

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

In the Matter of Groundwater	)	FINAL ORDER APPROVING
Registration Modification Application	)	MODIFICATIONS IN POINTS OF
T-13221, Marion County	)	APPROPRIATION, PLACE OF USE,
	)	CHARACTER OF USE AND
	)	CANCELLATION OF AN ENTIRE WATER
	)	RIGHT

**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.

ORS 540.621 establishes the process for the owner of land to which a water right is appurtenant to certify under oath that the water right, or a portion thereof, has been abandoned and to voluntarily request that it be cancelled.

**Applicant**

MAYFIELD FARMS, LLC.  
C/O CHARLES W. EGGERT  
18555 SW TETON AVE.  
TUALATIN, OR 97062

**Agent**

DOANNE HAMILTON  
PACIFIC HYDRO-GEOLOGY  
18487 S. VALLEY VISTA RD.  
MULINO, OR 97042-8741

**Findings of Fact**

1. On July 16, 2019, Mayfield Farms, LLC, Charles W. Eggert, filed a groundwater registration modification application to modify the points of appropriation, place of use and

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.

character of use under Registration Application GR-3351 (Certificate of Registration GR-3103). The Department assigned the application number T-13221.

2. On February 5, 2008, Registration Application GR-3351 (Certificate of Registration GR-3103) was partially assigned from Roy R. Smith and Robert Hubbard to Charles Eggert of Rock Ridge Farms, LLC.
3. Notice of the application for groundwater registration modification was published on July 23, 2019, pursuant to OAR 690-382-0600. No comments were filed in response to the notice.
4. The Department determined in its initial review that there were two layered water rights with GR-3351 (Certificate of Registration GR-3103) on the "FROM" lands proposed for modification. Consistent with OAR 690-382-0200 (1)(2) and (3), on January 28, 2020, the Department sent the applicant a letter describing options for addressing the conflicts with the layered water rights. The letter additionally identified a need to file an assignment consistent with OAR 690-382-0300 in order to continue processing the ground water registration modification application.
5. On February 3, 2020, Registration Application GR-3351 (Certificate of Registration GR-3103) was assigned from Rock Ridge Farms LLC, c/o Charles Eggert to Mayfield Farms, c/o Charles W. Eggert.
6. On February 26, 2020, the agent for the applicant submitted a voluntary cancellation affidavit requesting to cancel Certificate 93743. This shall remedy the layered water right conflict and is further described in Finding #17 below.
7. On April 20, 2020, the applicant, Charles Eggert of Mayfield Farms, LLC, submitted a statement indicating that he does not intend on proving up on the 1.0 acre of Industrial use authorized in Transfer Application T-10329. This along with the reversion of the remainder of T-10329 shall remedy the other layered water right conflict.
8. On July 15, 2020, the Department issued a Preliminary Determination proposing to approve Transfer T-13221 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 July 21, 2020, and in the Wilsonville Spokesman newspaper on July 22 and 29, 2020 pursuant to ORS 540.520 and OAR 690-380-4020. No protests were filed in response to the notice.
9. The portion of the groundwater registration to be modified is as follows:

**Registration:** GR-3351 (Certificate of Registration GR-3103), in the name of ROY R. SMITH and ROBERT HUBBARD (*partially assigned to ROCK RIDGE FARMS LLC, C/O CHARLES EGGERT; assigned to MAYFIELD FARMS, LLC, C/O CHARLES W. EGGERT; as modified by Special Order Volume 76, page 929*)

**Use:** IRRIGATION of 19.0 ACRES and 1.0 ACRE INDUSTRIAL USE

**Tentative**

**Priority Date:** JUNE 1946

**Quantity:** 112.0 GALLONS PER MINUTE; 74.0 ACRE FEET PER YEAR

**Source:** 3 WELLS, within the WILLAMETTE RIVER BASIN

**Authorized Points of Appropriation:**

Twp	Rng	Mer	Sec	Q - Q	Measured Distances
3 S	1 W	WM	32	SE SE	WELL 1 – 20 FEET NORTH AND 900 FEET WEST FROM THE SE CORNER OF SECTION 32
3 S	1 W	WM	32	SE SE	WELL 2 – 30 FEET NORTH AND 340 FEET WEST FROM THE SE CORNER OF SECTION 32
3 S	1 W	WM	32	SE SE	WELL 3 – 30 FEET NORTH AND 630 FEET WEST FROM THE SE CORNER OF SECTION 32

**Authorized Place of Use:**

IRRIGATION						
Twp	Rng	Mer	Sec	Q - Q	GLot	Acres
3 S	1 W	WM	32	SW SE	9	0.1*
3 S	1 W	WM	32	SE SE	9	18.9*
					Total	19.0

\*Note: Certificate 93743 is a layered water right that exists on these lands and is not being used. The applicant has filed a voluntary cancellation affidavit requesting to cancel this right. See Finding #17 below.

