



Oregon

John A. Kitzhaber, MD, Governor

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

September 12, 2013

VIA E-MAIL

Applicant

JEFF A. ZEEB
1935 SILVERTON RD NE
SALEM, OR 97305

SUBJECT: Water Right Transfer Application T-11568

Please find enclosed the Preliminary Determination indicating that, based on the information available, the Department intends to approve application T-11568. 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 and in the Polk County Itemizer-Observer 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 Department's notice or 30 days after the last date of newspaper publication, whichever occurs later.

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@ wrd.state.or.us if I may be of assistance.

Sincerely,

Dorothy Pedersen
Transfer Program Advisor

cc: T-11568
Mike L. McCord, District 16 Watermaster (*via e-mail*)
Greg Kupillas, 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-11568, Marion County |) | RECOGNITION OF A MODIFICATION |
| |) | IN POINT OF APPROPRIATION, |
| |) | PLACE OF USE AND CHARACTER 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.

Applicant

JEFF A. ZEEB
1935 SILVERTON RD. NE
SALEM, OR 97303

Findings of Fact

Background

1. On April 9, 2013, Jeff Zeeb filed a ground water registration modification application to modify the point of appropriation, place of use, and character of use under Registration Application GR-1455 (Certificate of Registration GR-1404). The Department assigned the application number T-11568.
2. On April 9, 2013, Registration Application GR-1455 (Certificate of Registration 1404) was assigned from Adrian A. Withers and Pearl F. Withers to Jeff Zeeb.
3. Notice of the application for ground water registration modification was published on April 23, 2013, pursuant to OAR 690-382-0600. No comments were filed in response to the notice.
4. The original application map had an error in the number of acres requested to be changed. A deficiency letter was sent to the applicant on July 11, 2013. On July 26, 2013, the Department received an amended map correcting the error.

| |
|--|
| 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. |
|--|

5. On August 21, 2013, the Department sent a copy of the Preliminary Determination to the applicant, proposing to deny Groundwater Registration Modification Application T-11568 because of potential enlargement of the registration. The Preliminary Determination cover letter set forth a deadline of September 23, 2013, for the applicant to respond. The applicant's agent, on behalf of the applicant, revised the annual volume requested for transfer, which resolved the enlargement issue. The applicant's agent 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.

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

Registration: Registration Application GR 1455 (Certificate of Registration GR-1404), in the name of ADRIAN A. WITHERS and PEARL .F WITHERS (*assigned to JEFF ZEEB*)
Use: IRRIGATION of 8.0 ACRES
Tentative Priority Date: OCTOBER 5, 1954
Quantity: 0.07 CUBIC FOOT PER SECOND; limited to 19.2 acre-feet (AF) per year
Source: A WELL within the CROISAN CREEK BASIN
Season: MAY 1 TO OCTOBER 31

Original Point of Appropriation:

| Twp | Rng | Mer | Sec | Q-Q | Measured Distances |
|-----|-----|-----|-----|-------|---|
| 8 S | 3 W | WM | 18 | SE SE | 580 FEET NORTH AND 100 FEET WEST FROM THE SE CORNER OF SECTION 18 |

Original Place of Use:

| Twp | Rng | Mer | Sec | Q-Q | Acres |
|-----|-----|-----|-----|-------|-------|
| 8 S | 3 W | WM | 17 | NW SW | 3.6 |
| 8 S | 3 W | WM | 17 | SW SW | 2.0 |
| 8 S | 3 W | WM | 18 | SE SE | 2.4 |

6. Ground Water Registration Modification Application T-11568 proposes to modify the location of the point of appropriation approximately 4,150 feet northwest to (MARI 55810):

| Twp | Rng | Mer | Sec | Q-Q | Measured Distances |
|-----|-----|-----|-----|------|---|
| 8 S | 3 W | WM | 18 | NWSW | 1390 FEET NORTH AND 1130 FEET EAST FROM THE SW CORNER OF SECTION 18 |

7. Ground Water Registration Modification Application T-11568 proposes to modify the character of use under the ground water registration to RESERVOIR MAINTENANCE in a reservoir authorized under Certificate 86477.

8. Ground Water Registration Modification Application T-11568 proposes to modify the place of use under the ground water registration to:

| RESERVOIR MAINTENANCE | | | | | |
|-----------------------|-----|-----|-----|-------|------|
| Twp | Rng | Mer | Sec | Q-Q | GLot |
| 8 S | 3 W | WM | 18 | SW SW | 4 |
| 8 S | 3 W | WM | 18 | SE SW | |

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

9. The application proposes to transfer 2.4 acre feet per acre for 8 acres (19.2 acre feet). This is proportional to what is allowed under the groundwater registration (90 acre feet per year for 37.91 acres.)
10. The proposed modifications would not result in enlargement of the ground water registration (OAR 690-382-0100(2)).
11. The proposed modifications 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.
12. The proposed modifications would not result in injury to other water rights.

Determination and Proposed Action

The modifications in point of appropriation, place of use, and character of use proposed in Ground Water Registration Modification T-11568 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 modification will be approved.

If Ground Water Registration Modification T-11568 is approved, the final order will include the following:

1. *The modifications to Registration Application GR-1455 (Certificate of Registration GR-1404) proposed in Ground Water Registration Modification Application T-11568 are recognized. 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.*
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-1455 (Certificate of Registration GR-1404) 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 modified portion of the 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. *Water shall no longer be appropriated for the former character of use as part of this portion of the ground water certificate of registration.*
7. *The former place of use of the modified portion of the ground water registration shall no longer receive water as part of the ground water certificate of registration.*
8. *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 the new point of appropriation.*
 - b. *The water user shall maintain the meter or measuring device in good working order.*
 - c. *The water user shall allow the Watermaster access to the meter or measuring device; provided however, where the meter or measuring device is located within a private structure, the Watermaster shall request access upon reasonable notice.*

Dated at Salem, Oregon this 11 day of September, 2013.


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

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