



2. On March 17, 2017, Registration Application GR-1167 (Certificate of Registration GR-1128) was assigned from Bertha E. Blin to Cayuse Vineyards, LLC.
3. Notice of the application for ground water registration modification was published on March 21, 2017, pursuant to OAR 690-382-0600. No comments were filed in response to the notice.
4. On August 21, 2017, the applicant requested the partial cancellation of two layered (underlying) primary water right Certificates 92789 and 92559. The Walla Walla River Irrigation District agreed to the cancellation of these layered portions of Certificates 92789 and 92559, provided written consent for the partial cancellations and are described below in Finding Nos. 15 and 16.
5. On August 25, 2017, the Department sent a copy of the draft Preliminary Determination proposing to approve Groundwater Registration Modification Application T-12610 to the applicant. The draft Preliminary Determination cover letter set forth a deadline of September 26, 2017, for the applicant to respond. On August 28, 2017, 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.
6. On September 28, 2017, the Department issued a Preliminary Determination proposing to approve Transfer T-12610 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 13, 2017, and in the Valley Herald newspaper on October 6 and 13, 2017 pursuant to ORS 540.520 and OAR 690-380-4020. No protests were filed in response to the notices.

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

**Registration:** Application GR-1167 (Certificate of Registration GR-1128), in the name of Cayuse Vineyards, LLC

**Use:** SUPPLEMENTAL IRRIGATION OF 20.0 ACRES

**Tentative**

**Priority Date:** APRIL 1, 1918

**Quantity:** 425 GALLONS PER MINUTE (GPM)

**Duty:** 342.0 ACRE-FEET

**Source:** A WELL within the MIDDLE BRANCH MUD CREEK BASIN

**Original Point of Appropriation:**

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
6 N	35 E	WM	27	SE SW	40 FEET NORTH AND 35 FEET WEST FROM THE S¼ CORNER OF SECTION 27

**Original Place of Use:**

SUPPLEMENTAL IRRIGATION						
Twp	Rng	Mer	Sec	Q-Q	APOA only acres	ΔUSE and APOA acres
6 N	35 E	WM	27	SE SW	17.2	2.8

8. Ground Water Registration Modification Application T-12610 proposes an additional point of appropriation located:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
6 N	35 E	WM	27	SE SW	175 FEET NORTH AND 205 FEET WEST FROM SE CORNER OF SECTION 27

9. Ground Water Registration Modification Application T-12610 also proposes to modify the character of use of 2.8 acres to Commercial and Industrial uses associated with a wine making facility, located as follows:

COMMERCIAL AND INDUSTRIAL USE ASSOCIATED WITH A WINE MAKING FACILITY					
Twp	Rng	Mer	Sec	Q-Q	
6 N	35 E	WM	27	SE SW	

10. The season of delivery and use of water under the existing primary rights from the Walla Walla River Irrigation District is the irrigation season, being April 1 to October 1 of each year for the rights in the Pine Creek basin of the Walla Walla River system. The modification of a character of use to Commercial and Industrial uses associated with a wine making facility shall be limited to a rate of 59.5 gallons per minute and a total duty of water of 47.88 acre-feet during the irrigation season only.

***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. Consistent with OAR 690-382-0200 (2) regarding layered water rights, the applicant was notified of the existence of underlying primary irrigation water right Certificates 92789 and 92559. Certificates 92789 and 92559 are irrigation district water rights and the Walla Walla River Irrigation District has agreed to the cancellation of these portions of the rights, which would allow the unlayering of the rights from the 2.8 acres involved in the modification of character of use under GR-1167. The partial cancellations are further described in Finding Nos. 15 and 16.
12. The proposed modification 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.

***Partial Cancellation of Water Rights***

14. As described above in Finding of Fact No. 11, pursuant to OAR 690-382-0200(3)(b) and 382-0200 (4)(a), the Department determined that there are two layered primary water rights existing on the same lands as the groundwater registration right proposed for modification and notified the applicant. The irrigation district that assesses and delivers the water under Certificates 92789 and 92559 has agreed to the voluntary cancellation of portions of these layered rights, allowing for the proposed 2.8 acres of groundwater registration to become a primary right and therefore, subject to modification for a character of use change. On August 21, 2017,

Christophe Baron of Cayuse Vineyards, LLC, submitted two voluntary cancellation affidavits meeting the requirements of ORS 540.621 for partial cancellation of a water right. These water rights also contain a supplemental irrigation component to each acre that is requested to be cancelled as well.

15. The portion of the first right proposed to be cancelled is for the use of 0.0289 cfs from the Little Walla Walla River for primary irrigation of 2.3 acres, and 0.0577 cfs for supplemental irrigation of 2.3 acres under a portion of Certificate 92789. The portions to be cancelled are located as follows:

