

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

In the Matter of Ground Water)	FINAL ORDER APPROVING
Registration Modification Application)	RECOGNITION OF ADDITIONAL
T-10881, Lane County)	POINTS OF APPROPRIATION AND
)	CHANGE 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

SMALL FARMERS' PROJECT OF
LANE COUNTY
ATTN: SARAH CANTRIL
3575 DONALD ST SUITE 145D
EUGENE, OR 97405

Agent

CARL BERG
PO BOX 94
ALVADORE, OR 97409

Landowner

WILBUR AND PATRICIA BECKER
815 RIVER LOOP 2
EUGENE, OR 97404

Receiving Landowner

BRIAN FRANSSSEN
2916 RIVERWALK LOOP
EUGENE, OR 97401

Findings of Fact

Background

1. On May 15, 2009, SMALL FARMERS' PROJECT OF LANE COUNTY filed a ground water registration modification application for an additional point of appropriation and to modify the place of use under Registration Application GR-1209 (Certificate of Registration GR-1169). The Department assigned the application number T-10881.
2. Registration Application GR-1209 (Certificate of Registration GR-1169) was originally filed with the Department on March 18, 1958, and describes the claimed place of use as 18.0 acres in the SE ¼ NW ¼ of Sec. 1, T 17 S, R 4 W, W.M. The map included with the Registration Application and subsequent maps indicate that land in the SW ¼ NW ¼ is being irrigated.

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.

3. The following table lists the place of use as described in existing Registration Application GR-1209 (Certificate of Registration GR-1169) and a proposed re-description based on the above findings:

				Original Description of Place of Use		Proposed Re-Description of Place of use	
Twp	Rng	Mer	Sec	Q-Q	Acres	Q-Q	Acres
17 S	4 W	WM	1	SE NW	18.0	SE NW	17.4
17 S	4 W	WM	1			SW NW	0.6
				TOTAL	18.0	TOTAL	18.0

4. The portion of the ground water registration to be modified is as follows:

Registration: Application GR-1209 (Certificate of Registration GR-1169), in the name of A. J. MCMANUS (assigned to WILBUR AND PATRICIA BECKER)

Use: IRRIGATION OF 5.0 ACRES

Tentative

Priority Date: FEBRUARY 1952

Quantity: 113 GALLONS PER MINUTE

Source: A WELL within the SPRING CREEK BASIN

Original Point of Appropriation:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
17 S	4 W	WM	1	SE NW	LANE 11609 - 9.5 CHAINS (627 FEET) NORTH AND 28 CHAINS (1848 FEET) EAST FROM THE W¼ CORNER OF SECTION 1

Original Place of Use:

IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
17 S	4 W	WM	1	SW NW	0.5
17 S	4 W	WM	1	SE NW	4.5

5. Ground Water Registration Modification Application T-10881 states that the property claimed under Registration Application GR-1209 (Certificate of Registration GR-1169) was divided at some point in the past and an additional well was drilled. The well is located at:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
17 S	4 W	WM	1	SW NW	445 FEET NORTH AND 1250 FEET EAST FROM THE W¼ CORNER OF SECTION 1

6. Ground Water Registration Modification Application T-10881 proposes an additional point of appropriation approximately 5250 feet from the original well (LANE 11609) to:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
16 S	4 W	WM	35	NW SE	LANE 69179 - 1105 FEET SOUTH AND 300 FEET EAST FROM THE C¼ CORNER OF SECTION 35

7. Ground Water Registration Modification Application T-10881 proposes to modify the place of use under the ground water registration to:

IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
16 S	4 W	WM	35	NW SE	5.0

8. Notice of the application for ground water registration modification was published on May 26, 2009, pursuant to OAR 690-382-0600. No comments were filed in response to the notice.
9. On July 20, 2010, the Department mailed a copy of the draft Preliminary Determination proposing to approve Transfer Application T-10881 to the applicant. The draft Preliminary Determination cover letter set forth a deadline of August 19, 2010, 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.
10. On August 16, 2010, the Department issued a preliminary determination proposing to approve Transfer T-10881 and mailed a copy to the applicant. Additionally, notice of the preliminary determination for the transfer application was published on the Department's weekly notice on August 24, 2010, and in the Register-Guard newspaper on August 29, September 5, and 12, 2010 pursuant to ORS 540.520 and OAR 690-380-4020. No protests were filed in response to the notice.

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

11. The proposed modifications would not result in enlargement of the ground water registration.
12. 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.
13. The proposed modifications would not result in injury to other water rights.

Conclusions of Law

The additional point of appropriation and modification in place of use proposed in Ground Water Registration Modification T-10881 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-1209 (Certificate of Registration GR-1169) proposed in Ground Water Registration Modification Application T-10881 are recognized. Recognition of the modifications shall not be construed as a final 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.determination

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-1209 (Certificate of Registration GR-1169) and any related decree.
3. Water shall be acquired from the same aquifer (water source) as the original point of appropriation.
4. The quantity of water diverted at the additional points of appropriation, together with that diverted at the original point of appropriation, shall not exceed the quantity of water lawfully available at the original point of appropriation.
5. 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.
6. When required by the Department, the water user shall install and maintain an in-line flow meter or other suitable device for measuring and recording the quantity of water appropriated. The type and plans of the measuring device must be approved by the Department prior to beginning construction and shall be installed under the general supervision of the Department.

Dated at Salem, Oregon this 29 day of October 2010.


Dwight French, for
PHILLIP C. WARD, DIRECTOR

Mailing Date: NOV 01 2010