



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

December 4, 2014

HAROLD AND JUANITA UNDERWOOD
3119 HANNAH AVE
ALBANY, OR 97322

SUBJECT: Ground Water Registration Modification T-11789

Please find enclosed the Preliminary Determination indicating that, based on the information available, the Department intends to approve application T-11789. 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 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 Tracy.L.Fox@ wrd.state.or.us or 503 986-0827 if I may be of assistance.

Sincerely,

Ms. Tracy Fox
Ground Water Registration Modification Specialist
Transfer and Conservation Section

cc: GR Modification T-11789
Joel Plahn, District 16 Watermaster (*via e-mail*)
Kim Grigsby, GSI Water Solutions Inc., Agent for the applicant (*via e-mail*)

enclosure



**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-11789, Polk County)	RECOGNITION OF A MODIFICATION
)	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.

Applicants

HAROLD D. UNDERWOOD AND
JUANITA L. UNDERWOOD
3119 HANNAH AVE
ALBANY, OR 97322

Findings of Fact

1. On April 14, 2014, HAROLD AND JUANITA UNDERWOOD and NORTHWEST FARM CREDIT SERVICES FLCA filed a ground water registration modification application to modify the place of use under Registration GR-1320 (Certificate of Registration GR-1275). The Department assigned the application number T-11789
2. On February 29, 2008, Registration Application GR-1320 (Certificate of Registration GR-1275) was assigned from ELMER OR GERTRUDE E. MILLER TO NORTHWEST FARM CREDIT SERVICES FLCA. AND HAROLD DEAN UNDERWOOD AND JUANITA LORENE UNDERWOOD TO NORTHWEST FARM CREDIT SERVICES FLCA.
3. On April 14, 2014, Registration Application GR-1320 (Certificate of Registration GR-1275) was assigned from NORTHWEST FARM CREDIT SERVICES FLCA. AND HAROLD DEAN UNDERWOOD AND JUANITA LORENE UNDERWOOD TO HAROLD DEAN UNDERWOOD and JUANITA LORENE UNDERWOOD.

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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4. Notice of the application for ground water registration modification was published on April 22, 2014, pursuant to OAR 690-382-0600. No comments were filed in response to the notice.
5. On October 24, 2014, the Department sent a copy of the draft Preliminary Determination proposing to approve Groundwater Registration Modification Application T-11789 to the applicants. The draft Preliminary Determination cover letter set forth a deadline of November 24, 2014, for the applicants to respond. The applicants 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: Ground Water Registration Application GR-1320 (Certificate of Registration GR-1275), in the name of ELMER OR GERTRUDE E. MILLER (*assigned to HAROLD AND JUANITA UNDERWOOD and JUANITA LORENE UNDERWOOD*)

Use: IRRIGATION of 20.0 ACRES

Tentative Priority Date: 1946

Quantity: 200 GALLONS PER MINUTE

Source: PUMP WELL #2

Original Point of Appropriation:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
9 S	4 W	WM	3	NE SE	1800 FEET NORTH AND 250 FEET WEST FROM THE SE CORNER OF SECTION 3

Original Place of Use:

IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
9 S	4 W	WM	2	NW SW	3.0
9 S	4 W	WM	2	SW SW	4.0
9 S	4 W	WM	3	NE SE	10.5
9 S	4 W	WM	3	SE SE	2.5
Total:					20.0

7. The tax lot map and the applicant's agent both further describe the place of use as being within Donation Land Claim No. 41.
8. Ground Water Registration Modification Application T-11789 proposes to modify the place of use under the ground water registration to:

IRRIGATION						
Twp	Rng	Mer	Sec	Q-Q	DLC	Acres
9 S	4 W	WM	2	SW SW	41	9.0
9 S	4 W	WM	3	SE SE	41	11.0
Total:						20.0

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

9. The proposed modification would not result in enlargement of the ground water registration.
10. 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.
11. The proposed modification would not result in injury to other water rights.

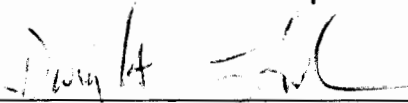
Determination and Proposed Action

The modification in place of use proposed in Ground Water Registration Modification T-11789 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-11789 is approved, the final order will include the following:

1. *The modification to Registration GR-1320 (Certificate of Registration GR-1275) proposed in Ground Water Registration Modification Application T-11789 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 GR-1320 (Certificate of Registration GR-1275) and any related decree.*
3. *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.*

Dated at Salem, Oregon this 4 day of December, 2014.



Dwight French, Water Right Services Administrator, for
Thomas M. Byler, Director
Oregon Water Resources Department

This Preliminary Determination was prepared by Tracy Fox. If you have questions about the information in this document, you may reach me at 503 986-0827 or Tracy.L.Fox@wrdd.state.or.us.

Protests should be addressed to the Water Rights Services Division, Oregon Water Resources Department, 725 Summer Street, Suite A, Salem, OR 97301-1266.

