would not result in injury to other water rights.
- 26. All other application requirements are met.

Conclusions of Law

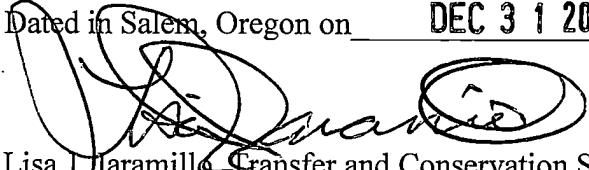
The change in points of diversion and change in places of use proposed in Transfer Application T-13183 is consistent with the requirements of ORS 540.505 to 540.580 and OAR 690-380-5000.

Now, therefore, it is ORDERED:

- 1. The change in points of diversion and change in places of use proposed in Transfer Application T-13183 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 41818, 52333, 61427, and 61593 and any related decree.
- 3. Water right Certificate 61427 is cancelled.
- 4. Water right Certificates 41818, 52333, and 61593 are cancelled. New certificates will be issued describing the portion of the rights not affected by this transfer.

5. The quantity of water diverted at the new point of diversion (POD 2), shall not exceed the quantity of water lawfully available at the original points of diversion (POD 1 and Original POD).
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, 2022**. 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 in Salem, Oregon on DEC 31 2019


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

Mailing date: JAN 03 2020