

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

In the Matter of Permit Amendment	)	PROPOSED FINAL ORDER DENYING A
T-13852, Multnomah County	)	CHANGE IN POINTS OF APPROPRIATION
	)	AND A CHANGE IN PLACE OF USE

Authority

Oregon Revised Statute (ORS) 537.211(4) – (9) establishes the process in which a water right permit holder may submit a request to change the point of appropriation and/or place of use authorized under an existing water right permit. *The Department provides the opportunity for a contested case hearing on the proposed final order under ORS 183.310(2)(a)(D).*

Applicant

G AND F SESTER FAMILY LLC
ATTN: TED SESTER
33205 SE OXBOW DR
GRESHAM, OR 97080

Findings of Fact

1. On October 25, 2021, G and F Sester Family LLC filed an application to change the points of appropriation and place of use for the primary irrigation use under Permit G-15758. The Oregon Water Resources Department (Department) assigned the application number T-13852.
2. On July 22, 2016, the Department approved an extension of time for complete application of water under Permit G-15758 to October 1, 2028.
3. Notice of the application for the permit amendment was published in the Department's weekly notice on November 9, 2021, pursuant to ORS 537.211(7) .
4. The decline conditions described in Permit G-15758 are as follows:

 “(1) Use of water from the well, as allowed herein, shall be regulated if the well displays:
 (a) An average water level decline of three or more feet per year for five consecutive years; or
 (b) A total water level decline of fifteen or more feet; or
 (c) A hydraulic interference decline of fifteen or more feet in any neighboring well providing water for senior exempt uses or wells covered by prior water rights.”

5. Well 1 (MULT 3476) of Permit G-15758 has triggered water level decline condition (1)(b) of Permit G-15758 for a total of 10 years since April 6, 2004.
 - a) The reference static water level for MULT 3476 (Well 1) is set at 199.00 feet below land surface (ft bls) for Permit G-15758.
 - b) The trigger depth for water level decline condition (1)(b) for MULT 3476 (Well 1) is 214.00 ft bls.
 - c) The most recent static water level measurement, taken on March 24, 2025, reports the static water level for MULT 3476 (Well 1) was 226.1 ft bls.
6. Well 3 (MULT 67819) of Permit G-15758 has triggered water level decline condition (1)(b) of Permit G-15758.
 - a) The reference static water level for MULT 67819 (Well 3) is set at 317.00 feet below land surface (ft bls) for Permit G-15758.
 - b) The trigger depth for decline condition (1)(b) for MULT 67819 (Well 3) is 332.00 ft bls.
 - c) The most recent static water level measurement, taken on March 24, 2025, reports the static water level for MULT 67819 (Well 3) was 358.91.0 ft bls.
7. The Department completed a groundwater review of the proposed permit amendment. The groundwater review included an analysis of groundwater trends of both the permitted wells and other wells in the vicinity. Based on this analysis, the Department concludes that overall groundwater levels have been consistently declining in this area for at least the past 25 years. Thus, it is unlikely that static water levels in the permitted wells will recover to or above levels that would not trigger permit decline conditions.
8. When the evidence demonstrates that a permit holder will not be able to use water at the original points of appropriation due to the triggering of a permit decline condition, a change to new points of appropriation constitutes enlargement of the right and is not allowed. This represents a change to the Department's policy. Previously, the Department would approve permit amendments with static water level decline conditions specific to the new or additional points of appropriation that were based on the static water level decline conditions in the underlying permits or certificates. The Department has determined that its previous policy is inconsistent with the requirement that the applicant demonstrate that the amendment does not result in enlargement. Under Oregon's prior appropriation system, permits are assigned a priority date and limited to specific terms and conditions on the use of water that can be made based on that priority date. Water users may not enlarge their use beyond these terms and conditions without applying for and receiving a new water use authorization with a new, junior priority date. Nor may the Department allow the enlargement of a water user's use beyond the terms and conditions of a permit through a permit amendment. Where the static water level decline conditions

in a permit have been triggered and the evidence demonstrates that the static water levels will not recover sufficient to allow future use of the permit, the approval of new points of appropriation under a permit amendment necessarily amounts to the enlargement of the original permit.

9. The portion of the permit to be transferred is as follows:

Permit: G-15758 in the name of G AND F SESTER FAMILY LLC
Use: PRIMARY IRRIGATION ON 34.5 ACRES
Priority Date: MAY 21, 2003
Quantity: 0.43 CUBIC FEET PER SECOND (CFS), FOR PRIMARY IRRIGATION
Rate/Duty: THE AMOUNT OF WATER USED FOR IRRIGATION UNDER THIS RIGHT, 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 AND 2.5 ACRE-FEET FOR EACH ACRE IRRIGATED DURING THE IRRIGATION SEASON OF EACH YEAR.
Period of Use: MARCH 1 THROUGH OCTOBER 31
Source: WELL 1, WELL 2, WELL 3, AND WELL 4 IN NORTH FORK BEAVER CREEK BASIN

Authorized Points of Appropriation:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
1 S	4 E	WM	16	NW SE	WELL #1 - 1070 FEET SOUTH AND 50 FEET EAST FROM THE C1/4 CORNER OF SECTION 16
1 S	4 E	WM	16	NE SE	WELL #2 - 1140 FEET SOUTH AND 1415 FEET EAST FROM THE C1/4 CORNER OF SECTION 16
1 S	4 E	WM	16	SE SE	WELL #3 - 2175 FEET SOUTH AND 1415 FEET EAST FROM THE C1/4 CORNER OF SECTION 16
1 S	4 E	WM	16	SW NE	WELL #4 - 600 FEET NORTH AND 1200 FEET EAST FROM THE C1/4 CORNER OF SECTION 16

