

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

In the Matter of Ground Water) PRELIMINARY DETERMINATION
 Registration Modification Application) PROPOSING TO APPROVE
 T-10920, Umatilla County) RECOGNITION OF A MODIFICATION
) IN POINT OF APPROPRIATION

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

ROBERT BAKER
 83651 WINESAP RD.
 MILTON-FREEWATER, OR 97862

Findings of Fact

Background

1. On June 29, 2009, Robert Baker filed a ground water registration modification application to modify the point of appropriation under Registration Application GR-3856 (Certificate of Registration GR-3512). The Department assigned the application number T-10920.
2. The ground water registration to be modified is as follows:
Registration: Application GR-3856 (Certificate of Registration GR-3512), in the name of
(assigned to Robert Baker)
Use: SUPPLEMENTAL IRRIGATION of 15.0 ACRES
Tentative Priority Date: 1918
Quantity: 375 Gallons Per Minute not to exceed 60.0 acre feet per growing season
Source: A WELL within the WALLA WALLA RIVER BASIN

Original Point of Appropriation:

Twp	Rng	Mer	Sec	Q - Q	Measured Distances
5 N	35 E	WM	2	NW NW	1305 FEET SOUTH AND 1300 FEET EAST FROM THE NW CORNER OF SECTION 2

Pursuant to OAR 690-380-4030, any person may file a protest or standing statement within 30 days after the last date of publication of notice of this preliminary determination.

Original Place of Use:

SUPPLEMENTAL IRRIGATION					
Twp	Rng	Mer	Sec	Q - Q	Acres
5 N	35 E	WM	2	NW NW	15.0

3. Ground Water Registration Application GR-3856 (Certificate of Registration GR-3512) describes the location of the point of appropriation in relation to a survey corner in Section 2, Township 5 South, Range 35 East, W.M.. The POD is described as being within the NW NW of Section 2. However, information is available from the current map prepared by the applicant's Certified Water Rights Examiner based on a recent field visit and subsequent survey indicating that the point of appropriation is actually northeast approximately 40 feet from the original description, and is located as follows:

Twp	Rng	Mer	Sec	Q - Q	Measured Distances
5 N	35 E	WM	2	NW NW	1285 FEET SOUTH AND 1337 FEET EAST FROM THE NW CORNER OF SECTION 2

4. Ground Water Registration Modification Application T-10920 proposes to modify the point of appropriation located northwest approximately 45 feet to a new well located:

Twp	Rng	Mer	Sec	Q - Q	Measured Distances
5 N	35 E	WM	2	NW NW	1249 FEET SOUTH AND 1295 FEET EAST FROM THE NW CORNER OF SECTION 2

5. Notice of the application for ground water registration modification was published on July 21, 2009, pursuant to OAR 690-382-0600. No comments were filed in response to the notice.
6. OAR 690-382-0500 states that if the original well is abandoned within one year after the final order approving the GR-Mod, the applicant may request a refund of \$100 of the fee paid under OAR 690-382-0400(18)(b). The applicant has indicated agreement to abandon the well and shall submit his request consistent with the administrative rule.
7. On September 22, 2010, the Department mailed a copy of the draft Preliminary Determination proposing to approve Ground Water Registration Modification Application T-10920 to the applicant. The draft Preliminary Determination set forth a deadline of October 21, 2010, 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. Registration Application GR-3856 (Certificate of Registration GR-3512) indicates 15.0 acres for the place of use. The Department's investigation of the evidence from the tax assessor's map indicates that the place of use (Tax Lot 300) encompasses 14.77 acres.

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

9. The proposed modification would not result in enlargement of the ground water registration.

10. 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.
11. The proposed modification would not result in injury to other water rights.


Determination and Proposed Action

The modification to change the point of appropriation proposed in Ground Water Registration Modification T-10920 appears to be consistent with the requirements of ORS 537.610, 537.705, 540.505 to 540.580 and OAR 690-382-1000. If protests are not filed pursuant to OAR 690-382-0900, the application will be recognized.

If Ground Water Registration Modification Application T-10920 is recognized, the final order will include the following:

1. *The modification to Registration Application GR-3856 (Certificate of Registration GR-3512) proposed in Ground Water Registration Modification Application T-10920 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.*
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-3856 (Certificate of Registration GR-3512) 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 recognized 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. *When required by the Department, 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. The type and plans of the measuring device 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 22 day of October 2010.



Dwight French for
PHILIP C. WARD, DIRECTOR

This Preliminary Determination was prepared by Ken Dowden. If you have questions about the information in this document, you may reach me at 541-278-5456 or Ken.D.Dowden@wrд.state.or.us.

Protests should be addressed to the attention of Field Services Division, Water Resources Department, 725 Summer Street, NE, Suite A, Salem, OR 97301-1266.