



# Oregon

Kate Brown, Governor

**Water Resources Department**

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March 3, 2015

JMAX,LLC  
91663 RIVER RD  
JUNCTION CITY, OR 97448

**SUBJECT:** Water Right Transfer Application T-11887

Please find enclosed the Preliminary Determination indicating that, based on the information available, the Department intends to approve application T-11887. This document is an intermediate step in the approval process; water may not be used legally as proposed in the transfer application until a Final Order has been issued by the Department. Please read this entire letter carefully to determine your responsibility for additional action.

A public notice is being published in the Department's weekly publication simultaneously with issuance of the Preliminary Determination. The notice initiates a period in which any person may file either a protest opposing the decision proposed by the Department in the Preliminary Determination or a standing statement supporting the Department's decision. The protest period will end 30 days after the Department's notice.

If no protest is filed, the Department will issue a Final Order consistent with the Preliminary Determination. You should receive a copy of the Final Order about 30 days after the close of the protest period.

If a protest is filed, the application may be referred to a contested case proceeding. A contested case provides an opportunity for the proponents and opponents of the decision proposed in the Preliminary Determination to present information and arguments supporting their position in a quasi-judicial proceeding.

Please do not hesitate to contact me at 503-986-0890 or Sarah.A.Henderson@state.or.us if I may be of assistance.

Sincerely,

Sarah A. Henderson  
Transfer Specialist  
Transfer and Conservation Section

cc: T-11887  
Michael J. Mattick, District 2 Watermaster (*via e-mail*)  
John Otsyula, Agent for the applicant (*via e-mail*)  
J. H. Greenman, CWRE #56 (*via e-mail*)

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

In the Matter of Transfer Application            )  
T-11887, Lane County                                )  
  )  
  )    **PRELIMINARY DETERMINATION  
PROPOSING APPROVAL OF A  
CHANGE IN POINT OF  
APPROPRIATION**

**Authority**

Oregon Revised Statute (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 Rule (OAR) Chapter 690, Division 380 implements the statutes and provides the Department's procedures and criteria for evaluating transfer applications.

**Applicant**

JMAX, LLC  
91663 RIVER RD  
JUNCTION CITY, OR 97448

**Findings of Fact**

1. On September 9, 2014, JMAX, LLC. filed an application to change the point of appropriation under Certificate 31458. The Department assigned the application number T-11887.
2. Notice of the application for transfer was published on September 16, 2014, pursuant to OAR 690-380-4000. No comments were filed in response to the notice.
3. On January 6, 2015, the applicant submitted amendments to the transfer application in response to a deficiency letter from the Department. These documents included revised sections of the transfer application form and electric power bill records provided as supporting evidence of use.
4. On February 5, 2015, the applicant submitted additional documents in response to requests from the Department for additional information. These documents included an amended application map showing tax lot boundaries and tax lot numbers, and additional information on the existing water delivery system.

Pursuant to OAR 690-380-4030, any person may file a protest or standing statement within 30 days after the last date of publication of notice of this preliminary determination.

5. On February 12, 2015, the Department mailed a copy of the draft Preliminary Determination proposing to approve Transfer Application T-11887 to the applicant. The draft Preliminary Determination cover letter set forth a deadline of March 14, 2015, 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.
6. The right to be transferred is as follows:

**Certificate:** 31458 in the name of HERBERT L HOSTICK (perfected under Permit G-1260)  
**Use:** IRRIGATION of 70.2 ACRES  
**Priority Date:** FEBRUARY 26, 1959  
**Rate:** 0.76 CUBIC FOOT 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, shall be limited to ONE-EIGHTIETH of one cubic foot per second per acre, 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.  
**Source:** WELL No. 1 within the WILLAMETTE RIVER BASIN

**Authorized Point of Appropriation:**

| Twp  | Rng | Mer | Sec | Q-Q   | DLC | Measured Distances  |
|------|-----|-----|-----|-------|-----|---|
| 16 S | 4 W | WM  | 27  | SE NE | 39  | 21 CHAINS SOUTH AND 19 CHAINS EAST FROM THE NORTHERLY NW CORNER OF DLC 39 |

**Authorized Place of Use:**

| IRRIGATION |     |     |     |       |     |       |
|------------|-----|-----|-----|-------|-----|-------|
| Twp        | Rng | Mer | Sec | Q-Q   | DLC | Acres |
| 16 S       | 4 W | WM  | 26  | NW NW | 45  | 2.0   |
| 16 S       | 4 W | WM  | 26  | SW NW | 45  | 16.4  |
| 16 S       | 4 W | WM  | 27  | NE NE | 45  | 2.6   |
| 16 S       | 4 W | WM  | 27  | NE NE | 39  | 5.6   |
| 16 S       | 4 W | WM  | 27  | NW NE | 39  | 1.6   |
| 16 S       | 4 W | WM  | 27  | SW NE | 39  | 1.6   |
| 16 S       | 4 W | WM  | 27  | SE NE | 45  | 11.8  |
| 16 S       | 4 W | WM  | 27  | SE NE | 39  | 27.6  |
| 16 S       | 4 W | WM  | 27  | NE SE | 39  | 1.0   |

7. Certificate 31458 describes the point of appropriation, however information is available from the applicant and CWRE that better describes the location as follows:

| Twp  | Rng | Mer | Sec | Q-Q   | DLC | Measured Distances  |
|------|-----|-----|-----|-------|-----|---|
| 16 S | 4 W | WM  | 27  | SE NE | 39  | 1386 FEET SOUTH AND 1254 FEET EAST FROM THE NW CORNER OF DLC 39 |

8. Transfer Application T-11887 proposes to move the authorized point of appropriation approximately 17 feet from the existing point of appropriation to:

| Twp  | Rng | Mer | Sec | Q-Q   | DLC | Measured Distances   |
|------|-----|-----|-----|-------|-----|--|
| 16 S | 4 W | WM  | 27  | SE NE | 39  | WELL No. 3 - 1369 FEET SOUTH AND 1269 FEET EAST FROM THE NW CORNER OF DLC 39 |

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

9. Water has been used within the last five years. 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-11887.
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.

**Determination and Proposed Action**

The change in point of appropriation proposed in Transfer Application T-11887 appears to be consistent with the requirements of ORS 537.705 and 540.505 to 540.580 and OAR 690-380-5000. If protests are not filed pursuant to OAR 690-380-4030, the application will be approved.

*If Transfer Application T-11887 is approved, the final order will include the following:*

1. *The change in point of appropriation proposed in Transfer Application T-11887 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 31458 and any related decree.*
3. *Water right certificate 31458 is cancelled.*
4. *The quantity of water diverted at the new 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, 2016**. 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 3 day of March, 2015.



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

This Preliminary Determination was prepared by a Reimbursement Authority contractor. If you have questions about the information in this document, you may reach Sarah Henderson at 503-986-0890 or Sarah.A.Henderson@ wrd.state.or.us.

*Protests should be addressed to the attention of Water Rights Division, Water Resources Department, 725 Summer St. NE, Suite A, Salem, OR 97301-1266.*