



# Oregon

Tina Kotek, Governor

## Water Resources Department

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November 15, 2023

VIA CERTIFIED MAIL AND E-MAIL

### **Applicant**

RODGER FAMILY FARM & FIBER MILL, LLC

31022 OLD SANTIAM HIGHWAY

LEBANON, OR 97355

SUBJECT: Water Right Transfer Application T-13831

Please find enclosed the Preliminary Determination indicating that, based on the information available, the Department intends to approve application T-13831. This document is an intermediate step in the approval process; water may not be used legally as proposed in the transfer application until a Final Order has been issued by the Department. Please read this entire letter carefully to determine your responsibility for additional action.

A public notice is being published in the Department's weekly publication simultaneously with issuance of the Preliminary Determination. The notice initiates a period in which any person may file either a protest opposing the decision proposed by the Department in the Preliminary Determination or a standing statement supporting the Department's decision. The protest period will end 30 days after the Department's notice.

If no protest is filed, the Department will issue a Final Order consistent with the Preliminary Determination. You should receive a copy of the Final Order about 30 days after the close of the protest period.

If a protest is filed, the application may be referred to a contested case proceeding. A contested case provides an opportunity for the proponents and opponents of the decision proposed in the Preliminary Determination to present information and arguments supporting their position in a quasi-judicial proceeding.

Please don't hesitate to contact me at if I may be of assistance.

Sincerely,

*DJ Luongo*

Transfer Specialist  
Transfer and Conservation Section

cc: Transfer Application file T-13831  
Greg Wacker, District 16 Watermaster *(via e-mail)*  
Michael Higgins, Agent/CWRE for the applicant *(via e-mail)*

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

In the Matter of Transfer Application	)	PRELIMINARY DETERMINATION
T-13831, Linn County	)	PROPOSING APPROVAL OF A CHANGE
	)	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 April 14<sup>th</sup>, 2023, the applicant responded to approve the changes made in Transfer Application T-13831.

Pursuant to OAR 690-380-4030, any person may file a protest or standing statement within 30 days after the last date of publication of the newspaper notice or the Department's weekly notice as prescribed by OAR 690-380-4020, whichever is later, of this preliminary determination.



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 OF 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
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.
8. 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.

### **Determination and Proposed Action**

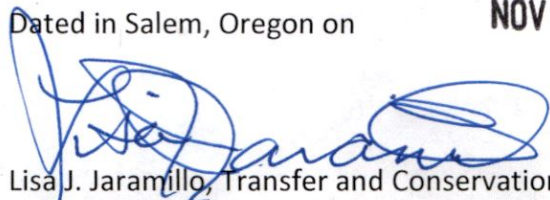
The change in place of use proposed in Transfer Application T-13831 appears to be consistent with the requirements of ORS 537.705 and 540.505 to 540.580 and OAR 690-380-5000. If protests are not filed pursuant to OAR 690-380-4030, the application will be approved.

*If Transfer Application T-13831 is approved, the final order will include the following:*

1. *The change in place of use proposed in Transfer Application T-13831 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 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. *The former place of use of the transferred right shall no longer receive water under the right.*
5. *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.*
6. *After satisfactory proof of beneficial use is received, a new certificate confirming the right transferred will be issued.*

Dated in Salem, Oregon on

**NOV 15 2023**



Lisa J. Jaramillo, Transfer and Conservation Section Manager, for  
DOUGLAS E. WOODCOCK, ACTING DIRECTOR  
Oregon Water Resources Department

This Preliminary Determination was prepared by Dante J. Luongo. If you have any questions about the information in this document, you may reach me at 971-304-5006 or [dante.j.luongo@water.oregon.gov](mailto:dante.j.luongo@water.oregon.gov).