



Oregon

Kate Brown, Governor

Water Resources Department

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Salem, OR 97301

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November 14 2022

VIA CERTIFIED MAIL AND E-MAIL

Applicant

J-S RANCH INC.

34905 RANCH DRIVE

BROWNSVILLE, OR 97327

SUBJECT: Water Right Transfer Application T-13675

Please find enclosed the Preliminary Determination indicating that, based on the information available, the Department intends to approve application T-13675. 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 Albany Democrat 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@water.oregon.gov or 503-986-0890 if I may be of assistance.

Sincerely,

Scott Grew

Transfer Specialist

cc: Transfer Application file T-13675
Gregory J. Wacker, District 16 Watermaster (via e-mail)
William E. McGill, Agent for the applicant (via e-mail)
Mike McCord, Northwest Region Manager (via e-mail)

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

In the Matter of Transfer Application)
T-13675, Linn County)
)
)
)
)

PRELIMINARY DETERMINATION
PROPOSING APPROVAL OF AN
ADDITIONAL POINT OF APPROPRIATION,
CHANGE OF PLACE OF USE, AND CHANGE
IN CHARACTER OF USE

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

J-S RANCH INC.
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Findings of Fact

1. On April 15, 2021, J-S RANCH INC. filed an application for an additional point of appropriation, a change of place of use, and a change in character of use under Certificate 76538. The Department assigned the application number T-13675.
2. Notice of the application for transfer was published on April 27, 2021, pursuant to OAR 690-380-4000. No comments were filed in response to the notice.
3. On November 24, 2021, the agent for the applicant provided revisions to tables 1 and 2 of the application and a revised map.
4. On June 27, 2022, the agent for the applicant provided revised maps and table 1.
5. On July 11, 2022, the Department sent a copy of the draft Preliminary Determination proposing to approve Transfer Application T-13675 to the applicant. The draft Preliminary Determination cover letter set forth a deadline of August 10, 2022, 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.

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.

6. On July 12, 2022, the agent for the applicant requested the completion date of October 1, 2027 to allow time to get all the needed permits from governmental agencies involved and develop the proposed facilities before putting the water right to beneficial use. The Department granted the longer time for completion per OAR 690-380-5140 (3).
7. On November 4, 2022, the Department sent a copy of a revised draft Preliminary Determination proposing to approve Transfer Application T-13675 13675 to the applicant. The draft Preliminary Determination cover letter set forth a deadline of December 4, 2022, for the applicant to respond. The applicant requested that the Department proceed with issuance of a Preliminary Determination.
8. The right to be transferred is as follows:

Certificate: 76538 in the name of TRACY E. MOUNT (perfected under Permit G-12074)
Use: IRRIGATION of 45.7 ACRES
Priority Date: SEPTEMBER 28, 1993
Rate: 0.57 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 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 2.5 acre-feet per acre for each acre irrigated during the irrigation season of each year.
Source: A WELL in the NORTH SANTIAM RIVER BASIN

Authorized Point of Appropriation:

Twp	Rng	Mer	Sec	Q-Q	GLot	Measured Distances
10 S	2 W	WM	10	NE SW	3	WELL 1 - 1040 FEET SOUTH AND 560 FEET EAST FROM THE INTERIOR OF ELL CORNER OF STEWART DLC 54

Authorized Place of Use:

IRRIGATION						
Twp	Rng	Mer	Sec	Q-Q	GLot	Acres
10 S	2 W	WM	10	SW NW	2	19.2
10 S	2 W	WM	10	NE SW	3	4.9
10 S	2 W	WM	10	NW SW		21.6
					Total	45.7

9. Transfer Application T-13675 proposes an additional point of appropriation approximately 760 feet from the existing point of appropriation to:

Twp	Rng	Mer	Sec	Q-Q	GLot	Measured Distances
10 S	2 W	WM	10	SW NW	2	WELL 2 - 870 FEET SOUTH AND 250 FEET WEST FROM THE INTERIOR ELL CORNER OF STEWART DLC 54

10. Transfer Application T-13675 also proposes to change the place of use of the right to:

IRRIGATION (0.33 CFS)						
Twp	Rng	Mer	Sec	Q-Q	GLot	Acres
10 S	2 W	WM	10	SW NW	2	10.0
10 S	2 W	WM	10	NE SW	3	4.8
10 S	2 W	WM	10	NW SW		10.7
10 S	2 W	WM	10	SW SW		1.0
/					Total	26.5

AGRICULTURE AND STOCK (0.24 CFS)					
Twp	Rng	Mer	Sec	Q-Q	GLot
10 S	2 W	WM	10	SW NW	2
10 S	2 W	WM	10	NW SW	

11. Transfer Application T-13675 proposes to change the character of use of 0.24 CFS to AGRICULTURE AND STOCK USES. 0.24 cfs is the equivalent of 19.2 acres (0.24 cfs ÷ 0.0125 cfs per acre).
12. Certificate 76538 does not specify the irrigation season. However, consistent with the North Santiam River decree, the irrigation season is established as being May 1 through September 30.

Transfer Review Criteria (OAR 690-380-4010)

13. Water has been used 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.
14. 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-13675.
15. The proposed changes would not result in enlargement of the right, if conditioned so that the rate of diversion for the proposed agricultural and stock use shall be limited to 0.24 cubic foot per second and shall be further limited to a total volume diverted of 48.0 acre-feet (19.2 acres x 2.5 acre-feet per acre) during the time period of May 1 through September 30.
16. The proposed changes would not result in injury to other water rights.
17. All other application requirements are met.

Determination and Proposed Action

The additional point of appropriation, change of place of use and change in character of use proposed in Transfer Application T-13675 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.

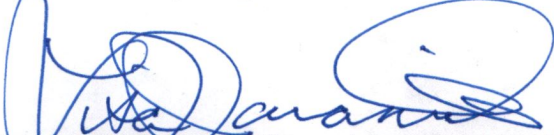
If Transfer Application T-13675 is approved, the final order will include the following:

- 1. The additional point of appropriation, change of place of use and change in character of use proposed in Transfer Application T-13675 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 76538 and any related decree.*
- 3. Water right Certificate 76538 is cancelled.*
- 4. The rate of diversion for the proposed agriculture and stock use shall be limited to 0.24 cubic foot per second and shall be further limited to a total volume diverted of 48.0 acre-feet during the time period May 1 through September 30.*
- 5. The quantity of water diverted at the proposed additional point of appropriation (Well 2), together with that diverted at the original point of appropriation (Well 1), shall not exceed the quantity of water lawfully available at the original point of appropriation (Well 1).*
- 6. Water shall be acquired from the same aquifer (water source) as the original point of appropriation.*
- 7. The former place of use of the transferred right shall no longer receive water under the right.*
- 8. Full beneficial use of the water shall be made, consistent with the terms of this order, on or before **October 1, 2027**. 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, a new certificate confirming the right transferred will be issued.*

NOV 16 2022

Dated in Salem, Oregon on



Lisa J. Jaramillo, Transfer and Conservation Section Manager, for
DOUGLAS E. WOODCOCK, ACTING 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@water.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.