

**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-10497, Marion County	)	IN POINT OF APPROPRIATION AND
	)	CHARACTER OF USE AND
	)	REDESCRIPTION

**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.

**Applicant**

ROCK RIDGE FARMS, LLC  
ATTN: CHARLES W. EGGERT  
19480 SW 97<sup>TH</sup> AVENUE  
TUALATIN, OR 97062

**Findings of Fact**

**Background**

1. On December 12, 2007, Rock Ridge Farms, LLC filed a ground water registration modification application to modify the point of appropriation and character of use under Registration Application GR-3351 (Certificate of Registration GR- 3103). The Department assigned the application number T-10497.
2. On February 5, 2008, Registration Application GR-3351 (Certificate of Registration GR-3103) was assigned from Roy R. Smith and Robert Hubbard to Charles Eggert of Rock Ridge Farms, 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. Registration Application GR-3351 (Certificate of Registration GR- 3103) was originally filed with the Department on July 31, 1958, and describes the claimed place of use as 20.0 acres in the SE ¼ SE ¼ of Section 32, T. 3 South, R. 1 West, W.M., and 11.24 acres in the NE ¼ NE ¼ of Section 5, T. 4 South, R. 1 West, W.M., Marion County, Oregon. The ground water registration did not include any map or illustration to provide a more precise location of the acreage.
- a) On August 14, 1963, an application for a new permit (Application G-2683) was filed with the Department requesting irrigation of the same land as was claimed under Registration Application GR-3351 (Certificate of Registration GR- 3103), being 20.0 acres in the SE ¼ SE ¼ of Section 32, T. 3 South, R. 1 West, W.M., and 11.24 acres in the NE ¼ NE ¼ of Section 5, T. 4 South, R. 1 West, W.M.
  - b) The Department approved Application G-2683 and issued a permit (Permit G-2481) on September 20, 1963, for the irrigation of 20.0 acres in the SE ¼ SE ¼ of Section 32, T. 3 South, R. 1 West, W.M., and 11.24 acres in the NE ¼ NE ¼ of Section 5, T. 4 South, R. 1 West, W.M.
  - c) On April 6, 1964, the Department performed an inspection and surveyed the irrigation project under Permit G-2481. The inspection and final proof survey revealed that the 20.0 acres of land applied for within the SE ¼ SE ¼ of Section 32, T. 3 South, R. 1 West, W.M., is actually bisected by a quarter-quarter section line, resulting in 0.1 acre actually being located in the SW ¼ SE ¼ with the remaining acreage located in the SE ¼ SE ¼ of Section 32, T. 3 South, R. 1 West, W.M.
  - d) Considering that the land claimed under Registration Application GR-3351 (Certificate of Registration GR- 3103) and the land applied for and permitted under Application G-2683 (Permit G-2481) is the same, the Department concludes that 0.1 acre of the original 20.0 acres claimed in the SE ¼ SE ¼ of Section 32, T. 3 South, R. 1 West, W.M., is and always has been located in the SW ¼ SE ¼, consistent with the final proof survey map for Permit G-2481.
  - e) The following table describes the place of use description in existing Registration Application GR-3351 (Certificate of Registration GR- 3103) and a proposed redescription based on the findings above:

Original Description of Place of Use under Registration Application GR-3351 (Certificate of Registration GR- 3103)						Proposed Redescription of Place of Use					
Twp	Rng	Mer	Sec	¼ ¼	Acres	Twp	Rng	Mer	Sec	¼ ¼	Estimated Acres
--	--	--	--	----	---	3 S	1 W	WM	32	SW SE	0.10
3 S	1 W	WM	32	SE SE	20.00	3 S	1 W	WM	32	SE SE	19.90
4 S	1 W	WM	5	NE NE	11.24	4 S	1 W	WM	5	NE NE	11.24
<b>TOTAL:</b>					<b>31.24</b>	<b>TOTAL:</b>					<b>31.24</b>

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

**Registration:** Application GR-3351 (Certificate of Registration GR-3103), in the name of Roy R. Smith and Robert Hubbard (*assigned to Charles Eggert of Rock Ridge Farms, LLC*)

**Use:** IRRIGATION of 20.0 ACRES

**Tentative Priority Date:** JUNE 1946

**Rate:** 112.0 GALLONS PER MINUTE (GPM), or 0.25 cubic foot per second (cfs)

**Duty:** 74.0 ACRE FEET (AF) PER YEAR

**Source:** A PUMP WELL, in the Willamette River Basin

**Original Point of Appropriation:**

Twp	Rng	Mer	Sec	¼ ¼	Survey Coordinates
3 S	1 W	WM	32	SE SE	350 feet North and 689 feet West from the SE corner of Section 32

