



Oregon

Tina Kotek, Governor

Water Resources Department

North Mall Office Building
725 Summer St NE, Suite A
Salem, OR 97301
Phone 503 986-0900
Fax 503 986-0904
www.oregon.gov/owrd

March 9, 2023

VIA CERTIFIED MAIL AND E-MAIL

Applicant

JB LAND LLC
GREG JUUL
PO BOX 130
HERMISTON, OR 97838

SUBJECT: Water Right Transfer Application T-13593

Please find enclosed the Preliminary Determination indicating that, based on the information available, the Department intends to approve application T-13593. 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 corey.a.courchane@water.oregon.gov or (503) 979-3917, 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
Allocation of Conserved Water
Transfer and Conservation Section

cc: Transfer Application file T-13593
Gregory M. Silbernagel, District 5 Watermaster (*via e-mail*)
William I. Porfily, Agent for the applicant (*via e-mail*)

encs

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

In the Matter of Transfer Application)	PRELIMINARY DETERMINATION
T-13593, Umatilla County)	PROPOSING APPROVAL OF A CHANGE IN
)	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

JB LAND LLC
GREG JUUL
PO BOX 130
HERMISTON, OR 97838

Findings of Fact

1. On January 4, 2021, JB LAND LLC, GREG JUUL filed an application to change the points of appropriation under Certificates 55009 and 81783. The Department assigned the application number T-13593.
2. Notice of the application for transfer was published on January 26, 2021, pursuant to OAR 690-380-4000. No comments were filed in response to the notice.
3. On March 22, 2022, the Department sent a copy of the draft Preliminary Determination proposing to approve Transfer Application T-13593 to the applicant. The draft Preliminary Determination cover letter set forth a deadline of April 22, 2022, for the applicant to respond. The applicant requested the Department proceed with issuance of the 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.

4. On February 14, 2023, the Department determined there was a scrivener's error, in identifying the authorized rate for the portion of Certificate 55009 involved in T-13593. There is a remaining right portion of 0.2 acres, so the rate needs to be adjusted to accommodate the remaining right. The Department determined a revised draft Preliminary Determination should be issued.
5. On February 23, 2023, the Department sent a copy of the revised draft Preliminary Determination proposing to approve Transfer Application T-13593 to the applicant. The revised draft Preliminary Determination cover letter set forth a deadline of March 27, 2023, for the applicant to respond. The applicant requested the Department proceed with issuance of the Preliminary Determination.
6. The portion of the first right to be transferred is as follows:

Certificate: 55009 in the name of LEONARD H. WILLIAMS (perfected under Permit G-5045)

Use: IRRIGATION of 65.6 ACRES

Priority Date: AUGUST 16, 1971

Rate: 0.817 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, shall be limited to ONE-EIGHTIETH of one cubic foot per second per acre 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.

Source: A WELL, a tributary of UMATILLA RIVER

Authorized Point of Diversion:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
4 N	28 E	WM	28	NE NE	1300 FEET SOUTH AND 1320 FEET WEST FROM NE THE CORNER OF SECTION 28

Authorized Place of Use:

IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
4 N	28 E	WM	27	NW NW	32.4
4 N	28 E	WM	27	SW NW	33.2
Total:					65.6

7. Transfer Application T-13593 proposes to move the authorized point of appropriation approximately 1200 feet East from the existing point of appropriation to:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
4 N	28 E	WM	28	NW NE	NEW WELL 4 – 1270 FEET SOUTH AND 1570 FEET WEST FROM THE NE CORNER OF SECITON 28

8. The second right to be transferred is as follows:

Certificate: 81783 in the name of SANDRA SHARP (perfected under Permit G-4337)
Use: IRRIGATION of 82.70 ACRES
Priority Date: SEPTEMBER 27, 1968
Rate: 1.04 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.
Source: A WELL, a tributary of the UMATILLA RIVER

Authorized Point of Appropriation:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
4 N	28 E	WM	28	NE NE	1300 FEET SOUTH AND 1320 FEET WEST FROM THE NE CORNER OF SECTION 28

Authorized Place of Use:

IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
4 N	28 E	WM	28	NE NE	35.3
4 N	28 E	WM	28	NW NE	5.1
4 N	28 E	WM	28	SW NE	2.6
4 N	28 E	WM	28	SE NE	39.7
Total:					82.7

9. Transfer Application T-13593 proposes to move the authorized point of appropriation approximately 1200 feet from the existing point of appropriation to:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
4 N	28 E	WM	28	NW NE	NEW WELL 4 – 1270 FEET SOUTH AND 1570 FEET WEST FROM THE NE CORNER OF SECTION 28

Transfer Review Criteria (OAR 690-380-4010)

10. Water has been used within the last five years prior to the submittal of Transfer Application T-13593 according to the terms and conditions of the rights. There is no information in the record that would demonstrate that the rights are subject to forfeiture under ORS 540.610.
11. A pump, pipeline, and sprinkler system sufficient to use the full amount of water allowed under the existing rights were present within the five-year period prior to submittal of Transfer Application T-13593.
12. The proposed change would not result in injury to other water rights.
13. All other application requirements are met.

Determination and Proposed Action

The change in points of appropriation proposed in Transfer Application T-13593 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-13593 is approved, the final order will include the following:

1. *The changes in points of appropriation proposed in Transfer Application T-13593 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 Certificates 55009, 81783, and any related decree.*
3. *The quantity of water diverted at the new point of appropriation (NEW WELL 4), shall not exceed the quantity of water lawfully available at the original point of appropriation (WELL 4).*
4. *Water right Certificates 55009 and 81783 are cancelled. A new Certificate will be issued describing that portion of Certificate 55009 not affected by this transfer.*
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.*
 - 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 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, 2024**. 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, new certificates confirming the rights transferred will be issued.*

Dated in Salem, Oregon on

MAR 09 2023


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