



Oregon

John A. Kitzhaber, MD, Governor

Water Resources Department

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September 7, 2012

VIA E-MAIL

Applicant

DEEP ROOTS, LLC

PO BOX 1622

WALLA WALLA, WA 99362

SUBJECT: Ground Water Registration Modification T-11402

Please find enclosed the Preliminary Determination indicating that, based on the information available, the Department intends to approve application T-11402. This document is an intermediate step in the approval process; water may not be used legally as proposed in the ground water registration modification application until a Final Order has been issued by the Department.

A public notice is being published in the Department's weekly publication simultaneously with issuance of the Preliminary Determination. The notice initiates a 30-day 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.

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 541-278-5456 or Ken.D.Dowden@wrdd.state.or.us if I may be of assistance.

Sincerely,

Dorothy I. Pedersen

Transfer Program Advisor

cc: GR Modification T-11402
Tony G. Justus, District 5 Watermaster (*via e-mail*)
Dan Koch, Assistant Watermaster (*via e-mail*)

enc





**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-11402, 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.

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Findings of Fact

Background

1. On April 16, 2012, Christophe Baron of DEEP ROOTS, LLC, filed a ground water registration modification application to modify the point of appropriation under Registration Application GR-4229 (Certificate of Registration GR-3768). The Department assigned the application number T-11402.
2. On April 17, 2012, Registration Application GR-4229 (Certificate of Registration GR-3768) was assigned from William J. and Carolyn K. Jackson to Deep Roots, LLC.
3. The portion of the ground water registration to be modified is as follows:
Registration: Application GR-4229 (Certificate of Registration GR-3768) in the name of Deep Roots, LLC.
Use: Irrigation of 18.1 ACRES
Tentative
Priority Date: 1924
Quantity: 226 GALLONS PER MINUTE
Duty: 7.5 ACRE-FEET PER ACRE PER YEAR
Source: A WELL within the Walla Walla River 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
6 N	35 E	WM	33	NW NE	1310 FEET SOUTH AND 10 FEET WEST FROM THE NE CORNER OF THE NW¼ OF THE NE¼ OF SECTION 33

Place of Use:

IRRIGATION					
Twp	Rng	Mer	Sec	Q - Q	Acres
6 N	35 E	WM	33	NW NE	18.1

4. Ground Water Registration Modification Application T-11402 proposes to modify the point of appropriation north approximately 33 feet to Well#2 located:

Proposed Point of Appropriation:

Twp	Rng	Mer	Sec	Q - Q	Measured Distances
6 N	35 E	WM	33	NW NE	1277 FEET SOUTH AND 1333 FEET EAST FROM THE NE CORNER OF THE NW¼ OF THE NE¼ OF SECTION 33

5. Notice of the application for ground water registration modification was published on April 24, 2012, pursuant to OAR 690-382-0600. No comments were filed in response to the notice.
6. On July 30, 2012, the Department sent a copy of the draft Preliminary Determination proposing to approve Groundwater Registration Modification Application T-11402 to the applicant. The draft Preliminary Determination cover letter set forth a deadline of August 29, 2012, for the applicant to respond. On August 13, 2012, 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)]

7. Based on the information provided, the proposed point of appropriation (UMAT 6456) develops the same (source) aquifer as that of the original authorized well (UMAT 4905). Both wells appropriate water from the alluvial material overlying the Columbia River Basalts, which is managed by the Department as one aquifer.
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 streamflows 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.

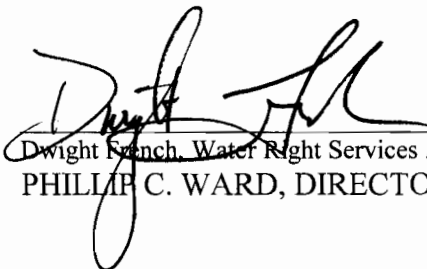
Determination and Proposed Action

The modification in point of appropriation proposed in Ground Water Registration Modification T-11402 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 690-380-4030, the modification will be approved.

If Ground Water Registration Modification T-11402 is approved, the final order will include the following:

- 1. The modification to Registration Application GR-4429 (Certificate of Registration GR-3768) proposed in Ground Water Registration Modification Application T-11402 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-4429 (Certificate of Registration GR-3768) 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. The Director may require the water user to install a totalizing flow meter, or, with prior approval of the Director, another suitable measuring device at each point of appropriation. If the Director notifies the water user to install totalizing flow meters or other measuring devices, the water user shall install such devices specified by the Director within the period allowed in the notice. Once installed, the water user shall maintain the meters or measuring devices in good working order and shall allow the Watermaster access to the meters or measuring devices.*

Dated at Salem, Oregon this 6 day of September, 2012.


Dwight French, Water Right Services Administrator, for
PHILLIP 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@ wrd.state.or.us.

Protests should be addressed to the attention of Transfer and Conservation Section, Water Resources Department, 725 Summer St. NE, Suite A, Salem, OR 97301-1266.