

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

In the Matter of Transfer Application) . PRELIMINARY DETERMINATION
T-13230, Marion County) PROPOSING APPROVAL OF A
) CHANGE IN 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

JENSEN BROS. PROPERTIES, LLC.
7475 JENSEN ROAD NE
GERVAIS, OR 97026

Findings of Fact

1. On July 26, 2019, LAFAYETTE LAND COMPANY LLC., LUKE LAFAYETTE, Member; filed an application for additional points of appropriation and to change the points of appropriation under Certificate 89753. The Department assigned the application number T-13230.
2. Notice of the application for transfer was published on July 30, 2019, pursuant to OAR 690-380-4000. No comments were filed in response to the notice.
3. On October 22, 2020, Transfer Application was assigned from Lafayette Land Company LLC., to Jenson Bros Properties, LLC.
4. On November 18, 2020, the Department received a revised application and a revised map, removing the three additional points of appropriation, changing the points of appropriation and identifying the new Applicants and Agent.
5. On December 15, 2020, the Department mailed a copy of the draft Preliminary Determination proposing to approve Transfer Application T-13230 to the applicants. The draft Preliminary Determination cover letter set forth a deadline of January 16, 2021, for the applicants to respond. The applicants requested that the Department proceed with issuance

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.

of a Preliminary Determination and provided the necessary information to demonstrate that the applicants are authorized to pursue the transfer.

6. The right to be transferred is as follows:

Certificate: 89753 in the name of JOHN WEISZ JR (perfected under Permit G-12096)

Use: IRRIGATION of 212.2 ACRES

Priority Date: MARCH 18, 1993

Rate: 2.65 CUBIC FEET 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, 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 2.5 acre-feet per acre for each acre irrigated during the irrigation season of each year.

Period of Use: March 1 through October 31

Source: TWO WELLS within the SENECA CREEK BASIN

Authorized Points of Appropriation:

Well	Twp	Rng	Mer	Sec	Q-Q	DLC	Measured Distances
1	5 S	2 W	WM	14	SW NW		480 FEET NORTH AND 2250 FEET WEST FROM THE C1/4 CORNER OF SECTION 14
2	5 S	2 W	WM	15	SE SE	57	890 FEET NORTH AND 20 FEET WEST FROM THE SE CORNER OF DLC 41

Authorized Place of Use:

IRRIGATION							
Twp	Rng	Mer	Sec	Q-Q	GLot	DLC	Acres
5 S	2 W	WM	15	SE SW		99	7.7
5 S	2 W	WM	15	SW SE			12.1
5 S	2 W	WM	15	SE SE			3.2
5 S	2 W	WM	22	NE NE			21.2
5 S	2 W	WM	22	NW NE			38.6
5 S	2 W	WM	22	SW NE			38.4
5 S	2 W	WM	22	SE NE			36.3
5 S	2 W	WM	22	NE NW		99	20.1
5 S	2 W	WM	22	NW NW		99	0.6
5 S	2 W	WM	22	SE NW	3		2.1
5 S	2 W	WM	22	NE SW	7		3.7
5 S	2 W	WM	22	NE SE			6.1
5 S	2 W	WM	22	NW SE	6		20.2
5 S	2 W	WM	23	NW NW		57	0.8
5 S	2 W	WM	23	SE NW		57	1.1
Total							212.2

7. Transfer Application T-13230 proposes to move the authorized point of appropriation approximately 0.8 to 1.1 mile from the existing points of appropriation to:

Twsp	Rng	Mer	Sec	Q-Q	DLC	Measured Distances	Distance from Authorized wells
5 S	2 W	WM	22	NW SE	6	WELL A- 1090 FEET SOUTH AND 1315 FEET EAST FROM THE MOST EASTERLY NE CORNER OF DLC 42	WELL #1- 1.1 mile WELL #2- 0.8 mile

Transfer Review Criteria (OAR 690-380-4010)

8. Water has been used within the last five years prior to submittal of Transfer Application T-13230 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 was present within the five-year period prior to submittal of Transfer Application T-13230.
10. The proposed change as conditioned 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 change in point of appropriation proposed in Transfer Application T-13230 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.

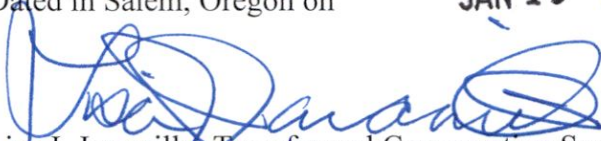
If Transfer Application T-13230 is approved, the final order will include the following:

1. *The change in point of appropriation proposed in Transfer Application T-13230 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 89753 and any related decree.*
3. *Water right Certificate 89753 is cancelled.*
4. *The quantity of water diverted at the new point of appropriation (Well A) shall not exceed the quantity of water lawfully available at the original points of appropriation (Wells #1 and #2).*

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 appropriation (new and existing) appropriation.*
 - b. *The water user shall maintain the meters or measuring device(s) 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 device is 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 points of appropriation.*
7. *Full beneficial use of the water shall be made, consistent with the terms of this order, on or before **October 1, 2022**. 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.*
8. *After satisfactory proof of beneficial use is received, a new certificate confirming the right transferred will be issued.*

Dated in Salem, Oregon on

JAN 19 2021



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

This Preliminary Determination was prepared by Joan Smith. If you have questions about the information in this document, you may reach me at 503-986-0892 or Joan.M.Smith@oregon.gov

Protests should be addressed to the attention of Water Rights 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.*

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

January 19, 2021

VIA E-MAIL

JENSEN BROS. PROPERTIES, LLC.
7475 JENSEN ROAD NE
GERVAIS, OR 97026

SUBJECT: Water Right Transfer Application T-13230

Please find enclosed the Preliminary Determination indicating that, based on the information available, the Department intends to approve application T-13230. 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 Woodburn Independent 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 503-986-0892 or Joan.M.Smith@ wrd.state.or.us if I may be of assistance.

Sincerely,

Joan Smith
Transfer Specialist
Transfer and Conservation Section

cc: T-13230
Gregory J. Wacker, District 16 Watermaster (via e-mail)
Jennie Bricker, Agent for the applicant (via e-mail)
Jeanne Boatwright, CWRE

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