INDUSTRIAL						
Twp	Rng	Mer	Sec	Q - Q	GLot	Acres
3 S	1 W	WM	32	SE SE	9	1.0*

\*Note: another 1.0 acre of Industrial (*inchoate under T-10329/Certificate 33546*) exists on these lands and the applicant has submitted a statement that they will not prove up on it.

10. Groundwater Registration Modification Application T-13221 proposes to modify the points of appropriation under the groundwater registration and move west and east varying approximately 5 feet to 600 feet and north approximately 920 feet from the previously approved points of appropriation to five new wells located as follows:

Twp	Rng	Mer	Sec	Q - Q	GLot	Measured Distances
3 S	1 W	WM	32	SE SE	9	WELL 1 – 335 FEET NORTH AND 1165 FEET WEST FROM THE SE CORNER OF SECTION 32
3 S	1 W	WM	32	SE SE	9	WELL 2 – 20 FEET NORTH AND 930 FEET WEST FROM THE SE CORNER OF SECTION 32
3 S	1 W	WM	32	SE SE	9	WELL 3 – 25 FEET NORTH AND 765 FEET WEST FROM THE SE CORNER OF SECTION 32
3 S	1 W	WM	32	SE SE	9	WELL 4 – 45 FEET NORTH AND 565 FEET WEST FROM THE SE CORNER OF SECTION 32
3 S	1 W	WM	32	SE SE	9	WELL 5 – 960 FEET NORTH AND 580 FEET WEST FROM THE SE CORNER OF SECTION 32

11. Ground Water Registration Modification Application T-13221 also proposes to modify the character of use under the 1.0 acre industrial to irrigation.

12. Ground Water Registration Modification Application T-13221 also proposes to modify the place of use of the entire 20.0 acres to:

IRRIGATION							
Twp	Rng	Mer	Sec	Q - Q	GLot	DLC	Acres
3 S	1 W	WM	32	SW SE		39	6.2
3 S	1 W	WM	32	SW SE	9		0.1
3 S	1 W	WM	32	SE SE	9		13.7
Total:							20.0

13. The Department has determined that the proposed WELL #1 (MARI 68155) and proposed construction under the remaining Wells #2 thru Well #5 will develop the same source of water as the authorized existing Wells #1, 2 and 3.

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

14. The proposed modifications would not result in enlargement of the ground water registration.
15. 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.
16. The proposed modifications would not result in injury to other water rights.

***Cancellation of an entire Water Right***

17. On February 26, 2020, the applicant submitted an affidavit meeting the requirements of ORS 540.621 for the cancellation of water right Certificate 93743 and shall remedy the layered situation described above in Finding #4. The applicant has abandoned any and all interest in this water right for primary irrigation and is described as follows:

**Certificate:** 93743 in the name of the name of MAYFIELD FARMS, LLC (perfected under Permit G-2481)

**Use:** IRRIGATION of 15.8 ACRES

**Priority Date:** AUGUST 14, 1963

**Rate:** 0.20 CUBIC FOOT PER SECOND

**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 a diversion of ONE-EIGHTIETH of one cubic foot per second per acre, or its equivalent for each acre irrigated and 2½ acre-feet per acre for each acre irrigated during the irrigation season of each year.

**Source:** A WELL, within the WILLAMETTE RIVER basin

**Authorized Point of Appropriation:**

Twp	Rng	Mer	Sec	Q - Q	GLot	Measured Distances
3 S	1 W	WM	32	SE SE	9	400 FEET NORTH AND 330 FEET EAST FROM THE NW CORNER OF LOT 1 (NE¼ NE¼), SECTION 5, T4S, R1W, WM.

**Authorized Place of Use:**

Twp	Rng	Mer	Sec	Q - Q	GLot	Acres
3 S	1 W	WM	32	SW SE	9	0.1
3 S	1 W	WM	32	SE SE	9	15.7
Total:						15.8

**Conclusions of Law**

The modifications in points of appropriation, place of use and character of use proposed in Groundwater Registration Modification T-13221 appear to be 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-3351 (Certificate of Registration GR-3301) proposed in Groundwater Registration Modification Application T-13221 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. The layered water right that has been abandoned is cancelled.
2. Water right certificate 93743 is cancelled.
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-3351 (Certificate of Registration GR-3301) and any related decree.
4. Water shall be acquired from the same aquifer (water source) as the original points of appropriation.
5. Water shall no longer be appropriated from the originally recognized points of appropriation as part of this ground water certificate of registration.
6. The quantity of water diverted at the new points of appropriation (Well1 1, 2, 3, 4, and 5), shall not exceed the quantity of water lawfully available at the original points of appropriation (Wells 1, 2, and 3).
7. Water shall no longer be appropriated for the former character of use as part of this groundwater certificate of registration.

8. The former place of use of the modified groundwater registration shall no longer receive water as part of the groundwater certificate of registration.

Dated at Salem, Oregon this OCT 27 2020.

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

Mailing date: OCT 28 2020