

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

In the Matter of Transfer Application) FINAL ORDER APPROVING A
T-13230, Marion County) CHANGE IN 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

JENSEN BROS. PROPERTIES, LLC.
7475 JENSEN ROAD NE
GERVAIS, OR 97026

Findings of Fact

1. On July 26, 2019, LAFAYETTE LAND COMPANY LLC. LUKE LAFAYETTE, Member; filed an application for additional points of appropriation and to change the points of appropriation under Certificate 89753. The Department assigned the application number T-13230.
2. Notice of the application for transfer was published on July 30, 2019, pursuant to OAR 690-380-4000. No comments were filed in response to the notice.
3. On October 22, 2020, Transfer Application was assigned from Lafayette Land Company LLC., to Jenson Bros Properties, LLC.
4. On November 18, 2020, the Department received a revised application and a revised map, removing the three additional points of appropriation, changing the points of appropriation and identifying the new Applicants and Agent.

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 December 15, 2020, the Department mailed a copy of the draft Preliminary Determination proposing to approve Transfer Application T-13230 to the applicants. The draft Preliminary Determination cover letter set forth a deadline of January 16, 2021, for the applicants to respond. The applicants requested that the Department proceed with issuance of a Preliminary Determination and provided the necessary information to demonstrate that the applicants are authorized to pursue the transfer.
6. On January 19, 2021, the Department issued a Preliminary Determination proposing to approve Transfer T-13230 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 January 26, 2021, pursuant to ORS 540.520 and OAR 690-380-4020. No protests were filed in response to the notice.
7. The right to be transferred is as follows:

Certificate: 89753 in the name of JOHN WEISZ JR (perfected under Permit G-12096)
Use: IRRIGATION of 212.2 ACRES
Priority Date: MARCH 18, 1993
Rate: 2.65 CUBIC FEET PER SECOND (CFS)
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.
Period of Use: March 1 through October 31
Source: TWO WELLS within the SENEAL CREEK BASIN

Authorized Points of Appropriation:

Well	Twp	Rng	Mer	Sec	Q-Q	DLC	Measured Distances
1	5 S	2 W	WM	14	SW NW		480 FEET NORTH AND 2250 FEET WEST FROM THE C1/4 CORNER OF SECTION 14
2	5 S	2 W	WM	15	SE SE	57	890 FEET NORTH AND 20 FEET WEST FROM THE SE CORNER OF DLC 41

Authorized Place of Use:

IRRIGATION							
Twp	Rng	Mer	Sec	Q-Q	GLot	DLC	Acres
5 S	2 W	WM	15	SE SW		99	7.7
5 S	2 W	WM	15	SW SE			12.1
5 S	2 W	WM	15	SE SE			3.2
5 S	2 W	WM	22	NE NE			21.2
5 S	2 W	WM	22	NW NE			38.6
5 S	2 W	WM	22	SW NE			38.4
5 S	2 W	WM	22	SE NE			36.3
5 S	2 W	WM	22	NE NW		99	20.1
5 S	2 W	WM	22	NW NW		99	0.6
5 S	2 W	WM	22	SE NW	3		2.1
5 S	2 W	WM	22	NE SW	7		3.7
5 S	2 W	WM	22	NE SE			6.1

IRRIGATION							
Twp	Rng	Mer	Sec	Q-Q	GLot	DLC	Acres
5 S	2 W	WM	22	NW SE	6		20.2
5 S	2 W	WM	23	NW NW		57	0.8
5 S	2 W	WM	23	SE NW		57	1.1
Total							212.2

8. Transfer Application T-13230 proposes to move the authorized point of appropriation approximately 0.8 to 1.1 mile from the existing points of appropriation to:

Twp	Rng	Mer	Sec	Q-Q	DLC	Measured Distances	Distance from Authorized wells
5 S	2 W	WM	22	NW SE	6	WELL A- 1090 FEET SOUTH AND 1315 FEET EAST FROM THE MOST EASTERLY NE CORNER OF DLC 42	WELL #1- 1.1 mile WELL #2- 0.8 mile

Transfer Review Criteria (OAR 690-380-4010)

9. Water has been used within the last five years prior to submittal of Transfer Application T-13230 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 was present within the five-year period prior to submittal of Transfer Application T-13230.
11. The proposed change as conditioned 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 change in point of appropriation proposed in Transfer Application T-13230 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 change in point of appropriation proposed in Transfer Application T-13230 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 89753 and any related decree.
3. Water right Certificate 89753 is cancelled.
4. The quantity of water diverted at the new point of appropriation (Well A) shall not exceed the quantity of water lawfully available at the original points of appropriation (Wells #1 and #2).

5. Water use measurement conditions:
 - a. Before water use may begin under this order, the water user shall install a totalizing flow meter, or, with prior approval of the Director, another suitable measuring device at each point of appropriation (new and existing).
 - b. The water user shall maintain the meters or measuring device(s) in good working order.
 - c. The water user shall allow the Watermaster access to the meters or measuring device(s); provided however, where the meters or measuring device is are located within a private structure, the Watermaster shall request access upon reasonable notice.
6. Water shall be acquired from the same aquifer (water source) as the original points of appropriation.
7. Full beneficial use of the water shall be made, consistent with the terms of this order, on or before **October 1, 2022**. 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.
8. After satisfactory proof of beneficial use is received, a new certificate confirming the right transferred will be issued.

Dated in Salem, Oregon on

MAR 18 2021



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

Mailing date: **MAR 19 2021**