

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

| | | |
|---------------------------------------|---|---------------------------|
| In the Matter of Transfer Application |) | PRELIMINARY DETERMINATION |
| T-12663, Marion County |) | PROPOSING APPROVAL OF 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.

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| 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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5. 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 |

6. 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 |

7. 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)

8. 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.
9. 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.
10. The proposed change would not result in enlargement of the right.
11. The proposed change would not result in injury to other water rights.
12. All other application requirements are met.

Determination and Proposed Action

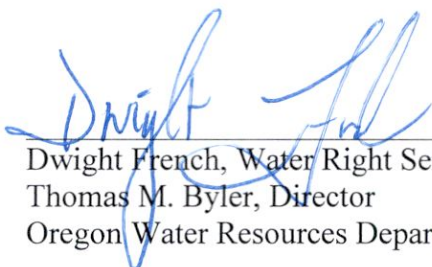
The additional point of appropriation proposed in Transfer Application T-12663 appears to be consistent with the requirements of ORS 537.705 and 540.505 to 540.580 and OAR 690-380-5000. If protests are not filed pursuant to OAR 690-380-4030, the application will be approved.

If Transfer Application T-12663 is approved, the final order will include the following:

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 AUG 06 2018 ,



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

This Preliminary Determination was prepared by Marcy Osborn. If you have questions about the information in this document, you may reach me at 541-523-8224 ext.228 or marcy.j.osborn@oregon.gov.

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.

Notice Regarding Service Members: Active duty service members have a right to stay proceedings under the federal Service Members Civil Relief Act. 50 U.S.C. App. §§501-597b. You may contact the Oregon State Bar or the Oregon Military Department for more information. The toll-free telephone number for the Oregon State Bar is: 1 (800) 452-8260. The toll-free telephone number of the Oregon Military Department is: 1 (800) 452-7500. The Internet address for the United States Armed Forces Legal Assistance Legal Services Locator website is: <http://legalassistance.law.af.mil>



Oregon
Kate Brown, Governor

Water Resources Department
725 Summer St NE, Suite A
Salem, OR 97301
(503) 986-0900
Fax (503) 986-0904

August 2, 2018

VIA E-MAIL

JLR, LLC
PO BOX 588
380 S PACIFIC HWY 99E
WOODBURN, OR 97071
kbeckman@brucepac.com

SUBJECT: Water Right Transfer Application T-12663

Please find enclosed the Preliminary Determination indicating that, based on the information available, the Department intends to approve application T-12663. 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 503-986-0886 or Patrick.K.Starnes@oregon.gov if I may be of assistance.

Sincerely,

Kelly Starnes
Transfer Program Analyst
Transfer and Conservation Section

cc: Transfer Application file T-12663
Joel M. Plahn, District 16 Watermaster (via e-mail)
Keith Beckman, Agent for the applicant (via e-mail)

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