

**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-11977, Clackamas County)	IN 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

JAMES BURKEY
3502 CHELAN DR
WEST LINN, OR 97068

Findings of Fact

1. On February 5, 2015, James Burkey filed a ground water registration modification application to modify the point of appropriation under Registration Application GR-995 (Certificate of Registration GR-963). The Department assigned the application number T-11977
2. On February 5, 2015, Registration Application GR-995 (Certificate of Registration GR-963) was partially assigned from GEORGE E. BOND to JAMES BURKEY.
3. Notice of the application for ground water registration modification was published on February 17, 2015, pursuant to OAR 690-382-0600. No comments were filed in response to the notice.
4. On July 27, 2015, the Department mailed a copy of the draft Preliminary Determination proposing to approve Transfer Application T-11977 to the applicant. The draft Preliminary Determination cover letter set forth a deadline of August 27, 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.

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 August 25, 2015, the Department issued a Preliminary Determination proposing to approve Groundwater Registration Modification Application T-11977 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 September 1, 2015, pursuant to ORS 540.520 and OAR 690-380-4020. (No) protests were filed in response to the notice.
6. The portion of the ground water registration to be modified is as follows:

Registration: Application GR-995 (Certificate of Registration GR-963), in the name of GEORGE E. BOND (*partially assigned to JAMES BURKEY*)

Use: IRRIGATION of 21.4 ACRES

Tentative

Priority Date: SEPTEMBER 1950

Quantity: 0.11 CUBIC FOOT PER SECOND

Source: WELL 1 within the DRESCHER CREEK BASIN

Original Point of Appropriation:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
5 S	1 E	WM	30	NE NW	770 FEET SOUTH AND 350 FEET WEST FROM NORTH 1/4 CORNER OF SECTION 30

Original Place of Use:

IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
5 S	1 E	WM	30	NW NE	8.4
5 S	1 E	WM	30	NE NW	13.0
Total					21.4

7. The applicant provided a more accurate description of point of diversion as follows:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
5 S	1 E	WM	30	NE NW	750 FEET SOUTH AND 475 FEET WEST FROM NORTH 1/4 CORNER OF SECTION 30

8. Ground Water Registration Modification Application T-11977 proposes to modify the location of the original point of appropriation approximately 110 feet from the original well to:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
5 S	1 E	WM	30	NE NW	750 FEET SOUTH AND 370 FEET WEST FROM NORTH 1/4 CORNER OF SECTION 30

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 streamflows 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.


Conclusions of Law

The modification in point of appropriation proposed in Ground Water Registration Modification T-11977 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-995 (Certificate of Registration GR-963) proposed in Ground Water Registration Modification Application T-11977 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-995 (Certificate of Registration GR-963) 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 new point of appropriation, shall not exceed the quantity of water lawfully available at the original point of appropriation.

Dated at Salem, Oregon this 5 day of Oct 2015.



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

Mailing date: OCT 06 2015