

**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-12282, Linn 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

OSPREY CORNER LLC
SHONDA K. WARNER
145 DELTA
CLARKSDALE, MS 38614

Findings of Fact

1. On February 26, 2016, SHONDA K. WARNER FOR OSPREY CORNER LLC filed a ground water registration modification application to modify the POINT OF APPROPRIATION under Registration Application GR-476 (Certificate of Registration GR-458). The Department assigned the application number T-12282.
2. On December 15, 2015, Registration Application GR-476 (Certificate of Registration GR-458) was assigned from BOSE BROTHERS to OSPREY CORNER LLC, SHONDA K. WARNER.
3. Notice of the application for ground water registration modification was published on March 8, 2016, pursuant to OAR 690-382-0600. No comments were filed in response to the notice.
4. On October 19, 2016, the Department sent notification to the applicant of the deficiency in the application map and requested a revised map showing the authorized place of use of the right. On November 18, 2016, the applicant submitted the revised map resolving the deficiency.
5. On October 26, 2016, the Department mailed a copy of the draft Preliminary Determination proposing to approve Transfer Application T-12282 to the applicant. The draft Preliminary

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.

Determination cover letter set forth a deadline of November 25, 2016, 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.

6. On November 23, 2016, the Department issued a Preliminary Determination proposing to approve Transfer T-12282 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 29, 2016, pursuant to ORS 540.520 and OAR 690-380-4020. No protests were filed in response to the notice.
7. The ground water registration to be modified is as follows:

Registration: Application GR-476 (Certificate of Registration GR-458), in the name of BOSE BROTHERS (*assigned to OSPREY CORNER LLC, SHONDA K. WARNER*)

Use: IRRIGATION of 67.0 ACRES

Tentative

Priority Date: OCTOBER 10, 1953

Quantity: 480 GALLONS PER MINUTE

Source: A WELL within the MILL CREEK BASIN

Original Point of Appropriation:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
11 S	2 W	WM	5	NW SE	NORTH 32 DEGREES 20 MINUTES WEST 32.5 CHAINS FROM THE SE CORNER OF SECTION 5

*POA is actually in NE SE

Original Place of Use:

Twp	Rng	Mer	Sec	Q-Q	Acres
11 S	2 W	WM	5	SW NE	2.5
11 S	2 W	WM	5	SE NE	3.5
11 S	2 W	WM	5	NE SW	0.3
11 S	2 W	WM	5	SE SW	0.2
11 S	2 W	WM	5	NE SE	29.0
11 S	2 W	WM	5	NW SE	27.0
11 S	2 W	WM	5	SW SE	3.5
11 S	2 W	WM	5	SE SE	1.0
Total					67.0

8. Ground Water Registration Modification Application T-12282 proposes to modify the location of the original point of appropriation approximately 39 feet from the original well to:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
11 S	2 W	WM	5	NE SE	1850 FEET NORTH AND 1160 FEET WEST FROM THE SE CORNER OF SECTION 5

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.

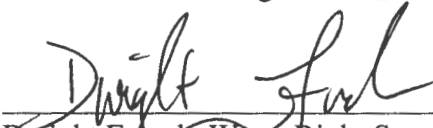
Conclusions of Law

The modification in point of appropriation proposed in Ground Water Registration Modification T-12282 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-476 (Certificate of Registration GR-458) proposed in Ground Water Registration Modification Application T-12282 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-476 (Certificate of Registration GR-458) 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.
6. Water use measurement conditions:
 - a. Before water use may begin under this order, the water user shall install a totalizing flow meter, or, with prior approval of the Director, another suitable measuring device at the new point of appropriation.
 - b. The water user shall maintain the meter or measuring device in good working order.
 - c. The water user shall allow the Watermaster access to the meter or measuring device; provided however, where the meter or measuring device is located within a private structure, the Watermaster shall request access upon reasonable notice.

Dated at Salem, Oregon this 30 day of December, 2016.



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

Mailing date: ~~JAN 06 2016~~ JAN 06 2017