

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

In the Matter of Transfer Application)
T-13548, Umatilla County)
)
) FINAL ORDER APPROVING ADDITIONAL
) POINTS OF DIVERSION AND CHANGES IN
) PLACE OF USE

Authority

Oregon Revised Statutes (ORS) 540.505 to 540.580 establish the process in which a water right holder may submit a request to transfer the point of diversion, 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

JB LAND LLC
c/o GREG JUUL
PO BOX 130
HERMISTON, OR 97838

Findings of Fact

1. On November 24, 2020, JB LAND LLC c/o GREG JUUL filed an application for additional points of diversion and to change the places of use under Certificates 89856 and 89858. The Department assigned the application number T-13548.
2. Notice of the application for transfer was published on November 24, 2020, pursuant to OAR 690-380-4000. No comments were filed in response to the notice.
3. On May 15, 2021, the Department mailed a copy of the draft Preliminary Determination proposing to approve Transfer Application T-13548 to the applicant. The draft Preliminary Determination cover letter set forth a deadline of June 14, 2021, for the applicant to respond.

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.

4. On May 26, 2021, the agent for the applicant requested the completion date to be extended to October 1, 2026, based on the permits needed and requirements from other agencies.
5. On June 8, 2021, the agent for the applicant sent the Department a map and an explanation that the flow meters are already in place and the watermaster has approved the current locations, which are located along the main pipelines some distance downstream from the points of diversion.
6. On June 23, 2021, the District 5 watermaster responded to the Department that he agrees with the change in location of the flow meters, based on the map sent in on June 8, 2021 from the applicant's agent.
7. On July 1, 2021, the Department determined a revised draft Preliminary Determination should be issued, as the conditions are modified based on Findings of Fact Nos. 4, 5, and 6.
8. On July 21, 2021, the Department mailed a copy of the revised draft Preliminary Determination proposing to approve Transfer Application T-13548 to the applicants. The draft Preliminary Determination cover letter set forth a deadline of August 20, 2021, for the applicant to respond. The agent for 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.
9. On October 15, 2021, the agent for the applicant requested that the Department extend the completion date to October 1, 2027, to ensure the modifications could be finished in time.
10. On October 12, 2021, the Department issued a Preliminary Determination proposing to approve Transfer T-13548 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 19, 2021, and in the East Oregonian newspaper on October 14 and 21, 2021 pursuant to ORS 540.520 and OAR 690-380-4020. No protests were filed in response to the notice.

11. The first right to be transferred is as follows:

Certificate: 89856 in the name of JB LAND, LLC (perfected under Permit S-36169)
Use: IRRIGATION of 97.3 ACRES
Priority Date: MARCH 13, 1972
Rate: 1.63 CUBIC FEET 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-SIXTIETH 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 3.73 acre-feet per acre for each acre irrigated during the

irrigation season of each year. The use shall conform to such reasonable rotation system as may be ordered by the proper state officer.

Source: COLUMBIA RIVER, a tributary of the PACIFIC OCEAN

Authorized Point of Diversion:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
5 N	30 E	WM	7	SE SW	POD #1 - 460 FEET NORTH AND 1680 FEET EAST FROM THE SW CORNER OF SECTION 7

Authorized Place of Use:

IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
5 N	29 E	WM	24	SW NE	2.8
5 N	29 E	WM	24	NE SW	5.5
5 N	29 E	WM	24	SW SW	1.1
5 N	29 E	WM	24	SE SW	0.9
5 N	29 E	WM	24	NE SE	9.0
5 N	29 E	WM	24	SW SE	12.6
5 N	29 E	WM	24	SE SE	0.4
5 N	29 E	WM	25	NE NE	3.6
5 N	29 E	WM	25	NE NW	6.0
5 N	29 E	WM	25	NW NW	8.9
5 N	29 E	WM	25	SW NW	4.7
5 N	29 E	WM	26	NE NE	2.4
5 N	29 E	WM	26	SW NE	0.4
5 N	29 E	WM	26	SE NE	9.4
5 N	29 E	WM	26	NE SW	8.5
5 N	29 E	WM	26	SE SW	0.8
5 N	29 E	WM	26	NW SE	1.3
5 N	29 E	WM	26	SW SE	9.2
5 N	29 E	WM	26	SE SE	0.7
5 N	29 E	WM	35	NW NW	6.1
5 N	29 E	WM	35	SE NW	3.0
TOTAL					97.3

12. Transfer Application T-13548 proposes an additional point of diversion approximately 0.84 mile (mi.) upstream to:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
5 N	30 E	WM	8	SW NW	POD #2 - 2860 FEET NORTH AND 70 FEET EAST FROM THE SW CORNER OF SECTION 8

13. Transfer Application T-13548 also proposes to change the place of use of the right to:

IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
5 N	29 E	WM	25	NE NW	0.3
5 N	29 E	WM	25	SW NW	22.4
5 N	29 E	WM	25	SE NW	34.1
5 N	29 E	WM	25	NE SW	21.0

IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
5 N	29 E	WM	25	NW SW	13.8
5 N	29 E	WM	36	SE NE	5.7
TOTAL					97.3

