

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

In the Matter of Groundwater	)	FINAL ORDER APPROVING
Registration Modification Application	)	RECOGNITION OF A MODIFICATION
T-12958, Jackson County	)	IN PLACE OF USE AND 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**

BGE PROPERTIES, LLC  
1 WEST MAIN STREET, SUITE 401  
MEDFORD, OR 97504

**Agent**

MIKE MONTERO  
DBA: MONTERO & ASSOCIATES, LLC  
4497 BROWNRIDGE TRRRACE, SUITE 202  
MEDFORD, OR 97504

**Findings of Fact**

1. On June 28, 2018, Martin Farms Properties, LLC, filed a groundwater registration modification application to modify the place of use under Registration Application GR-2241 (Certificate of Registration GR-2142). The Department assigned the application number T-12958.
2. Previous groundwater registration modification application T-11880 was approved and assigned the groundwater registration in the name of BGE Properties, LLC. No assignment is needed to satisfy OAR 690-382-0300.

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. Transfer T-12959 (also BGE Properties, LLC), also proposes to change the place of use of the underlying primary water right Certificate 93676 along with supplemental water right Certificate 93678 and should be processed together simultaneously.
4. Notice of the application for ground water registration modification was published on July 3, 2018, pursuant to OAR 690-382-0600. No comments were filed in response to the notice.
5. On February 8, 2019, the agent for the applicant submitted a revised application to include a modification in point of appropriation. The agent also submitted a new amended application and map to reflect the changes.
6. On July 9, 2019, the Department mailed a copy of the draft Preliminary Determination proposing to approve Transfer Application T-12958 to the applicant. The draft Preliminary Determination cover letter set forth a deadline of August 8, 2019, 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.
7. On November 25, 2019, the Department issued a Preliminary Determination proposing to approve Transfer T-12958 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 26, 2019, pursuant to ORS 540.520 and OAR 690-380-4020. No protests were filed in response to the notice.

8. The groundwater registration to be modified is as follows:

**Registration:** Application GR-2241 (Certificate of Registration GR-2142), in the name of Martin Farms Properties, LLC

**Use:** SUPPLEMENTAL IRRIGATION of 8.0 ACRES

**Tentative**

**Priority Date:** 1953

**Quantity:** 20 GALLONS PER MINUTE

**Source:** PUMP WELL within the BEAR CREEK WATERSHED

**Original Point of Appropriation:**

Twp	Rng	Mer	Sec	Q - Q	Measured Distances
37 S	2 W	WM	33	NW SW	19 FEET SOUTH AND 1221 FEET EAST FROM THE NW CORNER OF DLC 95

**Original Place of Use:**

SUPPLEMENTAL IRRIGATION					
Twp	Rng	Mer	Sec	Q - Q	Acres
37 S	2 W	WM	33	SW SW	8.0

9. The original place of use under GR-2441 prior to the approval of T-11880, which modified only the character of use, initially described supplemental irrigation of 8.0 acres within the SW $\frac{1}{4}$  SW $\frac{1}{4}$  of Section 33, T37S, R2W, WM. The Department's map for the groundwater registration claim is poor but is acknowledged as being supplemental irrigation to the

existing primary water right Permit S-15772, originally Certificate 15308. The subsequent, associated companion transfer application T-11881 (2014) was also approved for changes in a point of diversion and character of use for once Certificate 15308 (Permit S-15772) and its layered supplemental water right Certificate 15239 (Permit S-17066). The claim of beneficial use and final proof map submitted with these transfers established and clarified the place of use under both water right certificates and, this layered, groundwater registration GR-2441 for supplemental irrigation.

