

**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-11261, Marion County)	IN POINT OF APPROPRIATION AND
)	ADDITIONAL POINTS OF
)	APPROPRIATION

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.

Applicants

RIPE LLC
ANGELO J SPADA MANAGER
P O BOX 157
SAINT PAUL OR 97137

COLEMAN FARMS INC.
16873 FRENCH PRAIRIE ROAD NE
WOODBURN OR 97071

FAIRFIELD FARMS INC.
16873 FRENCH PRAIRIE ROAD NE
WOODBURN OR 97071

Findings of Fact

Background

1. On June 6, 2011, RIPE, LLC, COLEMAN FARMS INC., AND FAIRFIELD FARMS, INC., filed a ground water registration modification application to modify the point of appropriation and for additional points of appropriation under Registration Application GR-488 (Certificate of Registration GR-515). The Department assigned the application number T-11261.
2. On June 6, 2011, Registration Application GR-488 (Certificate of Registration GR-515) was assigned from GEORGE S. AND MARY ELLEN FICK to COLEMAN FARMS INC., FAIRFIELD FARMS INC., AND RIPE, LLC.

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.

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

Registration: Application GR-488 (Certificate of Registration GR-515), in the names of GEORGE S. AND MARY ELLEN FICK (*assigned to RIPE, LLC, COLEMAN FARMS INC., AND FAIRFIELD FARMS, INC.*)

Use: IRRIGATION OF 70.0 ACRES

Tentative

Priority Date: JULY, 1948

Quantity: 300 GALLONS PER MINUTE

Source: A WELL within the CHAMPOEG CREEK BASIN

Original Point of Appropriation:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
4 S	2 W	WM	22	SW NW	NW¼ OF SECTION 22

Original Place of Use:

IRRIGATION							
Twp	Rng	Mer	Sec	Q-Q	DLC	Modification in point of appropriation acres	Additional points of appropriation acres
4 S	2 W	WM	22	SW NW	83	33.8	6.2
4 S	2 W	WM	22	SE NW	83	-	30.0

4. The applicants have submitted information that better describes the location of the original point of appropriation as being:

Twp	Rng	Mer	Sec	Q-Q	DLC	Measured Distances
4 S	2 W	WM	22	SW NW	83	WELL 1 - 250 FEET SOUTH AND 850 FEET WEST FROM THE SE CORNER OF DLC 92

5. Ground Water Registration Modification Application T-11261 proposes to modify the location of the original well for 33.8 acres approximately 2500 feet southwest to:

Twp	Rng	Mer	Sec	Q-Q	DLC	Measured Distances
4 S	2 W	WM	21	SE NE	99	WELL 2 - 247.5 FEET NORTH AND 1072.5 FEET WEST FROM THE SW CORNER OF DLC 99

6. Ground Water Registration Modification Application T-11261 proposes additional points of appropriation for 36.2 acres between approximately 2500 and 3000 feet east from the original well to:

Twp	Rng	Mer	Sec	Q-Q	DLC	Measured Distances
4 S	2 W	WM	22	NW NE	83	WELL A - 610 FEET NORTH AND 1520 FEET EAST FROM THE SE CORNER OF DLC 92
4 S	2 W	WM	22	NE NE	83	WELL B - 300 FEET NORTH AND 2055 FEET EAST FROM THE SE CORNER OF DLC 92
4 S	2 W	WM	22	SW NE	83	WELL C - 265 FEET SOUTH AND 1760 FEET EAST FROM THE SE CORNER OF DLC 92
4 S	2 W	WM	22	NW NE	83	WELL D - 535 FEET NORTH AND 1520 FEET EAST FROM THE SE CORNER OF DLC 92

7. Notice of the application for ground water registration modification was published on June 14, 2011, pursuant to OAR 690-382-0600. No comments were filed in response to the notice.
8. On March 14, 2012, the Department sent a copy of the draft Preliminary Determination proposing to approve Groundwater Registration Modification Application T-11261 to the applicants. The draft Preliminary Determination cover letter set forth a deadline of April 16, 2012, for the applicants 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.
9. On April 26, 2012, the Department issued a Preliminary Determination proposing to approve Groundwater Registration Modification Application T-11261 and sent a copy to the applicants. Additionally, notice of the Preliminary Determination for the Groundwater Registration Modification application was published on the Department's weekly notice on May 1, 2012, and in the Statesman Journal newspaper on April 27, May 4 and 11, 2012, 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)]

10. The proposed modifications would not result in enlargement of the ground water registration.
11. The proposed modifications would not result in a state Scenic Waterway not receiving previously available water during periods in which stream flows are less than the quantities determined by the Department to be necessary to meet the requirements of ORS 390.835.
12. The proposed modifications would not result in injury to other water rights.

Conclusions of Law

The modification in point of appropriation and additional points of appropriation proposed in Ground Water Registration Modification T-11261 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-488 (Certificate of Registration GR-515) proposed in Ground Water Registration Modification Application T-11261 are recognized. Recognition of the modifications 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-488 (Certificate of Registration GR-515) 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 for the 33.8 acres described in Finding of Fact No. 3.
5. The quantity of water diverted at the additional points of appropriation, together with that diverted at the original point of appropriation, shall not exceed the quantity of water lawfully available at the original point of appropriation for 36.2 acres described in Finding of Fact No. 3.
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 each point of appropriation.
 - b. The water user shall maintain the meters or measuring devices in good working order.
 - c. The water user shall allow the Watermaster access to the meters or measuring devices; provided however, where the meters or measuring devices are located within a private structure, the Watermaster shall request access upon reasonable notice.

Dated at Salem, Oregon this 11 day of June, 2012.


Dwight French, Water Right Services Administrator, for
PHILLIP C. WARD, DIRECTOR

Mailing Date JUN 18 2012