

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

In the Matter of Transfer Application            )     FINAL ORDER  
T-12663, Marion County                         )     APPROVING AN ADDITIONAL POINT  
  )     OF APPROPRIATION

**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**

JLR LLC  
PO BOX 588  
380 S. PACIFIC HWY 99E  
WOODBURN OR 97071

**Findings of Fact**

1. On May 8, 2017, JLR LLC filed an application for an additional point of appropriation under Certificate 38981. The Department assigned the application number T-12663.
2. Notice of the application for transfer was published on May 16, 2017, pursuant to OAR 690-380-4000. No comments were filed in response to the notice.
3. On March 1, 2018 the agent for the applicant submitted a revised application and map correcting the location of the proposed additional point of appropriation.
4. On March 2, 2018, the Department sent a copy of the draft Preliminary Determination proposing to approve Transfer Application T-12663 to the applicant. The draft Preliminary Determination cover letter set forth a deadline of April 2, 2018, 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.

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.

5. On August 6, 2018, the Department issued a Preliminary Determination proposing to approve Transfer Application T-12663 and sent a copy to the applicant. Additionally, notice of the Preliminary Determination for the transfer application was published in the Department's weekly notice on August 14, 2018, pursuant to ORS 540.520 and OAR 690-380-4020. No protests were filed in response to the notice.

6. The right to be transferred is as follows:

**Certificate:** 38981 in the name of GENERAL FOODS CORPORATION, BIRDS EYE DIVISION (perfected under Permit G-4543)  
**Use:** INDUSTRIAL USE FOR PROCESSING FRUITS AND VEGETABLES (GENERAL INDUSTRIAL USES under Specific-to-General Industrial Water Use Change notice dated October 12, 2012)  
**Priority Date:** MARCH 27, 1969  
**Rate:** 1.78 CUBIC FEET PER SECOND  
**Source:** WELL NO.7 within the PUDDING RIVER BASIN

**Authorized Point of Appropriation:**

Twp	Rng	Mer	Sec	Q-Q	DLC	Measured Distances
5 S	1 W	WM	18	SE SE	47	680 FEET NORTH AND 30 FEET WEST FROM THE SE CORNER OF SECTION 18

**Authorized Place of Use:**

Twp	Rng	Mer	Sec	Q-Q	DLC
5 S	1 W	WM	17	NE SW	47
5 S	1 W	WM	17	NW SW	47
5 S	1 W	WM	17	SW SW	47
5 S	1 W	WM	17	SE SW	47

7. Certificate 38981 describes the authorized point of appropriation as 680 feet North and 30 feet West from the SE corner of Section 18, as in the table above.

- a. The transfer application depicts the point of appropriation under Certificate 38981 as being 730 feet North and 110 feet West from the SE corner of Section 18.
- b. The actual location of the well has not moved. Based on newer surveying technologies and equipment the location of the well should be described as:

Twp	Rng	Mer	Sec	Q-Q	DLC	Measured Distances
5 S	1 W	WM	18	SE SE	47	730 FEET NORTH AND 110 FEET WEST FROM THE SE CORNER OF SECTION 18

8. Transfer Application T-12663 proposes an additional point of appropriation approximately 50 feet from the existing point of appropriation to:

Twp	Rng	Mer	Sec	Q-Q	DLC	Measured Distances
5 S	1 W	WM	18	SE SE	47	740 FEET NORTH AND 160 FEET WEST FROM THE SE CORNER OF SECTION 18

***Transfer Review Criteria (OAR 690-380-4010)***

9. 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.
10. A pump, pipeline, and sprinkler system sufficient to use the full amount of water allowed under the existing right were present within the five-year period prior to submittal of Transfer Application T-12663.
11. The proposed change would not result in enlargement of the right.
12. The proposed change would not result in injury to other water rights.
13. All other application requirements are met.

**Conclusions of Law**

The additional point of appropriation proposed in Transfer Application T-12663 is 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 additional point of appropriation proposed in Transfer Application T-12663 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 38981 and any related decree.
3. Water right Certificate 38981 is cancelled.
4. The quantity of water diverted at the additional point of appropriation, together with that diverted at the original point of appropriation, shall not exceed the quantity of water lawfully available at the original point of appropriation.
5. Water shall be acquired from the same aquifer (water source) as the original point of appropriation.
6. Full beneficial use of the water shall be made, consistent with the terms of this order, on or before **October 1, 2019**. 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 change 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 at Salem, Oregon this SEP 24 2018,



Dwight French, Water Right Services Administrator, for  
Thomas M. Byler, Director  
Oregon Water Resources Department

Mailing date: SEP 25 2018