

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

In the Matter of Groundwater)	FINAL ORDER APPROVING
Registration Modification Application)	RECOGNITION OF MODIFICATIONS
T-13332, Marion County)	IN POINT OF APPROPRIATION AND
)	PLACE OF USE

Authority

Oregon Revised Statutes (ORS) 537.610, 537.705 and 540.505 to 540.580 establish the process in which the holder of a certificate of registration may submit a request for recognition of modifications to the place of use, character of use or point of appropriation under a groundwater certificate of registration.

Oregon Administrative Rules (OAR) Chapter 690, Divisions 382 and 380 implement the statutes and provide the Department's procedures and criteria for evaluating groundwater registration modification applications.

Applicant

AVELLANA FARMS, LLC
2229 SAN FELIPE ST SUITE 1150
HOUSTON, TX 77019

Findings of Fact

1. On December 26, 2019, AVELLANA FARMS, LLC filed a groundwater registration modification application to modify the point of appropriation and place of use under Registration Application GR-1432 (Certificate of Registration GR-1386). The Department assigned the application number T-13332.
2. On August 9, 2019, Registration Application GR-1432 (Certificate of Registration GR-1386) was assigned from JOHN A. JAMES to AVELLANA FARMS, LLC.
3. Notice of the application for groundwater registration modification was published on December 31, 2019, pursuant to OAR 690-382-0600. No comments 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.

4. On June 18, 2020, the Department mailed a copy of the draft Preliminary Determination proposing to approve Transfer Application T-13332 to the applicant. The draft Preliminary Determination cover letter set forth a deadline of July 20, 2020, 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.
5. On September 22, 2020, the Department issued a Preliminary Determination proposing to approve Transfer T-13332 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 September 29, 2020, and in the Stayton Mail newspaper on September 30, and October 7, 2020 pursuant to ORS 540.520 and OAR 690-380-4020. No protests were filed in response to the notice.
6. The groundwater registration to be modified is as follows:

Registration: Application GR-1432 (Certificate of Registration GR-1386), in the name of JOHN A. JAMES (*assigned to AVELLANA FARMS, LLC*)

Use: IRRIGATION of 35.0 ACRES

Tentative

Priority Date: 1948

Quantity: 280 GALLONS PER MINUTE

Source: PUMP WELL #2

Original Point of Appropriation:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
9 S	2 W	WM	25	NW NE	PUMP WELL #2 - NORTH 54 ° 30 MIN WEST 11.80 CHAINS FROM THE N1/4 CORNER OF SECTION 25

Original Place of Use:

IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
9 S	2 W	WM	25	NW NE	35.0

7. Groundwater Registration Modification Application T-13332 proposes to modify the location of the original point of appropriation to:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances	Approximate distance from original point of appropriation in feet (ft.)
9 S	2 W	WM	24	SW SE	WELL B - 1000 FEET NORTH AND 2580 FEET WEST FROM THE SE CORNER OF SECTION 24	1523.9 ft.
9 S	2 W	WM	25	NW NE	WELL A - 445 FEET SOUTH AND 1980 FEET WEST FROM THE NE CORNER OF SECTION 25	41.9 ft.
9 S	2 W	WM	25	SE NE	PUMP WELL #3 - SOUTH 15 ° 53 MINUTES WEST, 421 FEET TO THE SW CORNER OF THE SE1/4 NE1/4 OF SECTION 25	1955.3 ft.

8. Groundwater Registration Modification Application T-13332 proposes to modify the place of use under the ground water registration to:

IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
9 S	2 W	WM	25	NW NE	33.9
9 S	2 W	WM	25	SW NE	1.1
Total					35.0

Review Criteria for Groundwater Registration Modification Applications [OAR 690-382-0700(2)]

9. The proposed modifications would not result in enlargement of the groundwater registration.
10. The proposed modifications would not result in a state Scenic Waterway not receiving previously available water during periods in which streamflows are less than the quantities determined by the Department to be necessary to meet the requirements of ORS 390.835.
11. The proposed modifications would not result in injury to other water rights.

Conclusions of Law

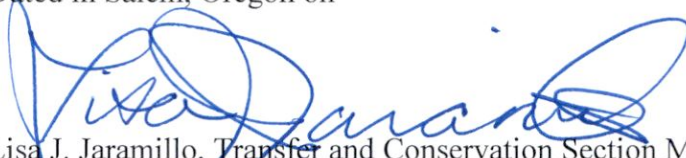
The modifications in point of appropriation and place of use proposed in Groundwater Registration Modification T-13332 appear to be consistent with the requirements of ORS 537.610, 537.705, 540.505 to 540.580 and OAR 690-382-1000.

Now, therefore, it is ORDERED:

1. The modifications to Registration Application GR-1432 (Certificate of Registration GR-1386) proposed in Groundwater Registration Modification Application T-13332 are recognized. Recognition of the modifications shall not be construed as a final determination of the right to appropriate groundwater under the certificate of registration or modification. Such a determination will occur in an adjudication proceeding under ORS 537.670 to 537.695.
2. 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 Registration Application GR-1432 (Certificate of Registration GR-1386) and any related decree.
3. Water shall be acquired from the same aquifer (water source) as the original point of appropriation (Pump Well #2).
4. Water shall no longer be appropriated from the original point of appropriation as part of this groundwater certificate of registration.
5. The quantity of water diverted at the new points of appropriation (Wells A and B, and Pump Well #3), shall not exceed the quantity of water lawfully available at the original point of appropriation (Pump Well #2).

- The former place of use of the modified groundwater registration shall no longer receive water as part of the groundwater certificate of registration.

Dated in Salem, Oregon on **JAN 05 2021**



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

Mailing date: **JAN 06 2021**