**Certificate:** 92559, in the name of CAYUSE WINERY, LLC (perfected under Permits E-170, S-1216 and S-26001)  
**Use:** IRRIGATION OF 2.3 ACRES AND SUPPLEMENTAL IRRIGATION OF 2.3 ACRES  
**Priority Date:** MAY 3, 1913 FOR PRIMARY IRRIGATION AND JANUARY 16, 1959 FOR SUPPLEMENTAL IRRIGATION  
**Rate:** 0.0289 CUBIC FOOT PER SECOND (CFS) FOR PRIMARY IRRIGATION OF 2.3 ACRES AND 0.0577 CFS FOR SUPPLEMENTAL IRRIGATION OF 2.3 ACRES  
**Limit/Duty:** The amount of water used for irrigation, together with the amount secured under any other right existing for the same lands, for IRRIGATION is limited to ONE-EIGHTIETH (1/80) of one cfs per acre, and for SUPPLEMENTAL IRRIGATION is limited to 0.0375 cfs (3/80) per acre, or its equivalent for each acre irrigated during the irrigation season of each year.  
**Source:** LITTLE WALLA WALLA RIVER, tributary to the WALLA WALLA RIVER

**Authorized Place of Use to be Cancelled:**

PRIMARY IRRIGATION (IR)							
Twp	Rng	Mer	Sec	Q-Q	Tax Lot	Priority	Acres
6 N	35 E	WM	27	SE SW	1400	5/3/1913	2.3

SUPPLEMENTAL IRRIGATION (IS)							
Twp	Rng	Mer	Sec	Q-Q	Tax Lot	Priority	Acres
6 N	35 E	WM	27	SE SW	1400	1/16/1959	2.3

16. The portion of the second right proposed to be cancelled is for the use of 0.0064 cfs from the Little Walla Walla River for primary irrigation of 0.5 acres, and 0.0127 cfs for supplemental irrigation of 0.5 acres under a portion of Certificate 92559. The portions to be cancelled are located as follows:

**Certificate:** 92789, in the name of CAYUSE VINEYARDS, LLC (perfected under Permits E-170, S-1216 and S-26001)  
**Use:** IRRIGATION OF 0.5 ACRES AND SUPPLEMENTAL IRRIGATION OF 0.5 ACRES  
**Priority Date:** MAY 3, 1913 for PRIMARY IRRIGATION AND JANUARY 16, 1959 FOR SUPPLEMENTAL IRRIGATION

**Rate:** 0.0064 CUBIC FOOT PER SECOND (CFS) FOR PRIMARY IRRIGATION OF 0.5 ACRE AND 0.0127 CFS FOR SUPPLEMENTAL IRRIGATION OF 0.5 ACRE

**Limit/Duty:** The amount of water used for irrigation, together with the amount secured under any other right existing for the same lands, is limited to ONE-EIGHTIETH (1/80) of one cfs per acre for IRRIGATION, and is limited to 0.0375 cfs (3/80) per acre for SUPPLEMENTAL IRRIGATION, or its equivalent for each acre irrigated during the irrigation season of each year.

**Source:** LITTLE WALLA WALLA RIVER, tributary to the WALLA WALLA RIVER

**Authorized Place of Use to be Cancelled:**

PRIMARY IRRIGATION (IR)							
Twp	Rng	Mer	Sec	Q-Q	Tax Lot	Priority	Acre
6 N	35 E	WM	27	SE SW	1400	5/3/1913	0.5

SUPPLEMENTAL IRRIGATION (IR)							
Twp	Rng	Mer	Sec	Q-Q	Tax Lot	Priority	Acre
6 N	35 E	WM	27	SE SW	1400*	1/16/1959	0.5

\*Note: Certificate 92789 contained a scrivener's error describing the Tax Lot number. The above described lands are located in Tax Lot #1400, not Tax Lot #1300.

**Conclusions of Law**

The additional point of appropriation and modification in character of use proposed in Ground Water Registration Modification T-12610 is consistent with the requirements of ORS 537.610, 537.705, 540.505 to 540.580 and OAR 690-382-1000 and the abandoned portions of the underlying primary water rights, Certificates 92789 and 92559 should be cancelled.

**Now, therefore, it is ORDERED:**

1. The modifications to Registration Application GR-1167 (Certificate of Registration GR-1128) proposed in Ground Water Registration Modification Application T-12610 are recognized and the abandoned portions of Water Right Certificates 92789 and 92559 are cancelled. 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 537.69.
2. The portions of Water Right Certificates 92559 and 92789 appurtenant to the lands described in Finding of Fact Nos. 15 and 16 are cancelled. The Department shall issue new certificates describing those portions of the rights not affected by the cancellation.
3. 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-1167 (Certificate of Registration GR-1128) and any related decree.

4. The use of water described by Registration Application GR-1167 (Certificate of Registration GR-1128) for the proposed uses of Commercial/Industrial within a wine making facility shall be limited to a rate of diversion of not to exceed 59.5 gallons per minute and further limited to a total quantity of water of 47.88 acre-feet during the irrigation season April 1 through October 31.
5. Water from the proposed additional point of appropriation shall be acquired from the same alluvial aquifer (water source) as the original point of appropriation. The new well construction shall be completed into the alluvial aquifer and shall not appropriate the underlying basalt aquifer.
6. The quantity of water diverted at the proposed additional point 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.
7. Before water use may begin under this order, the water user shall install a totalizing flow meter on **each**, new and existing point of appropriation, or, with prior approval of the Director, another suitable measuring device, at each additional point of appropriation. The water user shall allow the Watermaster access to the meters or measuring devices; provided however, where the meters or measuring devices are located within a private structure, the Watermaster shall request access upon reasonable notice.
8. Water shall no longer be appropriated for the former character of use as part of this ground water certificate of registration.
9. 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 except as modified above.

Dated at Salem, Oregon this 19 day of January, 2018.

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

Mailing date: JAN 19 2018