



Oregon

Kate Brown, Governor

Water Resources Department

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August 17, 2015

VIA E-MAIL

Applicant

J-SPEAR RANCH CO.
39650 CLOVER FLAT RD
PAISLEY, OR 97636

SUBJECT: Water Right Transfer Application T-11847

Please find enclosed the Preliminary Determination indicating that, based on the information available, the Department intends to approve application T-11847. 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 and in the Lake County Examiner newspaper, 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 last date of newspaper publication.

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 Lanaya.F.Blakely@wrđ.state.or.us or (503) 986-0888, 503-986-0886 or Patrick.K.Starnes@wrđ.state.or.us if I may be of assistance.

Sincerely,

Lanaya Blakely
Transfer Specialist

cc: T-11847

Brian M. Mayer, District 12 Watermaster (*via e-mail*)

Dennis R. Glender, Agent for the applicant (*via e-mail*)

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

In the Matter of Transfer Application	)	PRELIMINARY DETERMINATION
T-11847, Lake County	)	PROPOSING APPROVAL OF A
	)	CHANGE IN POINT OF
	)	APPROPRIATION, ADDITIONAL
	)	POINTS OF APPROPRIATION, AND
	)	PARTIAL CANCELLATION OF
	)	PLACES OF USE

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. ORS 540.621 establishes the process for the owner of land to which a water right is appurtenant to certify under oath that the water right, or a portion thereof, has been abandoned and to voluntarily request that it be cancelled.

Applicant

J-SPEAR RANCH CO.
39650 CLOVER FLAT RD
PAISLEY, OR 97636

Findings of Fact

1. On June 18, 2014, Joe Villagrana, manager of J-Spear Ranch Co., filed an application to change the point of appropriation, add points of appropriation, and partial cancelation of the place of use under Certificates 28433, 80144, and 83162. The Department assigned the application number T-11847.
2. Notice of the application for transfer was published on June 24, 2014, pursuant to OAR 690-380-4000. No comments were filed in response to the notice.
3. On May 21, 2015, the Department notified that applicant that the application was incomplete. On May 29, 2015, the applicant provided the requested information to complete the application.

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.
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4. On June 29, 2015, the Department sent a copy of the draft Preliminary Determination proposing to approve Transfer Application T-11847 to the applicant. The draft Preliminary Determination cover letter set forth a deadline of July 29, 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.

5. The portion of the first right to be transferred is as follows:

Certificate: 28433 in the name of HOWARD H. AND DENNIS R. GILSON (perfected under Permit G-158)

Use: IRRIGATION of 126.7 ACRES

Priority Date: FEBRUARY 20, 1956

Rate: 0.78 CUBIC FOOT 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, 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 3 acre-feet per acre for each acre irrigated during the irrigation season of each year, and shall conform to such reasonable rotation system as may be ordered by the proper state officer.

Source: GILSON WELL No. 1 within the MOSS CREEK BASIN

Authorized Point of Appropriation:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
34 S	19 E	WM	21	NE NW	SOUTH 45 DEGREES 30 MINUTES EAST 1890 FEET FROM THE NW CORNER OF SECTION 21

Authorized Place of Use:

IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
34 S	19 E	WM	21	NE NW	32.2
34 S	19 E	WM	21	NW NW	32.6
34 S	19 E	WM	21	SW NW	31.1
34 S	19 E	WM	21	SE NW	30.8

6. Transfer Application T-11847 proposes an additional point of appropriation and to move the authorized point of appropriation to:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances	Distance from authorized point of appropriation
34 S	19 E	WM	21	SW NW	WELL 2: 2600 FEET SOUTH AND 1290 FEET EAST FROM THE NW CORNER OF SECTION 21	1.0 mile
34 S	19 E	WM	21	SW NW	WELL 3: 1322 FEET SOUTH AND 1326 FEET WEST FROM THE N1/4 CORNER OF SECTION 21	0.2 mile

7. The portion of the second right to be transferred is as follows:

Certificate: 80144 in the name of J-SPEAR RANCH (perfected under Permit G-5670)
Use: SUPPLEMENTAL IRRIGATION of 64.8 ACRES
Priority Date: FEBRUARY 2, 1973
Rate: 0.36 CUBIC FOOT 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-EIGHTIETH of one cubic foot per second (or its equivalent) and 3.0 acre-feet 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: GILSON WELL NO. 4 within the MOSS CREEK BASIN

