

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

In the Matter of Ground Water)	FINAL ORDER APPROVING
Registration Modification Application)	RECOGNITION OF MODIFICATIONS
T-12437, Marion County)	IN POINT OF APPROPRIATION AND
)	PLACE OF USE AND CHARACTER 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

CITY OF SUBLIMITY
PO BOX 146
SUBLIMITY, OR 97385

Findings of Fact

1. On July 21, 2016, CITY OF SUBLIMITY filed a ground water registration modification application to modify the point of appropriation, place of use and character of use under Registration Application GR-269 (Certificate of Registration GR-249). The Department assigned the application number T-12437.
2. On June 24, 2016, Registration Application GR-269 (Certificate of Registration GR-249) was assigned from Alvois Hassler to City of Sublimity.
3. Notice of the application for ground water registration modification was published on July 26, 2016, pursuant to OAR 690-382-0600. No comments were filed in response to the notice.
4. On August 18, 2017, the Department requested an amended map showing the authorized place of use location.

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.

5. On August 24, 2017, the applicant's agent submitted the amended map, resolving the deficiency.
6. On December 1, 2017, the Department mailed a copy of the draft Preliminary Determination proposing to approve Transfer Application T-12437 to the applicant. The draft Preliminary Determination cover letter set forth a deadline of December 31, 2017, for the applicant to respond. The applicant requested that the Department proceed with issuance of a Preliminary Determination.
7. On January 17, 2018, the Department issued a Preliminary Determination proposing to approve Transfer T-12437 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 January 23, 2018, and in the Stayton Mail newspaper on January 24, and 31, 2018 pursuant to ORS 540.520 and OAR 690-380-4020. No protests were filed in response to the notices.

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

Registration: Application GR-269 (Certificate of Registration GR-249), in the name of ALVOIS HASSLER (*assigned to CITY OF SUBLIMITY*)

Use: IRRIGATION OF 72.5 ACRES

Tentative

Priority Date: SEPTEMBER 1, 1943

Quantity: 120 GALLONS PER MINUTE

Duty: 30 ACRE FEET PER YEAR

Source: PUMP WELL, within the BEAVER CREEK BASIN

Original Point of Appropriation:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
8 S	1 W	WM	34	SE SE	655 FEET NORTH AND 55 FEET WEST FROM THE SE CORNER OF SECTION 34

Original Place of Use:

IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
8 S	1 W	WM	34	NE SE	10.0
8 S	1 W	WM	34	SE SE	40.0
8 S	1 W	WM	35	SW SW	22.5
Total					72.5

9. Ground Water Registration Application GR-269 (Certificate of Registration GR-249) does not specify the irrigation season. However, the Willamette Basin Program (OAR 690-502-0040) establishes the irrigation season for the area as March 1 through October 31.
10. Ground Water Registration Application GR-269 (Certificate of Registration GR-249) does not describe a rate and duty limit per acre. However, the general basin wide standard specifies the rate limit as one-eightieth of one cubic foot per second per acre and the duty limit as 2.5 acre-feet per acre.

11. Ground Water Registration Modification Application T-12437 proposes to modify the location of the point of appropriation approximately 0.3 mile from the original well to:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
8 S	1 W	WM	34	NW SE	1423 FEET NORTH AND 1445 FEET WEST FROM THE SE CORNER OF SECTION 34

12. Ground Water Registration Modification Application T-12437 proposes to modify the character of use under the ground water registration to municipal use. The total volume of water that may be diverted annually for municipal use is 181.2 acre-feet ($2.5 \times 72.5 = 181.2$ acre feet). The new use will be limited to the irrigation season of March 1 through October 31.
13. Ground Water Registration Modification Application T-12437 proposes to modify the place of use under the ground water registration to:

MUNICIPAL
Within the City if Sublimity Urban Growth Boundary

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

14. The proposed modifications, as conditioned, 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, as conditioned, would not result in injury to other water rights.

Conclusions of Law

The modifications in point of appropriation, place of use, and character of use proposed in Ground Water Registration Modification T-12437 is 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-269 (Certificate of Registration GR-249) proposed in Ground Water Registration Modification Application T-12437 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-269 (Certificate of Registration GR-249) 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.
5. The quantity of water diverted at the new point 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 as part of this ground water certificate of registration.
7. The former place of use of the modified ground water registration shall no longer receive water as part of the ground water certificate of registration, except for municipal use as modified by this order.
8. The use of water under the proposed municipal use shall be limited to a rate of diversion of 120 gallons per minute and further limited to a total quantity of water diverted of 181.2 acre feet during the irrigation season of March 1 through October 31.

Dated at Salem, Oregon this day MAR 08 2018.



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

Mailing date: MAR 09 2018