14. The second right to be transferred is as follows:

Certificate: 89858 in the name of ROBERT W. BRADSHAW (perfected under Permit S-36169)
Use: IRRIGATION of 868.5 ACRES
Priority Date: MARCH 13, 1972
Rate: 13.06 CUBIC FEET 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 SIXTY-SIXTH (1/66) 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 3.38 acre-feet per acre for each acre irrigated during the irrigation season of each year. The use shall conform to such reasonable rotation system as may be ordered by the proper state officer.
Source: COLUMBIA RIVER, a tributary of the PACIFIC OCEAN

Authorized Point of Diversion:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
5 N	30 E	WM	7	SE SW	POD #1 - 460 FEET NORTH AND 1680 FEET EAST FROM THE SW CORNER OF SECTION 7

Authorized Place of Use:

IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
5 N	29 E	WM	24	NE NE	1.9
5 N	29 E	WM	24	SW NE	7.0
5 N	29 E	WM	24	SE NE	35.8
5 N	29 E	WM	24	NE SW	11.7
5 N	29 E	WM	24	SW SW	12.7
5 N	29 E	WM	24	SE SW	34.5
5 N	29 E	WM	24	NE SE	20.4
5 N	29 E	WM	24	NW SE	32.3
5 N	29 E	WM	24	SW SE	21.6
5 N	29 E	WM	24	SE SE	39.5
5 N	29 E	WM	25	NE NE	10.0
5 N	29 E	WM	25	NW NE	40.0
5 N	29 E	WM	25	SW NE	14.9
5 N	29 E	WM	25	SE NE	0.5
5 N	29 E	WM	25	NE NW	28.5
5 N	29 E	WM	25	NW NW	26.1
5 N	29 E	WM	25	SW NW	29.6

IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
5 N	29 E	WM	25	SE NW	37.7
5 N	29 E	WM	25	NE SW	21.0
5 N	29 E	WM	25	NW SW	32.2
5 N	29 E	WM	25	SW SW	21.9
5 N	29 E	WM	26	NE NE	17.2
5 N	29 E	WM	26	SW NE	11.4
5 N	29 E	WM	26	SE NE	26.4
5 N	29 E	WM	26	SE NW	0.2
5 N	29 E	WM	26	NE SW	8.9
5 N	29 E	WM	26	SE SW	3.0
5 N	29 E	WM	26	NE SE	28.7
5 N	29 E	WM	26	NW SE	34.7
5 N	29 E	WM	26	SW SE	10.5
5 N	29 E	WM	26	SE SE	24.5
5 N	29 E	WM	35	NE NE	28.5
5 N	29 E	WM	35	NW NE	30.2
5 N	29 E	WM	35	SW NE	34.5
5 N	29 E	WM	35	SE NE	0.8
5 N	29 E	WM	35	NE NW	28.3
5 N	29 E	WM	35	NW NW	26.6
5 N	29 E	WM	35	SW NW	25.9
5 N	29 E	WM	35	SE NW	30.5
5 N	30 E	WM	19	SW NW	1.8
5 N	30 E	WM	19	NW SW	2.0
5 N	30 E	WM	19	SW SW	14.0
5 N	30 E	WM	30	NW NW	0.1
TOTAL					868.5

15. Transfer Application T-13548 proposes an additional point of diversion approximately 0.84 mile (mi.) upstream to:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
5 N	30 E	WM	8	SW NW	POD #2 - 2860 FEET NORTH AND 70 FEET EAST FROM THE SW CORNER OF SECTION 8

16. Transfer Application T-13548 also proposes to change the place of use of the right to:

IRRIGATION						
Twp	Rng	Mer	Sec	Q-Q	Tax Lot	Acres
4 N	30 E	WM	6	NW NE	102	5.7
4 N	30 E	WM	6	NE NW	102	3.6
5 N	29 E	WM	24	SW NE	102	4.7
5 N	29 E	WM	24	NE SW	102	17.2
5 N	29 E	WM	24	SW SW	102	13.8
5 N	29 E	WM	24	SE SW	102	35.5
5 N	29 E	WM	24	NE SE	102	22.7
5 N	29 E	WM	24	NW SE	102	32.3
5 N	29 E	WM	24	SW SE	102	34.2
5 N	29 E	WM	24	SE SE	102	40.0

