# BEFORE THE WATER RESOURCES DEPARTMENT OF THE STATE OF OREGON

In the Matter of Transfer Application	)	FINAL ORDER APPROVING
T-13831, Linn County	)	A 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**

RODGER FAMILY FARM & FIBER MILL, LLC 31022 OLD SANTIAM HIGHWAY LEBANON, OR 97355

#### **Findings of Fact**

- 1. On September 20, 2021, RODGER FAMILY FARM & FIBER MILL, LLC filed an application to change the place of use under Certificate 38158. The Department assigned the application number T-13831.
- 2. Notice of the application for transfer was published on September 28, 2021, pursuant to OAR 690-380-4000. No comments were filed in response to the notice.
- 3. On March 23, 2023, the Department mailed a copy of the draft Preliminary Determination proposing to approve Transfer Application T-13831 to the applicant. The draft Preliminary Determination cover letter set forth a deadline of April 23, 2023, 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 November 15, 2023, the Department issued a Preliminary Determination proposing to approve Transfer Application T-13831 and sent a copy to the applicant. Additionally, 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.

of the Preliminary Determination for the transfer application was published in the Department's weekly notice on November 15, 2023, pursuant to ORS 540.520 and OAR 690-380-4020. No protests were filed in response to the notice.

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

Certificate: 38158 in the name of HUBERT/JANICE GRIFFITHS (perfected under Permit

G-3356)

Use: IRRIGATION of 4.4 ACRES

Priority Date: JULY 7, 1965

Rate: 0.04 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.

**Source:** WELL # 1, a tributary of SOUTH SANTIAM RIVER

## **Authorized Point of Appropriation:**

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
12 S	1 W	WM	29	SE SW	2670 FEET WEST AND 1500 FEET NORTH FROM THE NE CORNER, KLUM DLC 40

#### **Authorized Place of Use:**

IRRIGATION							
Twp	Rng	Mer	Sec	Q-Q	DLC	Acres	
12 S	1 W	WM	29	NE SW	53	1.6	
12 S	1 W	WM	29	NW SW	53	0.6	
12 S	1 W	WM	29	SE SW	53	2.2	
					Total	4.4	

6. Transfer Application T-13831 proposes to change the place of use of the right to:

IRRIGATION							
Twp	Rng	Mer	Sec	Q-Q	DLC	Acres	
12 S	1 W	WM	29	SE SW	53	1.6	
12 S	1 W	WM	29	SE SW	53	0.6	
12 S	1 W	WM	29	SE SW	53	2.2	
,		757-7-5			Total	4.4	

## 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.

- A water delivery system sufficient to use the full amount of water allowed under the
  existing right was present within the five-year period prior to submittal of Transfer
  Application T-13831.
- 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.

#### Conclusions of Law

The change in place of use proposed in Transfer Application T-13831 appears to be 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 change in place of use proposed in Transfer Application T-13831 is approved.
- 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 38158 and any related decree.
- 3. Water right Certificate 38158 is cancelled. A new certificate will be issued describing that portion of the right not affected by this transfer.
- 4. Water shall be acquired from the same aquifer (water source) as the original point of appropriation.
- 5. The former place of use of the transferred right shall no longer receive water under the right.
- 6. Full beneficial use of the water shall be made, consistent with the terms of this order, on or before **October 1, 2025**. 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.
- 7. After satisfactory proof of beneficial use is received, a new certificate confirming the right transferred will be issued.

Dated in Salem, Oregon on

MAR 27 2024

Lisa J Jaramillo, Transfer and Conservation Section Manager, for

DOUGLAS E. WOODCOCK, ACTING DIRECTOR

Oregon Water Resources Department

Mailing date: MAR 2 8 2024