

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

In the Matter of Ground Water	)	FINAL ORDER APPROVING THE
Registration Modification Application	)	RECOGNITION OF A MODIFICATION
T-11990, Marion County	)	IN A POINT OF APPROPRIATION
	)	AND AN ADDITIONAL POINT OF
	)	APPROPRIATION

**Authority**

Oregon Revised Statute (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.

Oregon Administrative Rule (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**

PAN AMERICAN BERRY GROWERS LLC  
6826 55TH AVE NE  
SALEM, OR 97305  
[stevee@pbgblues.com](mailto:stevee@pbgblues.com)

**Findings of Fact**

1. On February 26, 2015, PAN AMERICAN BERRY GROWERS LLC filed a ground water registration modification application to modify the point of appropriation and add an additional point of appropriation under Registration Application GR-3287 (Certificate of Registration GR-3056). The Department assigned the application number T-11990
2. On February 24, 2015, Registration Application GR-3287 (Certificate of Registration GR-3056) was assigned from DOROTHY B. ZIELINSKI to PAN AMERICAN BERRY GROWERS LLC.
3. Notice of the application for ground water registration modification was published on March 3, 2015, pursuant to OAR 690-382-0600. No comments were filed in response to the notice.

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 July 28, 2015, the Department mailed a copy of the draft Preliminary Determination proposing to approve Transfer Application T-11990 to the applicant. The draft Preliminary Determination cover letter set forth a deadline of August 28, 2015, 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.
5. On September 15, 2015, the Department issued a Preliminary Determination proposing to approve Transfer T-11990 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 September 25, 2015, pursuant to ORS 540.520 and OAR 690-380-4020. No protests were filed in response to the notice.
6. The ground water registration to be modified is as follows:

**Registration:** Application GR-3287 (Certificate of Registration GR-3056), in the name of DOROTHY B. ZIELINSKI (*assigned to* PAN AMERICAN BERRY GROWERS LLC)

**Use:** IRRIGATION of 75.0 ACRES

**Tentative**

**Priority Date:** APRIL 1953

**Quantity:** 240 GALLONS PER MINUTE (GPM)

**Source:** A WELL within the LITTLE PUDDING RIVER BASIN

**Original Point of Appropriation:**

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
6 S	2 W	WM	33	NE NW	MARI 4702- 20 FEET NORTH AND 650 FEET WEST FROM THE SE CORNER OF THE NE NW OF SECTION 33

**Original Place of Use:**

IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
6 S	2 W	WM	33	NE NW	40.0
6 S	2 W	WM	33	SE NW	35.0
Total					75.0

7. Ground Water Registration Modification Application T-11990 proposes to modify the location of the original point of appropriation and add an additional point of appropriation (POA) with approximate measurements in feet from the original well to:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances	Approximate Distance from the Original POA
6 S	2 W	WM	33	SE NW	WELL #1-30 FEET SOUTH AND 660 FEET WEST FROM THE SE CORNER OF THE NE NW OF SECTION 33	187.0 Feet
6 S	2 W	WM	33	SE NW	WELL #2 (MARI 4706) 20 FEET NORTH AND 2040 FEET EAST FROM THE WEST ¼ CORNER OF SECTION 33	1280.0 Feet

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


8. The proposed modifications would not result in enlargement of the ground water registration.
9. 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.
10. The proposed modifications would not result in injury to other water rights.

**Determination and Proposed Action**

The modification in point of appropriation and an additional point of appropriation proposed in Ground Water Registration Modification T-11990 is consistent with the requirements of ORS 537.610, 537.705, 540.505 to 540.580 and OAR 690-382-1000.

1. The modifications to Registration Application GR-3287 (Certificate of Registration GR-3056) proposed in Ground Water Registration Modification Application T-11990 are recognized. 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.
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-3287(Certificate of Registration GR-3056) and any related decree.
3. Water shall be acquired from the same aquifer (water source) as the original point of appropriation.
4. Water shall no longer be appropriated from the original point of appropriation as part of this ground water certificate of registration.
5. The quantity of water diverted at the new and additional points of appropriation, shall not exceed the quantity of water lawfully available at the original point of appropriation.

Dated at Salem, Oregon this 3 day of November 2015.

  
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Dwight French, Water Right Services Administrator, for  
Thomas M. Byler, Director  
Oregon Water Resources Department

Mailing date: NOV 05 2015