IRRIGATION						
Twp	Rng	Mer	Sec	Q-Q	Tax Lot	Acres
5 N	29 E	WM	25	NE NE	2800	13.6
5 N	29 E	WM	25	NW NE	2800	40.0
5 N	29 E	WM	25	SW NE	2800	14.9
5 N	29 E	WM	25	SE NE	2800	0.5
5 N	29 E	WM	25	NE NW	2800	34.2
5 N	29 E	WM	25	NW NW	2800	35.0
5 N	29 E	WM	25	SW NW	2800	12.0
5 N	29 E	WM	25	SE NW	2800	3.6
5 N	29 E	WM	25	NW SW	2800	18.5
5 N	29 E	WM	25	SW SW	2800	21.9
5 N	29 E	WM	26	NE NE	2701	13.3
5 N	29 E	WM	26	SW NE	2701	13.1
5 N	29 E	WM	26	SE NE	2701	35.8
5 N	29 E	WM	26	SE NW	2701	0.6
5 N	29 E	WM	26	NE SW	2701	17.4
5 N	29 E	WM	26	SE SW	2701	3.8
5 N	29 E	WM	26	NE SE	2701	28.9
5 N	29 E	WM	26	NW SE	2701	36.0
5 N	29 E	WM	26	SW SE	2701	19.7
5 N	29 E	WM	26	SE SE	2701	25.2
5 N	29 E	WM	35	NE NE	3200	26.5
5 N	29 E	WM	35	NE NE	3204	2.0
5 N	29 E	WM	35	NW NE	3200	23.9
5 N	29 E	WM	35	NW NE	3204	6.3
5 N	29 E	WM	35	SW NE	3200	34.5
5 N	29 E	WM	35	SE NE	3200	0.8
5 N	29 E	WM	35	NE NW	3200	34.8
5 N	29 E	WM	35	NW NW	3200	30.7
5 N	29 E	WM	35	SW NW	3200	36.8
5 N	29 E	WM	35	SE NW	3200	33.5
5 N	29 E	WM	36	SE NE	2900	12.2
5 N	30 E	WM	18	SE SE	903	12.6
5 N	30 E	WM	19	NW SW	1003	2.0
5 N	30 E	WM	19	SW SW	1003	14.0
5 N	30 E	WM	30	NW NW	1100	0.2
TOTAL						868.5

17. 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.

18. Certain portions of the authorized place of use as described in Finding of Facts Nos. 9 and 12, above, are appurtenant to lands described under Permits S-55114, S-55262, and S-55263. These permits are for use of water from the Columbia River, tributary to the

Pacific Ocean. The applicant has stated that these permits are not currently being exercised on lands appurtenant to the authorized place of use involved in this transfer.

19. Portions of the proposed place of use as described in Finding of Facts (FOF) Nos. 11 and 14, above, are appurtenant to lands described under Permits S-55114, S-55262, and S-55263. These permits are for use of water from the Columbia River, tributary to the Pacific Ocean. Use of water under these permits is subject to the following annual use condition:
 - a) If water from Permits S-55114, S-55262, and S-55263 are used for supplemental irrigation, then pre-existing primary rights for the same place of use cannot be transferred to another place or character of use.

Transfer Review Criteria [OAR 690-380-4010(2)]

20. 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.
21. 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-13548.
22. The proposed changes would not result in enlargement of the rights.
23. The proposed changes would not result in injury to other water rights.
24. All other application requirements are met.

Conclusions of Law

The additional points of diversion and changes in place of use proposed in Transfer Application T-13548 are consistent with the requirements of ORS 540.505 to 540.580 and OAR 690-380-5000.

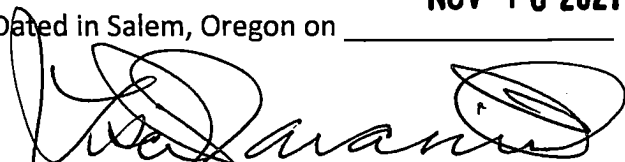
Now, therefore, it is ORDERED:

1. The additional points of diversion and change in place of use proposed in Transfer Application T-13548 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 89856 and 89858, and any related decree.
3. Water right Certificates 89856 and 89858 are cancelled.
4. For Certificate 89856, the quantity of water diverted at the additional point of diversion (POD #2), together with that diverted at the original point of diversion (POD #1), shall not exceed the quantity of water lawfully available at the original point of diversion (POD #1).

5. For Certificate 89858, the quantity of water diverted at the additional point of diversion (POD #2), together with that diverted at the original point of diversion (POD #1), shall not exceed the quantity of water lawfully available at the original point of diversion (POD #1).
6. Water use measurement conditions:
 - a. The watermaster has approved flow meters located along the main pipelines, and no water withdrawals from the main pipelines between the points of diversion and the locations of the flow meters, (new and existing, see attached map titled "Location of JB Land, LLC and Royale Columbia Farms Flow Meters), as follows:
 - i. Royale Columbia Farms POD and Pumping Station: 2860 feet North and 70 feet East from the SW corner of Section 8, T5N, R30E, WM.
 - ii. JB Land, LLC POD and Pumping Station: 460 feet North and 1680 feet East from the SW corner of Section 7, T5N, R30E, WM.
 - b. The water user shall maintain the meters or measuring devices in good working order.
 - c. The water user shall allow the Watermaster access to the meters or measuring devices; provided however, where the meters or measuring devices are located within a private structure, the Watermaster shall request access upon reasonable notice.
7. 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.
8. The former place of use of the transferred rights shall no longer receive water under the rights.
9. Full beneficial use of the water shall be made, consistent with the terms of this order, on or before **October 1, 2027**. 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.

10. After satisfactory proof of beneficial use is received, new certificates confirming the rights transferred will be issued.

Dated in Salem, Oregon on NOV 18 2021



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

Mailing date: NOV 19 2021