



Oregon

John A. Kitzhaber, MD, Governor

Water Resources Department

North Mall Office Building
725 Summer Street NE, Suite A
Salem, OR 97301-1271
503-986-0900
FAX 503-986-0904

April 26, 2012

VIA E-MAIL

RIPE LLC
ANGELO J SPADA MANAGER
P O BOX 157
ST PAUL, OR 97137

SUBJECT: Water Right Transfer Application T-11257

Please find enclosed the Preliminary Determination indicating that, based on the information available, the Department intends to approve application T-11257. This document is an intermediate step in the approval process; water may not be used legally as proposed in the transfer application until a Final Order has been issued by the Department. Please read this entire letter carefully to determine your responsibility for additional action.

A public notice is being published in the Department's weekly publication simultaneously with issuance of the Preliminary Determination. The notice initiates a period in which any person may file either a protest opposing the decision proposed by the Department in the Preliminary Determination or a standing statement supporting the Department's decision. The protest period will end 30 days after the Department's notice.

If no protest is filed, the Department will issue a Final Order consistent with the Preliminary Determination. You should receive a copy of the Final Order about 30 days after the close of the protest period.

If a protest is filed, the application may be referred to a contested case proceeding. A contested case provides an opportunity for the proponents and opponents of the decision proposed in the Preliminary Determination to present information and arguments supporting their position in a quasi-judicial proceeding.

Please do not hesitate to contact me at 503-986-0886 or Patrick.K.Starnes@wrdd.state.or.us if I may be of assistance.

Sincerely,

Kelly Starnes
Transfer Specialist

cc: T-11257
Mike L. McCord, District 16 Watermaster *(via e-mail)*
Jeanne Boatwright, Agent for the applicant *(via e-mail)*

encs

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

In the Matter of Ground Water)	PRELIMINARY DETERMINATION
Registration Modification Application)	PROPOSING APPROVAL OF
T-11257, Marion County)	RECOGNITION OF ADDITIONAL
)	POINTS 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

RIPE LLC
ANGELO J SPADA MANAGER
P O BOX 157
SAINT PAUL OR 97137

Findings of Fact

Background

1. On June 1, 2011, RIPE LLC filed a ground water registration modification application for additional points of appropriation under Registration Application 2514 (Certificate of Registration GR-3833). The Department assigned the application number T-11257.
2. On June 6, 2011, Registration Application GR-2514 (Certificate of Registration GR-3833) was assigned from HERB KELSO to RIPE, LLC.
3. The ground water registration to be modified is as follows:

Registration: Application GR-2514 (Certificate of Registration GR-3833), in the name of HERB KELSO (*assigned to RIPE, LLC*)

Use: IRRIGATION OF 98.0 ACRES

Tentative

Priority Date: NOVEMBER, 1954

Quantity: 600 GALLONS PER MINUTE

Source: A WELL within the CHAMPOEG CREEK BASIN

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 Point of Appropriation:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
4 S	2 W	WM	22	NW NE	1050 FEET SOUTH AND 1660 FEET WEST FROM THE NE CORNER OF SECTION 22

Original Place of Use:

IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
4 S	2 W	WM	15	SW SE	1.0
4 S	2 W	WM	15	SE SE	9.0
4 S	2 W	WM	22	NE NE	19.0
4 S	2 W	WM	22	NW NE	18.0
4 S	2 W	WM	22	SW NE	26.0
4 S	2 W	WM	22	SE NE	12.0
4 S	2 W	WM	22	SE NW	13.0

4. The applicant has submitted information that better describes the location of the original point of appropriation as being:

Twp	Rng	Mer	Sec	Q-Q	DLC	Measured Distances
4 S	2 W	WM	22	SW NW	83	WELL A - 610 FEET NORTH AND 1520 FEET EAST FROM THE SE CORNER OF DLC 92

5. Ground Water Registration Modification Application T-11257 proposes additional points of appropriation between approximately 100 and 1000 feet from the original well to:

Twp	Rng	Mer	Sec	Q-Q	DLC	Measured Distances
4 S	2 W	WM	22	NW NE	83	WELL B - 300 FEET NORTH AND 2055 FEET EAST FROM THE SE CORNER OF DLC 92
4 S	2 W	WM	22	SW NE	83	WELL C - 265 FEET SOUTH AND 1760 FEET EAST FROM THE SE CORNER OF DLC 92
4 S	2 W	WM	22	NW NE	83	WELL D - 535 FEET NORTH AND 1520 FEET EAST FROM THE SE CORNER OF DLC 92

6. Notice of the application for ground water registration modification was published on June 7, 2011, pursuant to OAR 690-382-0600. No comments were filed in response to the notice.
7. On March 14, 2012, the Department sent a copy of the draft Preliminary Determination proposing to approve Groundwater Registration Modification Application T-11257 to the applicant. The draft Preliminary Determination cover letter set forth a deadline of April 16, 2012, 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 Groundwater Registration Modification.

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

8. The proposed modification would not result in enlargement of the ground water registration.
9. The proposed modification would not result in a state Scenic Waterway not receiving previously available water during periods in which stream flows are less than the quantities determined by the Department to be necessary to meet the requirements of ORS 390.835.
10. The proposed modification would not result in injury to other water rights.

Determination and Proposed Action

The additional points of appropriation proposed in Ground Water Registration Modification T-11257 appear 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-11257 is recognized, the final order will include the following:

1. *The modification to Registration Application GR-2514 (Certificate of Registration GR-3833) proposed in Ground Water Registration Modification Application T-11257 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-2514 (Certificate of Registration GR-3833) 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.*

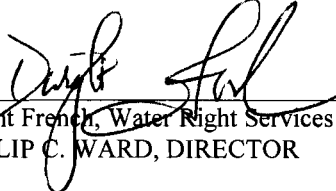
5. *Water use measurement conditions:*

a. Before water use may begin under this order, the water user shall install a totalizing flow meter, or, with prior approval of the Director, another suitable measuring device, at each point of appropriation.

b. The water user shall maintain the meters or measuring devices in good working order.

c. The water user shall allow the Watermaster access to the meters or measuring devices; provided however, where the meters or measuring devices are located within a private structure, the Watermaster shall request access upon reasonable notice.

Dated at Salem, Oregon this 26 day of April, 2012.


Dwight French, Water Right Services Administrator, for
PHILLIP C. WARD, DIRECTOR

This Preliminary Determination was prepared by Kelly Starnes. If you have questions about the information in this document, you may reach me at 503-986-0886 or Patrick.K.Starnes@wrds.state.or.us.

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