

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

In the Matter of Groundwater)	PRELIMINARY DETERMINATION
Registration Modification Application)	PROPOSING APPROVAL OF
T-13332, Marion County)	RECOGNITION OF MODIFICATIONS
)	IN POINT OF APPROPRIATION AND
)	PLACE OF USE

Authority

Oregon Revised Statutes (ORS) 537.610, 537.705 and 540.505 to 540.580 establish the process in which the holder of a certificate of registration may submit a request for recognition of modifications to the place of use, character of use or point of appropriation under a groundwater certificate of registration.

Oregon Administrative Rules (OAR) Chapter 690, Divisions 382 and 380 implement the statutes and provide the Department's procedures and criteria for evaluating groundwater registration modification applications.

Applicant

AVELLANA FARMS, LLC
2229 SAN FELIPE ST SUITE 1150
HOUSTON, TX 77019

Findings of Fact

1. On December 26, 2019, AVELLANA FARMS, LLC filed a groundwater registration modification application to modify the point of appropriation and place of use under Registration Application GR-1432 (Certificate of Registration GR-1386). The Department assigned the application number T-13332.
2. On August 9, 2019, Registration Application GR-1432 (Certificate of Registration GR-1386) was assigned from JOHN A. JAMES to AVELLANA FARMS, LLC.
3. Notice of the application for groundwater registration modification was published on December 31, 2019, pursuant to OAR 690-382-0600. No comments were filed in response to the notice.

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.

4. On June 18, 2020, the Department mailed a copy of the draft Preliminary Determination proposing to approve Transfer Application T-13332 to the applicant. The draft Preliminary Determination cover letter set forth a deadline of July 20, 2020, 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 groundwater registration to be modified is as follows:

Registration: Application GR-1432 (Certificate of Registration GR-1386), in the name of JOHN A. JAMES (*assigned to AVELLANA FARMS, LLC*)

Use: IRRIGATION of 35.0 ACRES

Tentative

Priority Date: 1948

Quantity: 280 GALLONS PER MINUTE

Source: PUMP WELL #2

Original Point of Appropriation:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
9 S	2 W	WM	25	NW NE	PUMP WELL #2 - NORTH 54 ° 30 MIN WEST 11.80 CHAINS FROM THE N1/4 CORNER OF SECTION 25

Original Place of Use:

IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
9 S	2 W	WM	25	NW NE	35.0

6. Groundwater Registration Modification Application T-13332 proposes to modify the location of the original point of appropriation to:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances	Approximate distance from original point of appropriation in feet (ft.)
9 S	2 W	WM	24	SW SE	WELL B - 1000 FEET NORTH AND 2580 FEET WEST FROM THE SE CORNER OF SECTION 24	1523.9 ft.
9 S	2 W	WM	25	NW NE	WELL A - 445 FEET SOUTH AND 1980 FEET WEST FROM THE NE CORNER OF SECTION 25	41.9 ft.
9 S	2 W	WM	25	SE NE	PUMP WELL #3 - SOUTH 15 ° 53 MINUTES WEST, 421 FEET TO THE SW CORNER OF THE SE1/4 NE1/4 OF SECTION 25	1955.3 ft.

7. Groundwater Registration Modification Application T-13332 proposes to modify the place of use under the ground water registration to:

IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
9 S	2 W	WM	25	NW NE	33.9
9 S	2 W	WM	25	SW NE	1.1
Total					35.0

Review Criteria for Groundwater Registration Modification Applications [OAR 690-382-0700(2)]

8. The proposed modifications would not result in enlargement of the groundwater registration.
9. The proposed modifications would not result in a state Scenic Waterway not receiving previously available water during periods in which streamflows are less than the quantities determined by the Department to be necessary to meet the requirements of ORS 390.835.
10. The proposed modifications would not result in injury to other water rights.

Determination and Proposed Action

The modifications in point of appropriation and place of use proposed in Groundwater Registration Modification T-13332 appear to be consistent with the requirements of ORS 537.610, 537.705, 540.505 to 540.580 and OAR 690-382-1000. If protests are not filed pursuant to OAR 690-382-0900, the modification will be approved.

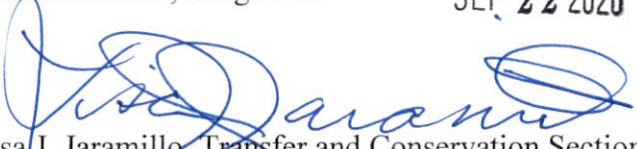
If Groundwater Registration Modification T-13332 is approved, the final order will include the following:

1. *The modifications to Registration Application GR-1432 (Certificate of Registration GR-1386) proposed in Groundwater Registration Modification Application T-13332 are recognized. Recognition of the modifications shall not be construed as a final determination of the right to appropriate groundwater under the certificate of registration or modification. Such a determination will occur in an adjudication proceeding under ORS 537.670 to 537.695.*
2. *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 Registration Application GR-1432 (Certificate of Registration GR-1386) and any related decree.*
3. *Water shall be acquired from the same aquifer (water source) as the original point of appropriation (Pump Well #2).*
4. *Water shall no longer be appropriated from the original point of appropriation as part of this groundwater certificate of registration.*
5. *The quantity of water diverted at the new points of appropriation (Wells A and B, and Pump Well #3), shall not exceed the quantity of water lawfully available at the original point of appropriation (Pump Well #2).*

6. *The former place of use of the modified groundwater registration shall no longer receive water as part of the groundwater certificate of registration.*

Dated in Salem, Oregon on

SEP 22 2020


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

This Preliminary Determination was prepared by Corey Courchane. If you have questions about the information in this document, you may reach me at 503-986-0825 or corey.a.courchane@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.

IMPORTANT: Due to COVID-19, the Department's office is closed to walk-in services. The Department encourages the submission of protests by U.S. mail. Please consider mailing early to ensure the Department receives the protest by the deadline specified above.

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

September 22, 2020

AVELLANA FARMS, LLC
2229 SAN FELIPE ST. SUITE 1150
HOUSTON, TX 77019

SUBJECT: Water Right Transfer Application T-13332

Please find enclosed the Preliminary Determination indicating that, based on the information available, the Department intends to approve application T-13332. 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 Stayton Mail 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.

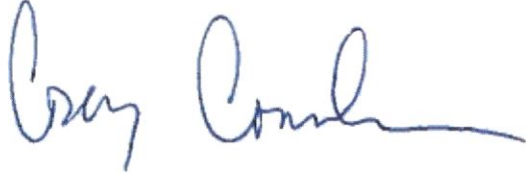
If no protest is filed, the Department will issue a Final Order consistent with the Preliminary Determination. You should receive a copy of the Final Order about 30 days after the close of the protest period.

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.

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Please do not hesitate to contact me, at corey.a.courchane@oregon.gov or (503) 986-0825, if I may be of assistance.

Sincerely,

A handwritten signature in blue ink, appearing to read "Corey Courchane". The signature is fluid and cursive, with a long horizontal stroke at the end.

Corey Courchane
Transfer Specialist
Transfer and Conservation Section

cc: T-13332
Gregory J. Wacker, District 16 Watermaster (*via e-mail*)
William E. McGill, Agent for the applicant (*via e-mail*)

encs