

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

In the Matter of Ground Water	)	FINAL ORDER APPROVING OF
Registration Modification Application	)	RECOGNITION OF MODIFICATIONS
T-12292, Marion County	)	IN POINTS OF APPROPRIATION AND
	)	AN ADDITIONAL POINT OF
	)	APPROPRIATION

**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 ground water 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 ground water registration modification applications.

**Applicant**

ROBERT W. GABRIEL TRUST  
8474 HAZELGREEN RD NE  
SILVERTON, OR 97381

**Findings of Fact**

1. On March 4, 2016, ROBERT W. GABRIEL TRUST filed a ground water registration modification application to modify the POINT OF APPROPRIATION and to add a POINT OF APPROPRIATION under Registration Application GR-2908 (Certificate of Registration GR-2737). The Department assigned the application number T-12292
2. On March 4, 2016, Registration Application GR-2908 (Certificate of Registration GR-2737) was assigned from Maurice Hynes to the Robert W. Gabriel Trust.
3. Notice of the application for ground water registration modification was published on March 15, 2016, 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 December 12, 2016, the Department sent a copy of the draft Preliminary Determination proposing to approve Groundwater Registration Modification Application T-12292 to the applicants. The draft Preliminary Determination cover letter set forth a deadline of January 12, 2017, 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.
5. On June 5, 2017, the Department issued a Preliminary Determination proposing to approve Groundwater Registration Modification Application T-12292 and sent a copy to the applicant. Additionally, notice of the Preliminary Determination for the Groundwater Registration Modification application was published on the Department's weekly notice on **June 6, 2017**, pursuant to ORS 540.520 and OAR 690-380-4020. No protests were filed in response to the notice.

6. The groundwater registration (GR) to be modified is as follows:

**Registration:** Application GR-2908 (Certificate of Registration GR-2737), in the name of Maurice Hynes (assigned to Robert W. Gabriel Trust)

**Use:** IRRIGATION of 11.0 ACRES

**Tentative Priority Date:** MARCH 10, 1937

**Quantity:** 55 Gallons per Minute

**Source:** A WELL within the HOWELL PRAIRIE CREEK BASIN

**Original Point of Appropriation:**

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
6 S	2 W	WM	36	SW NW	560 FEET NORTH AND 345 FEET EAST FROM THE WEST ¼ CORNER OF SECTION 36

**Original Place of Use:**

Twp	Rng	Mer	Sec	Q-Q	Acres
6 S	2 W	WM	36	SE NW	11.00

7. A scrivener's error in GR-2908 (Certificate GR -2737) lists the place of use in the SE NW; however, the map from GR-2908 application file clearly shows the place of use in the SW NW of section 36 T. 6S, R. 2W. W.M.
8. Ground Water Registration Modification Application T-12292 proposes to modify the location of the original recognized point of appropriation and add a point of appropriation approximately 650 feet West and 1100 feet Southwest from the original well to:

Twp	Rng	Mer	Sec	Q-Q	DLC	Measured Distances
6 S	2 W	WM	35	SE NE	41	WELL 1-1890 FEET SOUTH AND 160 FEET WEST FROM THE NE CORNER OF SECTION 35
6 S	2 W	WM	36	NW SW	41	WELL 2- 3200 FEET SOUTH AND 180 FEET EAST FROM THE NE CORNER OF SECTION 35

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

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


**Conclusions of Law**

The modification in point of appropriation and additional point of appropriation proposed in Ground Water Registration Modification T-12292 is 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-2908 (Certificate of Registration GR-2737) proposed in Ground Water Registration Modification Application T-12292 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-2908 (Certificate of Registration GR-2737) 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 or recognized 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 10 day of July 2017.

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

**JUL 12 2017**

*Mailing date:* \_\_\_\_\_