

**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-12721, Marion County	)	IN POINTS OF APPROPRIATION,
	)	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**

ROBERT J. SCHUMACHER AND  
DOROTHY C. SCHUMACHER TRUST  
C/O TOM SCHUMACHER  
PO BOX 303  
SUBLIMITY, OR 97385

**Findings of Fact**

1. On July 18, 2017, ROBERT J. SCHUMACHER AND DOROTHY C. SCHUMACHER TRUST, C/O TOM SCHUMACHER filed a ground water registration modification application to modify the point of appropriation, place of use, and character of use under Registration Application GR-2353 (Certificate of Registration GR-2235). The Department assigned the application number T-12721
2. On July 25, 2017, Registration Application GR-2353 (Certificate of Registration GR-2235) was partially assigned by proof from Hilda Schumacher to Tom Schumacher, Trustee of Dorothy C. Schumacher Revocable Living Trust.
3. Notice of the application for ground water registration modification was published on August 1, 2017, pursuant to OAR 690-382-0600. No comments were filed in response to the notice.

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.

4. On June 5, 2018, the Department contacted the applicant by written correspondence to notify the applicant and the applicant's agent of the deficiencies in the application. The Department requested that the deficiencies be resolved by July 5, 2018.
5. On June 22, 2018, the Department contacted the applicant by written correspondence to notify the applicant and the applicant's agent of the deficiencies in the application. The Department requested that the deficiencies be resolved by July 31, 2018.
6. On July 2, 2018, the applicant's agent submitted a revised map and Table 2, removing lands to be abandoned from the transfer application.
7. On August 9, 2018, the Department mailed a copy of the draft Preliminary Determination proposing to approve Transfer Application T-12720 to the applicant. The draft Preliminary Determination cover letter set forth a deadline of September 7, 2018, 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.
8. On September 27, 2018, the Department issued a Preliminary Determination proposing to approve Groundwater Registration Modification T-12721 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 2, 2018, and in the Stayton Mail newspaper on October 3, and October 10, 2018, pursuant to ORS 540.520 and OAR 690-380-4020. No protests were filed in response to the notice.
9. The portion of the ground water registration to be modified is as follows:

**Registration:** Application GR-2353 (Certificate of Registration GR-2235), in the name of HILDA SCHUMACHER (*partially assigned to* TOM SCHUMACHER, TRUSTEE OF DOROTHY C. SCHUMACHER REVOCABLE LIVING TRUST)

**Use:** IRRIGATION of 30.7 ACRES

**Tentative**

**Priority Date:** 1952

**Quantity:** 17.4 GALLONS PER MINUTE

**Source:** PUMP WELL

**Original Points of Appropriation:**

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
8 S	1 W	WM	35	NW NW	WELL #3 - 730 FEET SOUTH AND 170 FEET EAST FROM THE NW CORNER OF SECTION 35
8 S	1 W	WM	35	SW NW	WELL #2 - 1325 FEET SOUTH AND 2474 FEET WEST FROM THE N1/4 CORNER OF SECTION 35

**Original Place of Use:**

IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
8 S	1 W	WM	35	NE NW	2.8
8 S	1 W	WM	35	NW NW	14.5
8 S	1 W	WM	35	SW NW	9.9
8 S	1 W	WM	35	SE NW	3.5
Total					30.7

10. Ground Water Registration Modification Application T-12721 proposes to modify the location of the original points of appropriation to:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances	Approximate distance from original well locations measured in miles (mi.)	
						WELL #2	WELL #3
8 S	1 W	WM	34	SE SE	SUBLIMITY WELL #1 - 1330 FEET SOUTH AND 1250 FEET WEST FROM THE E1/4 CORNER OF SECTION 34	0.6 mi.	0.7 mi.
8 S	1 W	WM	34	NE SW	SUBLIMITY WELL #2 - 340 FEET SOUTH AND 3040 FEET WEST FROM THE E1/4 CORNER OF SECTION 34	0.7 mi.	0.8 mi.
8 S	1 W	WM	34	SE SE	SUBLIMITY WELL #3 - 2000 FEET SOUTH AND 880 FEET WEST FROM THE E1/4 CORNER OF SECTION 34	0.6 mi.	0.8 mi.
8 S	1 W	WM	35	SW NE	SUBLIMITY WELL #4 - 100 FEET NORTH AND 2920 FEET EAST FROM THE E1/4 CORNER OF SECTION 34	0.6 mi.	0.6 mi.

