BEFORE THE WATER RESOURCES DEPARTMENT OF THE STATE OF OREGON

In the Matter of Transfer Application)	FINAL ORDER APPROVING
T-12293, Marion County)	AN ADDITIONAL 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

ROBERT W. GABRIEL TRUST 8474 HAZELGREEN RD NE SALEM, OR 97381

Findings of Fact

- 1. On March 4, 2016, ROBERT W. GABRIEL TRUST filed an application for an additional point of appropriation under Certificate 81166. The Department assigned the application number T-12293.
- 2. Notice of the application for transfer was published on March 15, 2016, pursuant to OAR 690-380-4000. No comments were filed in response to the notice.
- 3. On December 12, 2016, the Department mailed a copy of the draft Preliminary Determination proposing to approve Transfer Application T-12293 to the applicant. The draft Preliminary Determination cover letter set forth a deadline of January 12, 2017, 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.
- 4. On August 14, 2017, the Department issued a Preliminary Determination proposing to approve Transfer T-12293 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 22, 2017, pursuant to ORS 540.520 and OAR 690-380-4020. No protests were filed in response to the notice.

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. The right to be transferred is as follows:

81166 in the name of CARL F. JENSEN (perfected under Permit G-9898) Certificate:

Use: **IRRIGATION OF36.6 ACRES**

Priority Dates: SEPTEMBER 7, 1978, FOR 0.28 CUBIC FOOT PER SECOND (CFS).

AND OCTOBER 8, 1982, FOR 0.18 CFS

Rate: 0.46 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, is limited to a diversion of ONE-EIGHTIETH of one cubic foot per second, 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.

A WELL within the LITTLE PUDDING RIVER BASIN Source:

Authorized Point of Appropriation:

Twp	Rng	Mer	Sec	Q-Q	DLC	Measured Distances	
6 S	2 W	WM	35	SE NE	41	1860 FEET SOUTH AND 140 FEET WEST FROM THE NE CORNER OF SECTION 35	

Authorized Place of Use:

IRRIGATION						
Twp	Rng	Mer	Sec	Q-Q	DLC	Acres
6 S	2 W	WM	35	NE NE	41	10.5
6 S	2 W	WM	35	SE NE	41	12.2
6 S	2 W	WM	36	NW NW	41	5.0
6 S	2 W	WM	36	SWNW	41	8.9
					Total	36.6

6. Transfer Application T-12293 proposes an additional point of appropriation approximately 1200 feet from the existing point of appropriation to:

Twp	Rng	Mer	Sec	Q-Q	DLC	Measured Distances	
6 S	2 W	WM	36	NW SW	41	3200 FEET SOUTH AND 180 FEET EAST FROM THE NE CORNER OF SECTION 35	

Transfer Review Criteria (OAR 690-380-4010)

- 7. 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.
- 8. 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-12293.
- 9. The proposed change would not result in enlargement of the right.
- 10. The proposed change would not result in injury to other water rights.
- 11. All other application requirements are met.

Determination and Proposed Action

The additional point of appropriation proposed in Transfer Application T-12293 is consistent with the requirements of ORS 537.705 and 540.505 to 540.580 and OAR 690-380-5000.

Now, therefore, it is ORDERED:

- 1. The additional point of appropriation proposed in Transfer Application T-12293 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 81166 and any related decree.
- 3. Water Right Certificate 81166 is cancelled.
- 4. The quantity of water diverted at the additional point of appropriation, together with that diverted at the original point of appropriation, shall not exceed the quantity of water lawfully available at the original point of appropriation.
- 5. Water shall be acquired from the same aquifer (water source) as the original point of appropriation.
- 6. Full beneficial use of the water shall be made, consistent with the terms of this order, on or before **October 1, 2018**. 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.
- 7. After satisfactory proof of beneficial use is received, a new certificate confirming the right transferred will be issued.

Dated at Salem, Oregon this 28 day of 3 extender 2017.
June And
Dwight French, Water Right Services Administrator, for Thomas M. Byler, Director Oregon Water Resources Department
Thomas M. Byler, Director
Oregon Water Resources Department

Mailing date: 0CT **0 3 2017**