

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

In the Matter of Ground Water) FINAL ORDER APPROVING
Registration Modification Application) RECOGNITION OF MODIFICATIONS
T-11565 and T-11566, Marion County) IN PLACE OF USE

Authority

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 ground water certificate of registration.

OAR Chapter 690, Divisions 382 and 380 implement the statutes and provide the Department's procedures and criteria for evaluating ground water registration modification applications.

Applicant

MELVIN KAUFMAN
11155 KAUFMAN RD NE
SILVERTON, OR 97381

Findings of Fact

Background

1. On April 5, 2013, Melvin Kaufman filed a ground water registration modification application to modify the place of use under Registration Application GR-638 (Certificate of Registration GR-603) for the 2013, 2014 and 2015 irrigation seasons. The Department assigned the application number T-11565.
2. On April 5, 2013, Melvin Kaufman also filed a second ground water registration modification application to modify the place of use under Registration Application GR-638 (Certificate of Registration GR-603) at the end of the 2015 irrigation season, by moving back to the original place of use under Registration Application GR-638 (Certificate of Registration GR-603). The Department assigned the application number T-11566.
3. Notice of the applications for ground water registration modification were published on April 16, 2013, pursuant to OAR 690-382-0600. No comments were filed in response to the notices.

This final order is subject to judicial review by the Court of Appeals under ORS 183.482. Any petition for judicial review must be filed within the 60-day time period specified by ORS 183.482(1). Pursuant to ORS 536.075 and OAR 137-003-0675, you may petition for judicial review or petition the Director for reconsideration of this order. A petition for reconsideration may be granted or denied by the Director, and if no action is taken within 60 days following the date the petition was filed, the petition shall be deemed denied.

4. On June 6, 2013, the Department sent a copy of the draft Preliminary Determination proposing to approve Groundwater Registration Modification Applications T-11565 and T-11566 to the applicant. 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 Groundwater Registration Modifications.
5. On June 17, 2013, the Department issued a Preliminary Determination proposing to approve Groundwater Registration Modification Applications T-11565 and T-11566, and sent a copy to the applicant. Additionally, notice of the Preliminary Determination for the Groundwater Registration Modification applications was published on the Department's weekly notice on June 18, 2013, pursuant to ORS 540.520 and OAR 690-380-4020. No protests were filed in response to the notice.
6. The portion of the ground water registration to be modified is as follows:

Registration: Application GR-638 (Certificate of Registration GR-603), in the name of MELVIN KAUFMAN
Use: IRRIGATION of 16 ACRES
Tentative
Priority Date: APRIL, 1948
Quantity: 115 GPM [0.255 CUBIC FOOT PER SECOND]
Source: A WELL within the HOWELL PRAIRIE CREEK BASIN

Original Point of Appropriation:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
6 S	1 W	WM	7	SE NE	1500 FEET SOUTH AND 1000 FEET WEST FROM THE NE CORNER OF SECTION 7

Original Place of Use:

IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
6 S	1 W	WM	7	SW NE	4.53
6 S	1 W	WM	7	SE NE	11.47

7. Ground Water Registration Modification Application T-11565 proposes to modify the place of use under the ground water registration for the 2013, 2014 and 2015 irrigation seasons to:

IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
6 S	1 W	WM	7	NE SE	4.75
6 S	1 W	WM	7	NW SE	11.25

8. At the end of the 2015 irrigation season, Application T-11566 proposes to modify the place of use under the ground water registration from the place of use in the above finding back to:

IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
6 S	1 W	WM	7	SW NE	4.53
6 S	1 W	WM	7	SE NE	11.47

9. A portion of Certificate 80481 for supplemental irrigation is appurtenant to the lands listed in Finding of Fact #6 from which GR-638 is proposed to be moved, therefore, it is layered with GR-638. The applicant agrees not to exercise Certificate 80481 on those lands during the 2013, 2014 and 2015 irrigation seasons while the T-11565 change is in effect.

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

10. The proposed modifications under T-11565 and T-11566 would not result in enlargement of the ground water registration.
11. The proposed modifications under T-11565 and T-11566 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.
12. The proposed modifications under T-11565 and T-11566 would not result in injury to other water rights.

Conclusions of Law

The modifications in place of use proposed in Ground Water Registration Modifications T-11565 and T-11566 are consistent with the requirements of ORS 537.610, 537.705, 540.505 to 540.580 and OAR 690-382-1000.

Now, therefore, it is ORDERED:

1. The modifications to Registration Application GR-638 (Certificate of Registration GR-603) proposed in Ground Water Registration Modification Applications T-11565 and T-11566 are recognized. The change in place of use under T-11565 is effective immediately and will remain in effect until the end of the 2015 irrigation season, at which time the place of use change under T-11566 will take effect.
2. Recognition of the modifications shall not be construed as a final determination of the right to appropriate ground water under the certificate of registration or modification. Such a determination will occur in an adjudication proceeding under ORS 537.670 to 537.695.
3. 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-638 (Certificate of Registration GR-603) and any related decree.

4. The former place of use of the modified ground water registration shall no longer receive water as part of the ground water certificate of registration during the 2013, 2014 and 2015 irrigation seasons.
5. Any portion of supplemental water right certificate 80481 located at the same location as the original place of use under Registration Application GR-638 (Certificate of Registration GR-603) **shall not** be exercised during the 2013, 2014 and 2015 irrigation seasons.
6. At the end of the 2015 irrigation season, the modified place of use shall move back to the original place of use under Registration Application GR-638 (Certificate of Registration GR-603).

Dated at Salem, Oregon this 22 day of July, 2013.



Dwight French, Water Right Services Administrator, for
PHILLIP C. WARD, DIRECTOR