

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

In the Matter of Groundwater)	FINAL ORDER APPROVING THE
Registration Modification Application)	RECOGNITION OF MODIFICATIONS
T-13242, Marion County)	IN POINTS OF APPROPRIATION
)	AND PLACE OF USE

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 groundwater 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 groundwater registration modification applications.

Applicant

ISCC NURSERY, INC.
16918 MOUNTAIN VIEW LANE NE
WOODBURN, OR. 97071

Findings of Fact

1. On August 27, 2019, ISCC Nursery Inc. filed a groundwater registration modification application to modify the point of appropriation and place of use under Registration Application GR-1535 (Certificate of Registration GR-1478). The Department assigned the application number T-13242
2. On September 16, 2019, Groundwater Registration application GR-1535 (Certificate of Registration GR-1478) was partially assigned from J.A. Fobert to Paris Wayne Hodges Rlt 50%, Muriel Patricia Hodges Rlt. 50%, Granyte LLC, Greater Oregon Leasing & Development Inc., VSS LLC, and Lakeridge Investments LLC/ Jer-Ann LLC.
3. Notice of the application for groundwater registration modification was published on September 3, 2019, 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. The draft Preliminary Determination cover letter set forth a deadline of March 12, 2020, for the applicant to respond. The applicants 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 December 31, 2020, the Department issued a Preliminary Determination proposing to approve Transfer T-13242 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 January 5, 2021, and in the Canby Herald newspaper on January 13 and 20, 2021, pursuant to ORS 540.520 and OAR 690-380-4020. No protests were filed in response to the notice.
6. The portion of the groundwater registration to be modified is as follows:

Registration: Application GR-1535 (Certificate of Registration GR-1478), in the name of J. A. JUANITA FOBERT (*partially assigned to Carrera Properties LLC., Paris Wayne Hodges Rlt 50%, Muriel Patricia Hodges Rlt. 50%, Granyte LLC, Greater Oregon Leasing & Development Inc., VSS LLC, and Lakeridge Investments LLC/ Jer-Ann LLC.*)

Use: IRRIGATION OF 9.33 ACRES

Tentative

Priority Date: JANUARY 2, 1951

Quantity: 74.6 GALLONS PER MINUTE

Source: PUMP WELL #1

Original Point of Appropriation:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
5 S	1 W	WM	8	NE NE	PUMP WELL #1 - 400 FEET SOUTH AND 750 FEET WEST FROM THE NE CORNER OF SECTION 8

Original Place of Use:

IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
5 S	1 W	WM	5	SW SE	0.10
5 S	1 W	WM	5	SE SE	0.17
5 S	1 W	WM	8	NE NE	8.01
5 S	1 W	WM	8	NW NE	1.05
Total:					9.33

7. Groundwater Registration Modification Application T-13242 also proposes to modify the location of the original point of appropriation approximately 3.2 miles from the original well to:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
5 S	2 W	WM	2	SE NE	ISCC WELL - 2770 FEET NORTH AND 1210 FEET WEST FROM THE SE CORNER OF SECTION 2

4. Water shall no longer be appropriated from the original point of appropriation (FOBERT WELL, PUMP WELL #1) as part of this groundwater certificate of registration.
5. The quantity of water diverted at the new point of appropriation (ISCC WELL), shall not exceed the quantity of water lawfully available at the original point of appropriation FOBERT WELL (Pump well #1).
6. The former place of use of the modified groundwater registration shall no longer receive water as part of the groundwater certificate of registration.

Dated in Salem, Oregon on **FEB 25 2021**


Lisa J. Jaramillo, Transfer and Conservation Section Manager, for
THOMAS M BYLER, DIRECTOR
Oregon Water Resources Department

Mailing date: **FEB 26 2021**

8. Groundwater Registration Modification Application T-13242 also proposes to modify the place of use under the groundwater registration to:

IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
5 S	2 W	WM	2	SW NE	0.32
5 S	2 W	WM	2	SE NE	1.42
5 S	2 W	WM	2	NE SE	6.29
5 S	2 W	WM	2	NW SE	1.30
Total:					9.33

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

9. The proposed modifications would not result in enlargement of the groundwater 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 modification in place of use proposed in Groundwater Registration Modification T-13242 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-1535 (Certificate of Registration GR-1478) proposed in Groundwater Registration Modification Application T-13242 are recognized. Recognition of the modifications shall not be construed as a final determination of the right to appropriate groundwater 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-1535 (Certificate of Registration GR-1478) and any related decree.
3. Water shall be acquired from the same aquifer (water source) as the original point of appropriation.