



Oregon

John A. Kitzhaber, MD, Governor

December 13, 2012

Water Resources Department

North Mall Office Building
725 Summer St. NE, Suite A
Salem, OR 97301
Phone 503-986-0900
FAX 503-986-0904
www.wrd.state.or.us

Applicant

D.J. EDWARDS FAMILY, LLC.
ATTN: DEL EDWARDS
32633 COOPER DRIVE NE
ALBANY, OR 97321

SUBJECT: Ground Water Registration Modification T-11378

Please find enclosed the Preliminary Determination indicating that, based on the information available, the Department intends to approve application T-11378. 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. 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 and in the Jefferson Review newspaper, 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 last date of newspaper publication.

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 503-986-0881 or teri.k.hranac@wr.d.state.or.us, if I may be of assistance.

Sincerely,

Teri Hranac
Ground Water Registration Modification Specialist
Transfer and Conservation Section

Enclosures

cc: T-11378
Michael J. Mattick, District 2 Watermaster (via e-mail)
Jack Burrell, Agent, (via e-mail at jburrell@kdeng.com)
Blue Horizon Farms, Inc., Lessee, Atten: Bill Sabol, PO Box 98, St. Paul, OR 97137



**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-11378, Linn 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

D.J. EDWARDS FAMILY, LLC
ATTN: DELBERT EDWARDS
32633 COOPER DR NE
ALBANY, OR 97321

Lessee:

BLUE HORIZON FARMS, INC.
ATTN: BILL SABOL
PO BOX 98
ST. PAUL, OR 97137

Findings of Fact

Background

1. On March 20, 2012, D.J. EDWARDS FAMILY, LLC filed a ground water registration modification application to modify the point of appropriation under Registration Application GR-774 (Certificate of Registration GR-749). The Department assigned the application number T-11378.
2. On March 22, 2012, Registration Application GR-774 (Certificate of Registration GR-749) was assigned from ARDLE EDWARDS to D.J. EDWARDS FAMILY, LLC. The ground water registration to be modified is as follows:

Registration: Application GR-774 (Certificate of Registration GR-749), in the name of ARDLE EDWARDS (*assigned to D.J. EDWARDS FAMILY, LLC*)

Use: IRRIGATION OF 25.0 ACRES

Tentative

Priority Date: APRIL, 1955

Quantity: 150 GALLONS PER MINUTE

Source: PUMP WELL NO. 3 within the SANTIAM RIVER BASIN

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| 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. |
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Original Point of Appropriation:

| Twp | Rng | Mer | Sec | Q-Q | Measured Distances |
|-----|-----|-----|-----|-------|---|
| 9 S | 3 W | WM | 32 | SW SW | PUMP WELL NO. 3 - 400 FEET NORTH AND 400 FEET EAST FROM THE SW CORNER OF SECTION 32 |

Original Place of Use:

| IRRIGATION | | | | | |
|------------|-----|-----|-----|-------|-------|
| Twp | Rng | Mer | Sec | Q-Q | Acres |
| 9 S | 3 W | WM | 32 | SW SW | 25.0 |

3. Ground Water Registration Modification Application T-11378 proposes modify the location of the original point of appropriation approximately 2260 feet from the original well to:

| Twp | Rng | Mer | Sec | Q-Q | Measured Distances |
|------|-----|-----|-----|-------|--|
| 9 S | 3 W | WM | 32 | SW SW | WELL 5 (LINN 58250) - 30 FEET NORTH AND 40 FEET EAST OF THE NE CORNER OF SECTION 6 |
| 10 S | 3 W | WM | 6 | NE NE | WELL 6 (LINN 4560) - 900 FEET SOUTH AND 20 FEET WEST OF THE NE CORNER OF SECTION 6 |
| 10 S | 3 W | WM | 6 | SE NE | WELL 4 (LINN 58218) 1815 FEET SOUTH AND 20 FEET WEST OF THE NE CORNER OF SECTION 6 |

4. Notice of the application for ground water registration modification was published on April 3, 2012, pursuant to OAR 690-382-0600. No comments were filed in response to the notice.
5. On November 16, 2012, the Department sent a copy of the draft Preliminary Determination proposing to approve Groundwater Registration Modification Application T-11378 to the applicant. The draft Preliminary Determination cover letter set forth a deadline of December 20, 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)]

6. The proposed modification would not result in enlargement of the ground water registration.
7. 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.
8. 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-11378 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-11378 is approved, the final order will include the following:

- 1. The modification to Registration Application GR-774 (Certificate of Registration GR-749) proposed in Ground Water Registration Modification Application T-11378 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-774 (Certificate of Registration GR-749) 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 points 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 other 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 13 day of December 2012.


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

This Preliminary Determination was prepared by Teri Hranac. If you have questions about the information in this document, you may reach me at 503-986-0881 or Teri.K.Hranac@wrdd.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.