Authorized Place of Use:

IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
1 S	4 E	WM	16	NW NE	19.25
1 S	4 E	WM	16	SW NE	15.25
				Total	34.5

10. Permit Amendment Application T-13852 proposes to move the authorized points of appropriation for primary irrigation use with approximate distances as described below:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances	Distance from Authorized Well in Miles (mi.)
1 S	4 E	WM	21	NW NE	EKSTROM WELL 2 - 325 FEET SOUTH AND 2740 FEET EAST FROM THE NW CORNER OF SECTION 21	Well #1 – 0.4 Well #2 – 0.6 Well #3 – 0.5 Well #4 – 0.8
1 S	4 E	WM	21	NE NW	EKSTROM WELL 1 - 135 FEET SOUTH AND 1648 FEET EAST FROM THE NW CORNER OF SECTION 21	Well #1 – 0.3 Well #2 – 0.4 Well #3 – 0.3 Well #4 – 0.7

11. Permit Amendment Application T-13852 also proposes to change the place of use of the permit to:

PRIMARY IRRIGATION						
Twp	Rng	Mer	Sec	Q-Q	Acres	Proposed POAs
1 S	4 E	WM	21	NW NE	17.4	EKSTROM WELLS 1 AND 2
1 S	4 E	WM	21	SW NE	17.1	EKSTROM WELLS 1 AND 2
				Total	34.5	

Permit Amendment Review Criteria

12. The proposed changes would not result in injury to other water rights.
13. The proposed place of use is owned and/or controlled by the permit holder.
14. The proposed place of use is contiguous to the authorized place of use.
15. As outlined in Findings of Fact #5, #6 and #7 above, the proposed changes would enlarge the permit.
16. The proposed changes do not alter any other terms of the permit, including static water level measurement and decline conditions.

Conclusions of Law

The change in points of appropriation and change in place of use proposed by Permit Amendment Application T-13852 are not consistent with the requirements of ORS 537.211.

Now, therefore, it is ORDERED:

1. The change in points of appropriation and change in place of use proposed by Permit Amendment Application T-13852 are denied.

Dated in Salem, Oregon on


Lisa J. Jaramillo, Transfer and Conservation Section Manager, for
IVAN GALL, DIRECTOR
Oregon Water Resources Department

Mailing Date:

**Notice of Opportunity to Receive a Contested Case Hearing and
Description of Procedure and Time for Requesting Hearing**

Under ORS 183.310(2)(a)(D), by this order, the Department provides the opportunity for G and F Sester Family LLC to request a hearing substantially of the character required by ORS 183.415, 183.417, 183.425, 183.450, 183.460, and 183.470 on the matters asserted in this Proposed Final Order. If G and F Sester Family LLC does not agree with the matters asserted in this Proposed Final Order, G and F Sester Family LLC may file a request for hearing with the Department setting forth the reasons why Transfer Application T-13852 should not be denied as proposed herein.

To request a hearing, G and F Sester Family LLC must file a written request for hearing with Department within 60 days from the date of mailing of this Notice. The request for hearing must be in writing and must be received in the Department's Salem, Oregon office, Attention: Will Davidson, 725 Summer Street NE, Suite A, Salem, Oregon 97301-1266, by 5:00 p.m. on April 21, 2026. Requests for hearing may not be submitted by electronic mail. OAR 690-002-0025(3). If the Department does not receive a request for hearing by the specified deadline, G and F Sester Family LLC will have waived the opportunity for a contested case hearing and the Department may issue a final order by default.

Requests for hearing must include all of the following:

- (a) Facts sufficient to show that the protestant is entitled to the relief or action requested;
- (b) The specific relief or action requested;
- (c) The name and address of the protestant and other person or persons necessary to, or having a direct interest in, the proceeding; and

(d) Citation of legal authority or basis for the claim or relief asserted or requested.

(e) The signature of the protestant or the protestant's attorney or authorized representative.

If the applicant does not request a hearing within 60 days from the date of mailing of this Notice, or if the request for a hearing is withdrawn, or the Department or the administrative law judge is notified that the protestant will not appear, or the protestant fails to appear, at a scheduled hearing, the Director may issue a Final Order by default. If the Director issues a Final Order by default, the Department designates the relevant portions of its files on this matter, including all materials submitted relating to this matter, as the record for purpose of proving a *prima facie* case upon default.

A party may be represented by an attorney at the hearing. Legal aid organizations may be able to assist a party with limited financial resources. Generally, partnerships, corporations, associations, governmental subdivisions or public or private organizations are represented by an attorney. However, consistent with OAR 690-002-0020 and OAR 137-003-0555, an agency representative may represent a partnership, corporation, association, governmental subdivision or public or private organization if the Department determines that appearance of a person by an authorized representative will not hinder the orderly and timely development of the record in this case.

Notice Regarding Servicemembers: Active-duty service members have a right to stay proceedings under the federal Servicemembers Civil Relief Act. For more information contact the Oregon State Bar at 800-452-8260, the Oregon Military Department at 971-453-1175, or the nearest United States Armed Forces Legal Assistance Office through <http://legalassistance.law.af.mil>. The Oregon Military Department does not have a toll-free telephone number.