



# Oregon

John A. Kitzhaber, MD, Governor

June 18, 2013

## Water Resources Department

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### **Applicant**

MELVIN KAUFMAN  
11155 KAUFMAN RD. NE  
SILVERTON, OR 97381

**SUBJECT:** Ground Water Registration Modifications T-11565 and T-11566

Please find enclosed the Preliminary Determination indicating that, based on the information available, the Department intends to approve applications T-11565 and T-11566. 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, 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) 986-0890 or [Dorothy.I.Pedersen@wrds.state.or.us](mailto:Dorothy.I.Pedersen@wrds.state.or.us) if I may be of assistance.

Sincerely,

Dorothy Pedersen  
Transfer Program Advisor

cc: GR Modifications T-11565 and T-11566  
Mike L. McCord, District 16 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-11565 and T-11566, Marion County	)	RECOGNITION OF MODIFICATIONS
	)	IN PLACE OF USE

**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 5, 2013, Melvin Kaufman filed a ground water registration modification application to modify the place of use under Registration Application GR-638 (Certificate of Registration GR-603) for the 2013, 2014 and 2015 irrigation seasons. The Department assigned the application number T-11565.
2. Also on April 5, 2013, Melvin Kaufman filed a second ground water registration modification application to modify the place of use under Registration Application GR-638 (Certificate of Registration GR-603) at the end of the 2015 irrigation season, by moving back to the original place of use under Registration Application GR-638 (Certificate of Registration GR-603). The Department assigned the application number T-11566.
3. Notice of the applications for ground water registration modification were published on April 16, 2013, pursuant to OAR 690-382-0600. No comments were filed in response to the notices.
4. On June 6, 2013, the Department sent a copy of the draft Preliminary Determination proposing to approve Groundwater Registration Modification Applications T-11565 and T-11566 to the applicant. The applicant requested that the Department proceed with

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.

issuance of a Preliminary Determination and provided the necessary information to demonstrate that the applicant is authorized to pursue the Groundwater Registration Modifications.

5. The portion of the ground water registration to be modified is as follows:

**Registration:** Application GR-638 (Certificate of Registration GR-603), in the name of MELVIN KAUFMAN

**Use:** IRRIGATION of 16 ACRES

**Tentative**

**Priority Date:** APRIL, 1948

**Quantity:** 115 GPM [0.255 CUBIC FOOT PER SECOND]

**Source:** A WELL within the HOWELL PRAIRIE CREEK BASIN

**Original Point of Appropriation:**

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
6 S	1 W	WM	7	SE NE	1500 FEET SOUTH AND 1000 FEET WEST FROM THE NE CORNER OF SECTION 7

**Original Place of Use:**

IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
6 S	1 W	WM	7	SW NE	4.53
6 S	1 W	WM	7	SE NE	11.47

6. Ground Water Registration Modification Application T-11565 proposes to modify the place of use under the ground water registration for the 2013, 2014 and 2015 irrigation seasons to:

IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
6 S	1 W	WM	7	NE SE	4.75
6 S	1 W	WM	7	NW SE	11.25

7. At the end of the 2015 irrigation season, Application T-11566 proposes to modify the place of use under the ground water registration from the place of use in the above finding back to:

IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
6 S	1 W	WM	7	SW NE	4.53
6 S	1 W	WM	7	SE NE	11.47

8. A portion of Certificate 80481 for supplemental irrigation is appurtenant to the lands listed in Finding of Fact #4 from which GR-638 is proposed to be moved, therefore, it is layered with GR-638. The applicant agrees not to exercise Certificate 80481 on those lands during the 2013, 2014 and 2015 irrigation seasons while the T-11565 change is in effect.

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

9. The proposed modifications under T-11565 and T-11566 would not result in enlargement of the ground water registration.
10. The proposed modifications under T-11565 and T-11566 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 modifications under T-11565 and T-11566 would not result in injury to other water rights.

**Determination and Proposed Action**

The modifications in place of use proposed in Ground Water Registration Modifications T-11565 and T-11566 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 690-380-4030, the modifications will be approved.

*If Ground Water Registration Modifications T-11565 and T-11566 are approved, the final order will include the following:*

1. *The modifications to Registration Application GR-638 (Certificate of Registration GR-603) proposed in Ground Water Registration Modification Applications T-11565 and T-11566 are recognized. The change in place of use under T-11565 is effective immediately and will remain in effect until the end of the 2015 irrigation season, at which time the place of use change under T-11566 will take effect.*
2. *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.*
3. *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-638 (Certificate of Registration GR-603) and any related decree.*
4. *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 during the 2013, 2014 and 2015 irrigation seasons.*
5. *Any portion of supplemental water right certificate 80481 located at the same location as the original place of use under Registration Application GR-638 (Certificate of Registration GR-603) shall not be exercised during the 2013, 2014 and 2015 irrigation seasons.*

6. *At the end of the 2015 irrigation season, the modified place of use shall move back to the original place of use under Registration Application GR-638 (Certificate of Registration GR-603).*

Dated at Salem, Oregon this 17 day of June, 2013.

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

This Preliminary Determination was prepared by Dorothy Pedersen. If you have questions about the information in this document, you may reach me at 503-986-0890 or Dorothy.I.Pedersen@wrds.state.or.us.