**Original Place of Use:**

IRRIGATION						
Twp	Rng	Mer	Sec	¼ ¼	Acres	Type of Proposed Modification
3 S	1 W	WM	32	SW SE	0.1	POA
3 S	1 W	WM	32	SE SE	18.9	POA
3 S	1 W	WM	32	SE SE	1.0	POA & USE
<b>TOTAL:</b>					<b>20.0</b>	

5. Application T-10497 states that the original well claimed under Registration Application GR-3351 (Certificate of Registration GR- 3103), as described in Finding #4, was abandoned and replaced with another well. The replacement well was also abandoned (date unknown); however, copies of well logs documenting abandonment of the wells could not be located and/or are not available.
6. Application T-10497 proposes to modify the original point of appropriation under the ground water registration. The proposed new points of appropriation for the portion of the ground water registration described in Finding #4 above are described as follows with the approximate distance from the original point of appropriation identified:

Twp	Rng	Mer	Sec	¼ ¼	Survey Coordinates	Approximate Distance from Original Point of Appropriation
3 S	1 W	WM	32	SE SE	<b>Well 1</b> – 20 feet North and 900 feet West from the SE corner of Section 32	400 feet Southwest
3 S	1 W	WM	32	SE SE	<b>Well 2</b> – 30 feet North and 340 feet West from the SE corner of Section 32	450 feet South
3 S	1 W	WM	32	SE SE	<b>Well 3</b> – 30 feet North and 630 feet West from the SE corner of Section 32	330 feet Southeast

7. Application T-10497 also proposes to modify the character of use under the ground water registration to INDUSTRIAL USE for the 1.0 acre portion of land (identified in Finding #4) as follows:

Twp	Rng	Mer	Sec	¼ ¼	Acres	Proposed Character of Use
3 S	1 W	WM	32	SW SE	0.1	IRRIGATION <i>(No Change)</i>
3 S	1 W	WM	32	SE SE	18.9	IRRIGATION <i>(No Change)</i>
3 S	1 W	WM	32	SE SE	1.0	INDUSTRIAL
<b>TOTAL:</b>					<b>20.0</b>	

8. Notice of the application for ground water registration modification was published on December 26, 2007, pursuant to OAR 690-382-0600. No comments were filed in response to the notice.
9. On April 8, 2008, the Department mailed a copy of the draft Preliminary Determination proposing to approve Ground Water Registration Modification Application T-10497 to the applicant. The draft Preliminary Determination set forth a deadline of May 8, 2008, 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.
10. On October 2, 2008, the Department issued a Preliminary Determination proposing to approve Transfer T-10497 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 October 14, 2008, and in the *Canby Herald* newspaper on November 5, 12 and 19, 2008, 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)]***

11. Because of the change in character of use from irrigation to year-round industrial purposes for the 1.0 acre portion of land described in Findings #4 and #7 above, the proposed modification could result in enlargement if not limited to the maximum rate and annual volume of water claimed for that 1.0 acre of irrigation. However, the Department, has determined the proposed modifications, as conditioned, would not result in enlargement of the ground water registration.
12. 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.
13. The proposed modifications would not result in injury to other water rights.

**Conclusions of Law**

The modifications in point of appropriation and character of use proposed in Application T-10497 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-3351 (Certificate of Registration GR-3103) proposed in Application T-10497 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-3351 (Certificate of Registration GR-3103) 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, or its replacement well, as part of this ground water certificate of registration.
5. The quantity of water diverted at the new points of appropriation, shall not exceed the quantity of water lawfully available at the original point of appropriation.
6. Water shall no longer be appropriated for the former character of use (irrigation) for the 1.0 acre portion of land described in Findings #4 and #7 as part of this ground water certificate of registration.
7. Water appropriated for industrial purposes on the 1.0 acre portion of land described in Findings #4 and #7 may be exercised year round at a maximum flow rate of 5.6 gpm (0.01 cfs), provided the total annual volume of water for industrial use does not exceed 3.7 acre-feet (1,216,745 gallons).
8. Prior to diverting water at the new points of appropriation, the water user shall install and maintain an in-line flow meter or other suitable device for measuring and recording the quantity of water appropriated at each point of appropriation. The type and plans of the measuring devices must be approved by the Department prior to beginning construction and shall be installed under the general supervision of the Department.

Dated at Salem, Oregon this 19<sup>th</sup> day of December 2008.

  
R Phillip C. Ward, Director

Mailing date: JAN 02 2009