Authorized Point of Appropriation:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
34 S	19 E	WM	21	SW NW	2600 FEET SOUTH AND 1290 FEET EAST FROM THE NW CORNER OF SECTION 21

Authorized Place of Use:

SUPPLEMENTAL IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
34 S	19 E	WM	21	NE NW	32.2
34 S	19 E	WM	21	NW NW	32.6

8. Transfer Application T-11847 proposes an additional point of appropriation approximately 1.0 mile from the existing point of appropriation to:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
34 S	19 E	WM	21	SW NW	WELL 3: 1322 FEET SOUTH AND 1326 FEET WEST FROM THE N1/4 CORNER OF SECTION 21

9. The portion of the third right to be transferred is as follows:

Certificate: 83162 in the name of J SPEAR RANCH CO. (perfected under Permit G-10926)
Use: SUPPLEMENTAL IRRIGATION of 63.7 ACRES
Priority Date: MAY 18, 1987
Rate: 0.80 CUBIC FOOT 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-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 3.0 acre-feet per acre for each acre irrigated during the irrigation season of each year.
Source: A WELL within the GOOSE & SUMMER LAKE BASIN

Authorized Point of Appropriation:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
34 S	19 E	WM	21	SW NW	2630 FEET SOUTH AND 1280 FEET EAST FROM THE NW CORNER OF SECTION 21

Authorized Place of Use:

SUPPLEMENTAL IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
34 S	19 E	WM	21	NW NW	32.6
34 S	19 E	WM	21	SW NW	31.1

10. Transfer Application T-11847 proposes an additional point of appropriation approximately 1.0 mile from the existing point of appropriation to:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
34 S	19 E	WM	21	SW NW	WELL 3: 1322 FEET SOUTH AND 1326 FEET WEST FROM THE N1/4 CORNER OF SECTION 21

11. The Department has determined that the authorized point of appropriation identified on Certificates 80144 and 83612 are the same well. Although there are discrepancies between the measured distances on each certificate the well location is best described as Gilson Well No. 4:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
34 S	19 E	WM	21	SW NW	GILSON WELL No. 4: 2600 FEET SOUTH AND 1290 FEET EAST FROM THE NW CORNER OF SECTION 21

Transfer Review Criteria (OAR 690-380-4010)

12. Water has been used within the last five years according to the terms and conditions of the rights. There is no information in the record that would demonstrate that the rights are subject to forfeiture under ORS 540.610.
13. 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-11847.
14. The proposed change would not result in enlargement of the rights.
15. The proposed change would not result in injury to other water rights.
16. All other application requirements are met.

Partial Cancellation of a Water Right

17. On June 18, 2015, an affidavit certifying that a portion of a water right has been abandoned and requesting cancellation of the right was received from J-Spear Ranch, landowner. The right to be cancelled is as follows:

Certificate: 28433 in the name of HOWARD H. GILSON AND DENNIS R. GILSON
(perfected under Permit G-158)

Use: IRRIGATION of 32.5 ACRES

Priority Date: FEBRUARY 20, 1956

Rate: 0.20 CUBIC FOOT 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, 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 3 acre-feet per acre for each acre irrigated during the irrigation season of each year, and shall conform to such reasonable rotation system as may be ordered by the proper state officer.

Source: GILSON WELL No. 1 within the MOSS CREEK BASIN

Authorized Point of Appropriation:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
34 S	19 E	WM	21	NE NW	SOUTH 45 DEGREES 30 MINUTES EAST 1890 FEET FROM THE NW CORNER OF SECTION 21

Authorized Place of Use to be Cancelled:

IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
34 S	19 E	WM	21	NE NW	7.0
34 S	19 E	WM	21	NW NW	7.4
34 S	19 E	WM	21	SW NW	8.9
34 S	19 E	WM	21	SE NW	9.2

18. On June 18, 2015, an affidavit certifying that a portion of a water right has been abandoned and requesting cancellation of the right was received from J-Spear Ranch, landowner. The right to be cancelled is as follows:

Certificate: 80144 in the name of J-SPEAR RANCH (perfected under Permit G-5670)

Use: SUPPLEMENTAL IRRIGATION of 13.2 ACRES

Priority Date: FEBRUARY 2, 1973

Rate: 0.07 CUBIC FOOT 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-EIGHTIETH of one cubic foot per second (or its equivalent) and 3.0 acre-feet 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: GIBSON WELL NO. 4 within the MOSS CREEK BASIN