11. Ground Water Registration Modification Application T-12721 proposes to modify the place of use under the ground water registration to:

MUNICIPAL USE
WITHIN THE SERVICE AREA OF THE CITY OF SUBLIMITY

12. Ground Water Registration Modification Application T-12721 proposes to modify the character of use under the ground water registration to Municipal uses. The use will be limited to the irrigation season.
13. Ground Water Registration Application GR-2353 does not list a duty of water; however, the limit of the water right is the maximum quantity that could be beneficially used without waste. Based on Cuenca's crop water use data, the most consumptive crop use for the area of this water right is 2.20 acre feet per acre per year. Therefore, to prevent enlargement of this right, the maximum diverted annual volume of water for municipal use under this right should be limited to 67.54 acre feet per year (2.20 AF x 30.7 acres) during the irrigation season.

***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.

***Partial Abandonment of a Groundwater Registration***

17. On June 29, 2018, the applicant submitted an Affidavit for Partial Abandonment of a Ground Water Certificate of Registration for Registration Application GR-2353 (Certificate of Registration GR-2235).
18. On July 19, 2018, the applicant submitted a request to withdraw the Affidavit for Partial Abandonment of a Ground Water Certificate of Registration for Registration Application GR-2353 (Certificate of Registration GR-2235).
19. Registration Application GR-2353 (Certificate of Registration GR-2235) is layered with Registration Application GR-2352 (Certificate of Registration GR-2234) and the applicant shall abandon that portion of the place of use (POU) of Registration Application GR-2352 (Certificate of Registration GR-2234) prior to issuance of a Final Order for this Ground Water Registration Modification.
20. The portion of the ground water registration to be abandoned is as follows:

**Registration:** Application 2352 (Certificate of Registration GR-2234), in the name of  
HILDA SCHUMACHER  
**Use:** IRRIGATION of 30.7 ACRES  
**Tentative**  
**Priority Date:** MARCH 1939  
**Quantity:** 10.8 GALLONS PER MINUTE  
**Source:** PUMP WELL

**Original Point of Appropriation:**

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
8 S	1 W	WM	35	SW NW	1325 FEET NORTH AND 2494 FEET EAST TO THE N1/4 CORNER OF SECTION 35

**Original Place of Use:**

IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
8 S	1 W	WM	35	NE NW	2.8
8 S	1 W	WM	35	NW NW	14.5
8 S	1 W	WM	35	SW NW	9.9
8 S	1 W	WM	35	SE NW	3.5
Total					30.7

**Conclusions of Law**

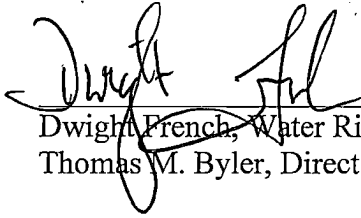
The modification in point of appropriation, modification in place of use, and modification in character of use proposed in Ground Water Registration Modification T-12721 are consistent with the requirements of ORS 537.610, 537.705, 540.505 to 540.580 and OAR 690-382-1000 and the partial abandonment of the Groundwater Registration should be recognized.

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

1. The modifications to Registration Application GR-2353 (Certificate of Registration GR-2235) and partial abandonment of Registration Application GR-2352 (Certificate of Registration GR-2234) proposed in Ground Water Registration Modification Application T-12721 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-2353 (Certificate of Registration GR-2235) and any related decree.
3. Water shall be acquired from the same aquifer (water source) as the original points of appropriation.
4. The quantity of water diverted at the new points of appropriation, shall not exceed the quantity of water lawfully available at the original points of appropriation.
5. Water shall no longer be appropriated for the former character of use as part of this ground water certificate of registration.
6. 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.

7. The use of water under the proposed municipal use shall be limited to a rate of diversion of 17.4 gallons per minute and further limited to a total quantity of water diverted of 67.54 acre-feet during the irrigation season.

Dated at Salem, Oregon this NOV 20 2018.



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

Mailing date: NOV 21 2018