

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

In the Matter of Transfer Application)	PRELIMINARY DETERMINATION
T-13092, Harney County)	PROPOSING APPROVAL OF
)	ADDITIONAL POINTS 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

JWJ FARMS, LLC
70251 OLD EXPERIMENTAL RD
BURNS, OR 97720

Findings of Fact

1. On December 31, 2018, JWJ FARMS, LLC filed an application for additional points of appropriation under Certificate 91112. The Department assigned the application number T-13092.
2. Notice of the application for transfer was published on January 8, 2019, pursuant to OAR 690-380-4000. No comments were filed in response to the notice.
3. On September 11, 2019 the Department sent a copy of the draft Preliminary Determination proposing to approve Transfer Application T-13092 to the applicant. The draft Preliminary Determination cover letter set forth a deadline of October 11, 2019 for the applicant to respond. The applicant requested that the Department proceed with issuance of a Preliminary Determination, to extend the completion date to 5 years and provided the necessary information to demonstrate that the applicant is authorized to pursue the transfer.
4. The right to be transferred is as follows:
 - Certificate:** 91112 in the name of JOSEPH C. WILLIAMS II (perfected under Permit G-15801)
 - Use:** SUPPLEMENTAL IRRIGATION OF 200.42 ACRES
 - Priority Date:** NOVEMBER 17, 2003

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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Rate: 2.51 CUBIC FEET 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.
Period of Use: MARCH 1 THROUGH OCTOBER 31
Source: THREE WELLS IN RATTLESNAKE CREEK BASIN

Authorized Points of Diversion:

Twp	Rng	Mer	Sec	Q-Q	GLot	Measured Distances
23 S	32 E	WM	7	SW NE		WELL #3 - 2830 FEET NORTH AND 3630 FEET EAST FROM THE SW CORNER OF SECTION 7
23 S	32 E	WM	7	SW NW	2	WELL #4 - 2720 FEET NORTH AND 53 FEET EAST FROM THE SW CORNER OF SECTION 7
23 S	32 E	WM	7	SE NW		WELL #1 - 2720 FEET NORTH AND 1200 FEET EAST FROM THE SW CORNER OF SECTION 7

Authorized Place of Use:

SUPPLEMENTAL IRRIGATION						
Twp	Rng	Mer	Sec	Q-Q	GLot	Acres
23 S	32 E	WM	7	NE NE		26.80
23 S	32 E	WM	7	NW NE		26.70
23 S	32 E	WM	7	SW NE		23.92
23 S	32 E	WM	7	SE NE		22.60
23 S	32 E	WM	7	NE NW		33.30
23 S	32 E	WM	7	NW NW	1	21.00
23 S	32 E	WM	7	SW NW	2	17.20
23 S	32 E	WM	7	SE NW		28.90
Total						200.42

5. Transfer Application T-13092 proposes additional points of appropriation as follows:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances	Approximate Distance from original points of appropriation in miles (mi.)		
						Well #1	Well #3	Well #4
23 S	32 E	WM	7	SW NE	WELL #6 - 2,850 FEET NORTH AND 2,960 FEET EAST FROM THE SOUTHWEST CORNER OF SECTION 7	0.3 mi.	0.1 mi.	0.6 mi.
23 S	32 E	WM	7	SE NE	WELL #5 - 2,970 FEET NORTH AND 3,880 FEET EAST FROM THE SOUTHWEST CORNER OF SECTION 7	0.5 mi.	0.1 mi.	0.7 mi.

Transfer Review Criteria (OAR 690-380-4010)

6. 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.
7. 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-13092.
8. The proposed change would not result in enlargement of the right.
9. The proposed change would not result in injury to other water rights.
10. All other application requirements are met.

Determination and Proposed Action

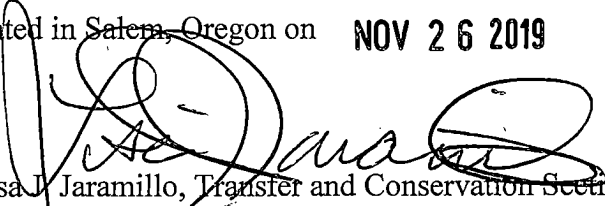
The additional points of appropriation proposed in Transfer Application T-13092 appear to be consistent with the requirements of ORS 537.705 and 540.505 to 540.580 and OAR 690-380-5000. If protests are not filed pursuant to OAR 690-380-4030, the application will be approved.

If Transfer Application T-13092 is approved, the final order will include the following:

1. *The additional points of appropriation proposed in Transfer Application T-13092 are 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 91112 and any related decree.*
3. *Water right Certificate 91112 is cancelled.*
4. *The quantity of water diverted at the new additional points of appropriation (Well #5, Well #6), together with that diverted at the original points of appropriation (Well #1, Well #3, Well #4), shall not exceed the quantity of water lawfully available at the original points of appropriation (Well #1, Well #3, Well #4).*
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 diversion (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 devices; provided however, where the meters or measuring devices 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 point of appropriation.*
7. *Full beneficial use of the water shall be made, consistent with the terms of this order, on or before **October 1, 2025**. 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.*
8. *After satisfactory proof of beneficial use is received, a new certificate confirming the right transferred will be issued.*

Dated in Salem, Oregon on **NOV 26 2019**


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

This Preliminary Determination was prepared by Scott Grew. If you have questions about the information in this document, you may reach him at scott.a.grew@oregon.gov or 503-986-0890.

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 servicemembers have a right to stay these proceedings under the federal Servicemembers Civil Relief Act. For more information contact the Oregon State Bar at 800-452-8260, the Oregon Military Department at 503-584-3571, or the nearest United States Armed Forces Legal Assistance Office through <http://legalassistance.law.af.mil>. The Oregon Military Department does not have a toll free number.



Oregon
Kate Brown, Governor

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

November 21, 2019

Applicant

JWJ FARMS LLC
70251 OLD EXPERIMENTAL RD
BURNS, OR 97720

SUBJECT: Water Right Transfer Application T-13092

Please find enclosed the Preliminary Determination indicating that, based on the information available, the Department intends to approve application T-13092. 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 Burns Times Herald 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 contact me at scott.a.grew@oregon.gov or 503-986-0890 if I may be of assistance.

Sincerely,

Scott Grew

Transfer Specialist

cc: T-13092
JR Johnson, District 10 Watermaster (via e-mail)
John A. Short, Agent for the applicant (via e-mail)

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