

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

In the Matter of Ground Water	)	<b>FINAL ORDER</b>
Registration Modification Applications	)	APPROVING RECOGNITION OF
T-10367 and T-10368, Marion County	)	MODIFICATIONS IN PLACE OF USE

**Authority**

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.

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**

**Landowners / Receiving Landowners**

Melvin Kaufman 11155 Kaufman Road NE Silverton, OR 97381	Alfred & Elaine Kuenzi 10232 Howell Prairie Road NE Salem, OR 97305	Arlene M. Harris Trust PO Box 391 Silverton, OR 97381
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**Findings of Fact**

***Background***

1. On April 11, 2007, Melvin Kaufman filed a ground water registration modification application to modify the place of use under Registration Application GR-638 (Certificate of Registration GR-603) for the 2007 irrigation season. The Department assigned the application number T-10367. The application fee for T-10367 was received by the Department on April 13, 2007.
2. Also on April 11, 2007, Melvin Kaufman filed a second ground water registration modification application to modify the place of use under Registration Application GR-638 (Certificate of Registration GR-603) at the end of the 2007 irrigation season to move back to the original place of use under Registration Application GR-638 (Certificate of Registration GR-603). The Department assigned the application number T-10368. The application fee for T-10368 was received by the Department on April 13, 2007.

**NOTICE OF RIGHT TO PETITION FOR RECONSIDERATION OR JUDICIAL REVIEW**

This is an order in other than a contested case. This order is subject to judicial review under ORS 183.484. Any petition for judicial review must be filed within the 60 day time period specified by ORS 183.484(2). Pursuant to ORS 536.075 and OAR 137-004-0080, you may either 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.

3. Registration Application GR-638 (Certificate of Registration GR-603) was assigned on April 11, 2007, from J. N. Adams to Alfred G. and Elaine R. Kuenzi.

4. The applicant submitted statements of consent from all of the landowners granting permission for the changes proposed under T-10367 and T-10368.

5. The ground water registration to be modified is as follows:

**Registration:** Application GR-638 (Certificate of Registration GR-603), in the name of J. N. ADAMS (*assigned to Alfred G. and Elaine R. Kuenzi*)

**Use:** IRRIGATION of 37.0 ACRES

**Tentative Priority Date:** APRIL 1948

**Quantity:** 265.0 GALLONS PER MINUTE (GPM)

**Source:** A WELL, in the Pudding River Basin

**Original Point of Appropriation:**

Twp	Rng	Mer	Sec	¼ ¼	Location
6 S	1 W	WM	7	SE NE	1500 FEET SOUTH AND 1000 FEET WEST FROM THE NE CORNER OF SECTION 7

**Original Place of Use:**

IRRIGATION					
Twp	Rng	Mer	Sec	¼ ¼	Acres
6 S	1 W	WM	7	NE NE	6.0
6 S	1 W	WM	7	NW NE	3.0
6 S	1 W	WM	7	SW NE	12.0
6 S	1 W	WM	7	SE NE	16.0
<b>TOTAL:</b>					<b>37.0</b>

6. Application T-10367 proposes to modify the place of use under the ground water registration for the 2007 irrigation season to:

IRRIGATION					
Twp	Rng	Mer	Sec	¼ ¼	Acres
6 S	1 W	WM	7	SW NE	0.6
6 S	1 W	WM	7	NE SE	2.0
6 S	1 W	WM	7	NW SE	21.4
6 S	1 W	WM	7	SW SE	12.5
6 S	1 W	WM	7	SE SE	0.5
<b>TOTAL:</b>					<b>37.0</b>

7. At the end of the 2007 irrigation season, Application T-10368 proposes to modify the place of use under the ground water registration back to:

IRRIGATION					
Twp	Rng	Mer	Sec	¼ ¼	Acres
6 S	1 W	WM	7	NE NE	6.0
6 S	1 W	WM	7	NW NE	3.0
6 S	1 W	WM	7	SW NE	12.0
6 S	1 W	WM	7	SE NE	16.0
<b>TOTAL:</b>					<b>37.0</b>

8. Notice of the applications for ground water registration modification (T-10367 and T-10368) was published on April 17, 2007, pursuant to OAR 690-382-0600. No comments were filed in response to the notice.
9. On May 18, 2007, the Department mailed and faxed a copy of the draft preliminary determination proposing to approve recognition of Ground Water Registration Modification Applications T-10367 and T-10368 to the applicant. The draft preliminary determination set forth a deadline in which the applicant could respond.
10. The applicant verbally responded to the draft preliminary determination for T-10367 and T-10368 on May 18, 2007, and raised issue with a proposed condition requiring installation of an in-line flow meter or other suitable measuring device *prior to* the diversion of any water at the proposed place of use under T-10367.
11. After considering the applicant's comments to the draft preliminary determination, the watermaster agreed that the condition described in Finding #10 should be modified to indicate that the applicant *may be* required in the future to install a flow meter or other suitable measuring device.
12. The applicant indicated that he agreed with the draft preliminary determination, if modified as described in Finding #11 above, and asked the Department to proceed with issuance of the preliminary determination for T-10367 and T-10368.
13. On May 24, 2007, the Department issued a Preliminary Determination proposing to approve Applications T-10367 and T-10368 and mailed a copy to the applicants, landowners and receiving landowners. Additionally, notice of the Preliminary Determination for the transfer application was published on the Department's weekly notice on May 29, 2007, pursuant to ORS 540.520 and OAR 690-380-4020. No protests were filed in response to the notice.

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

14. The proposed modifications under T-10367 and T-10368, as conditioned, would not result in enlargement of the ground water registration.
15. The proposed modifications under T-10367 and T-10368 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 under T-10367 and T-10368 would not result in injury to other water rights.

**Conclusions of Law**

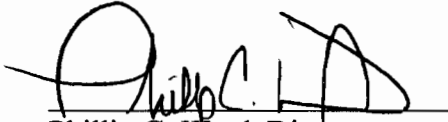
The modifications in place of use proposed in Applications T-10367 and T-10368, as conditioned, are consistent with the requirements of ORS 537.610, 537.705, 540.505 to 540.580 and OAR 690-382-1000.

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

1. The modifications to Registration Application GR-638 (Certificate of Registration GR-603) proposed in Applications T-10367 and T-10368 are recognized. Recognition of the modifications shall not be construed as a final determination of the right to appropriate ground water under the 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-638 (Certificate of Registration GR-603) and any related decree.
3. The original place of use **shall not** be irrigated as part of this ground water certificate of registration during the 2007 irrigation season.
4. Any portion of supplemental water right certificates 80481 and 64080 located at the same location as that of the original place of use under Registration Application GR-638 (Certificate of Registration GR-603) **shall not** be exercised during the 2007 irrigation season.
5. At the end of the 2007 irrigation season, the modified place of use shall move back to the original place of use under Registration Application GR-638 (Certificate of Registration GR-603).

6. When required by the Department, the water user shall install, maintain and operate an in-line flow meter, weir, or other suitable device for measuring and recording the quantity of water diverted. The type and plans of the measuring device must be approved by the Department prior to beginning construction and shall be installed under the general supervision of the Department.

Dated at Salem, Oregon this 29<sup>th</sup> day of JUNE 2007.

  
Phillip C. Ward, Director

Mailing date: JUL 02 2007