

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

In the Matter of Groundwater)	FINAL ORDER
Registration Modification Application)	APPROVING RECOGNITION OF AN
T-12858, Marion County)	ADDITIONAL POINT OF APPROPRIATION,
)	CHANGE IN POINTS OF APPROPRIATION,
)	AND A MODIFICATION IN PLACE OF USE

Authority

Oregon Revised Statutes (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 groundwater certificate of registration.

Oregon Administrative Rules (OAR) Chapter 690, Divisions 382 and 380 implement the statutes and provide the Department's procedures and criteria for evaluating groundwater registration modification applications.

Applicant

C AND E BRENTANO FAMILY LP
5009 DAVIDSON ROAD NE
SAINT PAUL, OR 97137

Findings of Fact

1. On March 1, 2018, C AND E BRENTANO FAMILY LP, filed a groundwater registration modification application for additional points of appropriation, a change in point of appropriation and to modify the place of use under Registration Application GR-1377 (Certificate of Registration GR-1334). The Department assigned the application number T-12858.
2. On March 15, 2018, the agent for the applicant contacted the Department regarding an error in the application submitted to the Department.
3. On March 21, 2018, the agent for the applicant submitted amended application pages and maps addressing a mapping error.
4. On November 14, 1966, Registration Application GR-1377 (Certificate of Registration GR-1334) was assigned from T. M. VAN DYKE to EDWARD T. BRENTANO.

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.

5. On March 5, 2018, Registration Application GR-1377 (Certificate of Registration GR-1334) was partially assigned by proof of ownership from THEODORE M. VAN DYKE to C&E BRENTANO FAMILY LIMITED PARTNERSHIP.
6. On March 27, 2018, Registration Application GR-1377 (Certificate of Registration GR-1334) was partially assigned from CAROL M. BRENTANO (authorized to sign for EDWARD T. BRENTANO, deceased) to RD FARMS INC.
7. Notice of the application for groundwater registration modification was published on March 6, 2018, pursuant to OAR 690-382-0600. No comments were filed in response to the notice.
8. On June 29, 2021, the Department sent a copy of the draft Preliminary Determination proposing to approve Groundwater Registration Modification Application T-12858 to the applicant. The draft Preliminary Determination cover letter set forth a deadline of August 1, 2021, 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 Groundwater Registration Modification.
9. On September 29, 2021, the Department issued a Preliminary Determination proposing to approve Groundwater Registration Modification T-12858 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 October 5, 2021, and in the Woodburn Independent newspaper on October 6 and 13, 2021, pursuant to ORS 540.520 and OAR 690-380-4020. No protests were filed in response to the notice.
10. The portion of the groundwater registration to be modified is as follows:

Registration: Registration Application GR-1377 (Certificate of Registration GR-1334), in the name of THEODORE M. VAN DYKE (*assigned to EDWARD T. BRENTANO and partially assigned to (C&E BRENTANO FAMILY LIMITED PARTNERSHIP AND RD FARMS INC.)*)

Use: IRRIGATION of 29.7 ACRES

Tentative

Priority Date: FEBRUARY 1955

Quantity: 150 GALLONS PER MINUTE (GPM)

Source: PUMP WELL #1

Original Point of Appropriation:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
4 S	2 W	WM	29	NW NE	POA 4 - 1010 FEET SOUTH AND 2415 FEET WEST FROM THE NE CORNER OF SECTION 29

Original Place of Use:

IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
4 S	2 W	WM	20	SW SE	3.5
4 S	2 W	WM	20	SE SW	5.2
4 S	2 W	WM	29	NW NE	14.0

IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
4 S	2 W	WM	29	NE NW	7.0
Total					29.7

11. Groundwater Registration Modification Application T-12858 proposes to modify the point of appropriation 0.3 to 0.7 mile from the original well to:

Twp	Rng	Mer	Sec	Q-Q	DLC	Measured Distances
4 S	2 W	WM	29	SW NW	94	RD POA 5 - 3450 FEET NORTH AND 470 FEET EAST FROM THE NW CORNER OF DLC 56
4 S	2 W	WM	30	NE SE	80	RD POA 4 - 1565 FEET NORTH AND 400 FEET WEST FROM THE SE CORNER OF SECTION 30
4 S	2 W	WM	32	NW NW	80	RD POA 3 - 425 FEET SOUTH AND 180 FEET EAST FROM THE NW CORNER OF SECTION 32

12. Groundwater Registration Modification Application T-12858 proposes to add an additional point of appropriation approximately 0.3 mile from the original well to:

Twp	Rng	Mer	Sec	Q-Q	DLC	Measured Distances
4 S	2 W	WM	20	SW SE	94	APOA 3 - 490 FEET SOUTH AND 2230 FEET WEST FROM THE NW CORNER OF DLC 95

13. Groundwater Registration Modification Application T-12858 proposes to modify the place of use under the ground water registration to:

IRRIGATION						
Twp	Rng	Mer	Sec	Q-Q	Acres	POA
4 S	2 W	WM	29	NE NE	5.0	POA 4 APOA 3
4 S	2 W	WM	29	SE NE	1.9	POA 4 APOA 3
4 S	2 W	WM	29	NW NE	7.8	POA 4 APOA 3
4 S	2 W	WM	29	NE NW	9.94	POA 4 APOA 3
4 S	2 W	WM	29	NE NW	1.06	RD POA 5 RD POA 4 RD POA 3
4 S	2 W	WM	29	SE NW	0.3	POA 4 APOA 3
4 S	2 W	WM	29	SW NE	3.7	POA 4 APOA 3
Total					29.7	

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

14. The proposed modifications would not result in enlargement of the groundwater registration.
15. 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.

16. The proposed modifications would not result in injury to other water rights.

Conclusions of Law

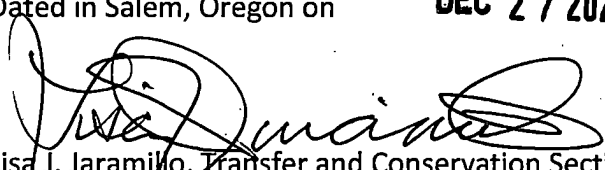
The additional points of appropriation, change in point of appropriation and modification in place of use proposed in Groundwater Registration Modification T-12858 are consistent with the requirements of ORS 537.610, 537.705, 540.505 to 540.580 and OAR 690-382-1000.

Now, therefore, it is ORDERED:

1. The modifications to Registration Application GR-1377 (Certificate of Registration GR-1334) proposed in Groundwater Registration Modification Application T-12858 are recognized. Recognition of the modifications shall not be construed as a final determination of the right to appropriate groundwater 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-1377(Certificate of Registration GR-1334) 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 point of appropriation (APOA3), together with that diverted at the original point of appropriation (POA 4), shall not exceed the quantity of water lawfully available at the original point of appropriation.
5. The quantity of water diverted at the new points of appropriation (POA 3, POA 4, and POA 5) together with that diverted at the original point of appropriation (POA 4), shall not exceed the quantity of water lawfully available at the original point of appropriation.
6. The former place of use of the modified groundwater registration shall no longer receive water as part of the groundwater certificate of registration.

Dated in Salem, Oregon on

DEC 27 2021


Lisa J. Jaramillo, Transfer and Conservation Section Manager, for
THOMAS M BYLER, DIRECTOR
Oregon Water Resources Department

Mailing Date: _____

DEC 28 2021