

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

In the Matter of Ground Water)	FINAL ORDER APPROVING
Registration Modification Application)	RECOGNITION OF ADDITIONAL
T-12360, Marion County)	POINTS OF APPROPRIATION AND A
)	MODIFICATION IN 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 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

ROBERT W GABRIEL TRUST
8474 HAZELGREEN RD NE
SILVERTON OR 97381

Findings of Fact

1. On April 29, 2016, Robert Gabriel filed a ground water registration modification application for additional points of appropriation and a change in place of use under Registration Application GR-3312 (Certificate of Registration GR-3074). The Department assigned the application number T-12360.
2. On April 29, 2016, Registration Application GR-3312 (Certificate of Registration GR-3074) was assigned from E. J. McCloud to Robert W. Gabriel Trust.
3. Notice of the application for ground water registration modification was published on May 17, 2016, pursuant to OAR 690-382-0600. No comments were filed in response to the notice.
4. On March 14, 2017, the Department sent a copy of the draft Preliminary Determination proposing to approve Ground Water Registration Modification Application T-12360 to the applicant. The draft Preliminary Determination cover letter set forth a deadline of April 14, 2017, for the applicant to respond. The applicant requested that the Department proceed with issuance of a Preliminary Determination and provided the necessary information to

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.

demonstrate that the applicant is authorized to pursue the Ground Water Registration Modification.

- On August 14, 2017, the Department issued a Preliminary Determination proposing to approve Transfer T-12360 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 August 22, 2017, pursuant to ORS 540.520 and OAR 690-380-4020. No protests were filed in response to the notice.

- The portion of the ground water registration to be modified is as follows:

Registration: Application GR-3312 (Certificate of Registration GR-3074), in the name of E J. MCCLOUD (assigned to ROBERT W. GABRIEL TRUST)

Use: IRRIGATION OF 10.3 ACRES

Tentative

Priority Date: SEPTEMBER 30, 1949

Quantity: 103 GALLONS PER MINUTE

Source: A WELL within the LABISH CREEK BASIN

Original Point of Appropriation:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
6 S	3 W	WM	24	NW NE	300 FEET SOUTH AND 2240 FEET WEST FROM THE NE CORNER OF SECTION 24

Original Place of Use:

IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
7 S	3 W	WM	24	NW NE	10.3

- Ground Water Registration GR-3312 (Certificate of Registration GR-3074) identifies the place of use as being within Township 7 South, however, the place of use is in Township 6 South, as is reflected on the Ground Water Registration map of record.
- Ground Water Registration Modification Application T-12360 proposes additional points of appropriation approximately between 200 and 800 feet from the original well. The proposed points of appropriation are located as follows:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
6 S	3 W	WM	24	NW NE	WELL 1: 1085 FEET SOUTH AND 865 FEET EAST FROM THE NORTH 1/4 CORNER OF SECTION 24
6 S	3 W	WM	24	NW NE	WELL 2: 330 FEET SOUTH AND 1690 FEET EAST FROM THE SW CORNER OF DLC 66
6 S	3 W	WM	24	NW NE	WELL 3: 215 FEET SOUTH AND 1235 FEET EAST FROM THE NORTH 1/4 CORNER OF SECTION 24

- Ground Water Registration Modification Application T-12360 proposes to modify the place of use under the ground water registration to:

IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
6 S	3 W	WM	24	NE NE	0.4
6 S	3 W	WM	24	NW NE	9.9
Total					10.3

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 streamflows 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 additional points of appropriation and modification in place of use proposed in Ground Water Registration Modification T-12360 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-3312 (Certificate of Registration GR-3074) proposed in Ground Water Registration Modification Application T-12360 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-3312 (Certificate of Registration GR-3074) and any related decree.
3. Water shall be acquired from the same aquifer (water source) as the original point of appropriation.
4. 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.

Dated at Salem, Oregon this 28 day of Sept, 2017



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

Mailing date: OCT 03 2017