

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

In the Matter of Ground Water	)	FINAL ORDER APPROVING
Registration Modification Application	)	RECOGNITION OF A MODIFICATION
T-12432, Marion County	)	IN 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**

CLEARLAKE FARMS, LLC  
C/O ROBERT GABRIEL  
8474 HAZELGREEN RD NE  
SILVERTON, OR 97381

**Findings of Fact**

1. On July 15, 2016, CLEARLAKE FARMS, LLC, c/o ROBERT GABRIEL filed a ground water registration modification application to modify the point of appropriation under Registration Application GR-907 (Certificate of Registration GR-881). The Department assigned the application number T-12432.
2. On July 5, 2016, Registration Application GR-907 (Certificate of Registration GR-881) was partially assigned from DAVE SCHLAG to CLEAR LAKE FARMS, LLC c/o ROBERT GABRIEL.
3. Notice of the application for ground water registration modification was published on December 20, 2016, pursuant to OAR 690-382-0600. No comments were filed in response to the notice.
4. On October 24, 2017, the Department mailed a copy of the draft Preliminary Determination proposing to approve Transfer Application T-12432 to the applicant and emailed a copy to

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.

the agent. The Draft Preliminary Determination cover letter set forth a deadline of November 24, 2017, for the applicant to respond.

5. On November 9, 2017, the agent responded on behalf of the applicant and accepted the Draft Preliminary Determination and provided the Department the report of ownership indicating CLEARLAKE FARMS LLC as the landowner.
6. On November 14, 2017 the Department issued a Preliminary Determination proposing to approve Transfer T-12432 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 November 14, 2017. No protests were filed in response to the notice.
7. The portion of the ground water registration to be modified is as follows:

**Registration:** Application GR-907 (Certificate of Registration GR-881), in the name of DAVE SCHLAG (*partially assigned to CLEAR LAKE FARMS LLC c/o ROBERT GABRIEL*)

**Use:** IRRIGATION OF 1.5 ACRES

**Tentative**

**Priority Date:** 1953

**Quantity:** 0.0223 CUBIC FOOT PER SECOND

**Source:** ONE WELL within the LABISH CREEK BASIN

**Original Point of Appropriation:**

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
6 S	3 W	WM	23	NE SE	200 FEET SOUTH AND 1200 FEET WEST FROM THE E¼ CORNER OF SECTION 23

**Original Place of Use:**

IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
6 S	3 W	WM	23	SE NE	1.5

8. Ground Water Registration Modification Application T-12432 proposes to modify the location of the original point of appropriation approximately 661 feet northeast, located as follows:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
6 S	3 W	WM	23	SE NE	40 FEET NORTH AND 580 FEET WEST FROM THE E¼ CORNER OF SECTION 23

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

9. The proposed modification would not result in enlargement of the ground water registration.
10. The proposed modification would not result in a state Scenic Waterway not receiving previously available water during periods in which stream flows are less than the quantities determined by the Department to be necessary to meet the requirements of ORS 390.835.

11. The proposed modification would not result in injury to other water rights.

**Conclusion of Law**

The modification in point of appropriation proposed in Ground Water Registration Modification Application T-12432 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 modification to Registration Application GR-907 (Certificate of Registration GR-881) proposed in Ground Water Registration Modification Application T-12432 is recognized. Recognition of the modification 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-907 (Certificate of Registration GR-881) 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 point of appropriation, shall not exceed the quantity of water lawfully available at the original point of appropriation.

Dated at Salem, Oregon this 22 day of December, 2017.

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

Mailing Date DEC. 29 2017