- a) The original transfer applications T-11880 and T-11881 maps depict the place of use layout under Certificates 15308 and 15239 as being fairly consistent with the “footprint” of the groundwater registration map, but is projected a couple of hundred feet to the northeast, closer to South Stage Road. The Department has determined that the application map is consistent with the assessor’s map in its portrayal of property lines and the layout of roads in the area. To better describe the location of the portion of the groundwater registration in use today, the Department is lead to conclude that the land to which the water right has always been appurtenant should be re-described, and is described in the table below.
- b) The following table lists the place of use as described in the existing groundwater registration map and those same 8.0 acres based on the Claim of Beneficial Use and map for the associated T-11881 and subsequently issued Certificates 93676 and 93678. The proposed re-description based on the above findings is as follows:

Orig. Description of Place of Use GR-2241 (Cert. of Reg./GR-2142)				Proposed Re-description of Place of Use GR-2241 (Cert. of Registration GR-2142)			
Q - Q	DLC	Sec	Acres	Q - Q	DLC	Estimated Acres	Current Tax Lot(s)
SW SW	95	33	8.0	NE SW	95	0.80	37S 2W 33 - TL 1300
				NW SW	95	1.80	37S 2W 33 - TL 1300 & 1308
				SW SW	95	4.70	37S 2W 33 - TL 1300, 1306 & 1307
				SE SW	95	0.70	37S 2W 33 - TL 1300, 1306 & 1307
<b>TOTAL: 8.0 acres</b>				<b>TOTAL: 8.0 acres</b>			
<b>Township 37 South, Range 2 West, W.M., Section 33</b>							

10. Thus, a re-description by approval and issuance of subsequent Certificates 93676 and 93678 suggest that today’s location of the 8.0 acres under Registration Application GR-2241 (Certificate of Registration GR-2142) for supplemental irrigation are located as follows:

SUPPLEMENTAL IRRIGATION						
Twp	Rng	Mer	Sec	Q - Q	DLC	Acres
37 S	2 W	WM	33	NE SW	95	0.8
37 S	2 W	WM	33	NW SW	95	1.8
37 S	2 W	WM	33	SW SW	95	4.7
37 S	2 W	WM	33	SE SW	95	0.7
Total:						8.0

11. Transfer Application T-12958 proposes to modify the place of use under the groundwater registration to:

SUPPLEMENTAL IRRIGATION						
Twp	Rng	Mer	Sec	Q - Q	DLC	Acres
37 S	2 W	WM	33	NE SW	95	0.91
37 S	2 W	WM	33	NW SW	91	1.33
37 S	2 W	WM	33	NW SW	95	3.32
37 S	2 W	WM	33	SW SW	95	2.01
37 S	2 W	WM	33	SE SW	95	0.43
Total:						8.00

12. The Groundwater Registration Modification under Application T-12858 also proposes to modify the point of appropriation under the groundwater registration by changing the existing well to a new point of appropriation located approximately 100 feet north from the original point of appropriation. The new (existing) well is located as follows:

**Proposed Point of Appropriation:**

Twp	Rng	Mer	Sec	Q - Q	DLC	Measured Distances
37 S	2 W	WM	33	SW SW	91	73 FEET NORTH AND 1135 FEET EAST FROM THE NW CORNER OF DLC 95

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

13. The proposed modification would not result in enlargement of the groundwater registration.
14. 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.
15. The proposed modification would not result in injury to other water rights.

**Conclusions of Law**

The modifications in place of use and point of appropriation proposed in Groundwater Registration Modification T-12958 are consistent with the requirements of ORS 537.610, 537.705, 540.505 to 540.580 and OAR 690-382-1000.

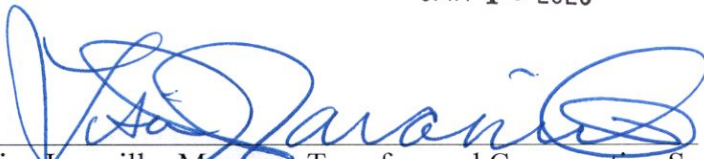
**Now, therefore, it is ORDERED:**

- The modification to Registration Application GR-2241 (Certificate of Registration GR-2142) proposed in Groundwater Registration Modification Application T-12958 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.
- 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-2241 (Certificate of Registration GR-2142) and any related decree.

3. 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 diversion (new and existing).
- 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 JAN 13 2020.



Lisa Jaramillo, Manager, Transfers and Conservation Section, for  
Thomas M. Byler, Director  
Oregon Water Resources Department

*Mailing date:* JAN 14 2020