Authorized Point of Appropriation:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
34 S	19 E	WM	21	SW NW	2600 FEET SOUTH AND 1290 FEET EAST FROM THE NW CORNER OF SECTION 21

Authorized Place of Use to be Cancelled:

SUPPLEMENTAL IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
34 S	19 E	WM	21	NE NW	5.8
34 S	19 E	WM	21	NW NW	7.4

19. On June 18, 2015, an affidavit certifying that a portion of a water right has been abandoned and requesting cancellation of the right was received from J Spear Ranch. The right to be cancelled is as follows:

Certificate: 83162 in the name of J SPEAR RANCH CO. (perfected under Permit G-10926)

Use: SUPPLEMENTAL IRRIGATION of 16.3 ACRES

Priority Date: MAY 18, 1987

Rate: 0.20 CUBIC FOOT 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-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 3.0 acre-feet per acre for each acre irrigated during the irrigation season of each year.

Source: A WELL within the GOOSE & SUMMER LAKE BASIN

Authorized Point of Appropriation:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
34 S	19 E	WM	21	SW NW	2630 FEET SOUTH AND 1280 FEET EAST FROM THE NW CORNER OF SECTION 21

Authorized Place of Use to be Cancelled:

SUPPLEMENTAL IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
34 S	19 E	WM	21	NW NW	7.4
34 S	19 E	WM	21	SW NW	8.9

Determination and Proposed Action

The change in point of appropriation and additional points of appropriation proposed in Transfer Application T-11847 appear to be consistent with the requirements of ORS 537.705 and 540.505 to 540.580 and OAR 690-380-5000 and the abandoned rights should be cancelled. If protests are not filed pursuant to OAR 690-380-4030, the application will be approved and the abandoned rights will be cancelled.

If Transfer Application T-11847 is approved, the final order will include the following:

- 1. The change in point of appropriation and additional points of appropriation proposed in Transfer Application T-11847 are approved. The portions of the rights that have been abandoned are cancelled.*
- 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 28433, 80144, and 83162 and any related decree.*
- 3. Water right Certificates 28433, 80144, and 83162 are cancelled.*
- 4. The quantity of water diverted at the additional points of appropriation, together with that diverted at the original points of appropriation, shall not exceed the quantity of water lawfully available at the original points of appropriation.*
- 5. Any new wells and/or existing wells that may be reconstructed shall be constructed to obtain groundwater from the predominantly basin-fill sedimentary unit. At minimum, any new or reconstructed well shall have continuous casing and continuous seal from land surface. Additionally, the new or reconstructed wells shall be constructed to be open to water bearing zones with similar static water levels only.*

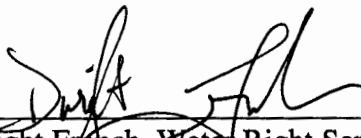
Prior to use, all existing wells prior to any possible reconstruction shall be configured to allow a strictly clean water (no oil) static water level measurements with an electric-tape. That can include measurement access via an unobstructed vertical discharge pipe that allows the groundwater level to fluctuate freely within the discharge pip (no valves, etc). Otherwise, a dedicated measuring tube must be installed prior to use. The tube must be unobstructed, have a diameter of ¾ inch (0.75 inch) or greater and pursuant to figure 200-5 in OAR 690-200.

Prior to using water from any well listed on this permit, the permittee shall ensure that the well has been assigned an OWRD Well Identification Number (Well ID). A tag showing the Well ID shall be permanently attached to the well. If a well does not have a Well ID, the permittee shall apply for one from the Department and attach it to the well within 60 days of the date the permit is issued. The Well ID shall be used as a reference in any correspondence regarding the well, including any reports of water use, water level, or pump test data.

- 6. 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 devices 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 devices are located within a private structure, the Watermaster shall request access upon reasonable notice.*

7. *Water shall be acquired from the same aquifer (water source) as the original point of appropriation.*
8. *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 changes and full beneficial use of the water.*
9. *After satisfactory proof of beneficial use is received, new certificates confirming the rights transferred will be issued.*

Dated at Salem, Oregon this 17 day of August 2015.


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

This Preliminary Determination was prepared by Lanaya Blakely. If you have question about the information in this document, you may reach me at (503) 986-0888 or Lanaya.F.Blakely@wrđ.state.or.us.

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