



Oregon

John A. Kitzhaber, MD, Governor

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January 9, 2015

QUIET MEADOWS FARMS
THOMAS E. & KAREN M. AVINELIS
38615 DENSMORE RD
JEFFERSON, OR 97352-9307

SUBJECT: Ground Water Registration Modification T-11752

Please find enclosed the Preliminary Determination indicating that, based on the information available, the Department intends to approve application T-11752. 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 503-986-0890 or Sarah.A.Henderson@wrp.state.or.us if I may be of assistance.

Sincerely,

Sarah Henderson

Groundwater Registration Modification Specialist
Transfer and Conservation Section

cc: T-11752
Joel Plahn, District 16 Watermaster (*via e-mail*)
Eric Pond, Agent for the applicant (*via e-mail*)
Will McGill, CWRE (*via e-mail*)

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**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-11752, Linn County)	RECOGNITION OF A MODIFICATION
)	IN POINT OF APPROPRIATION

Authority

Oregon Revised Statute (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.

Oregon Administrative Rule (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

QUIET MEADOWS FARMS
THOMAS E. & KAREN M. AVINELIS
38615 DENSMORE RD
JEFFERSON, OR 97352-9307

Findings of Fact

1. On March 7, 2014, THOMAS E. AND KAREN M. AVINELIS OF QUIET MEADOWS FARM filed a ground water registration modification application to modify the point of appropriation under Registration Application GR-917 (Certificate of Registration GR-891). The Department assigned the application number T-11752.
2. On September 4, 2002, Registration Application GR-917 (Certificate of Registration GR-891) was assigned from HELMS BROTHERS, AN OREGON PARTNERSHIP to K. MARK AND PRISCILLA A. SAFLEY.
3. On September 6, 2011, Registration Application GR-917 (Certificate of Registration GR-891) was assigned from K. MARK AND PRISCILLA A. SAFLEY to THOMAS E. AND KAREN M. AVINELIS OF QUIET MEADOWS FARM.
4. Notice of the application for ground water registration modification was published on March 18, 2014, pursuant to OAR 690-382-0600. No comments were filed in response to the notice.

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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5. On July 1, 2014, the Department contacted Eric Pond, Agri Care via e-mail to notify the applicant's agent of the deficiency in the application being the signatures of Thomas and Karen Avinelis are missing from the application. On January 5, 2015, the Department received documents resolving the deficiency.
6. On October 17, 2014, the Department mailed a copy of the draft Preliminary Determination proposing to approve Transfer Application T-11752 to the applicants. The draft Preliminary Determination cover letter set forth a deadline of November 16, 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 transfer.
7. The ground water registration to be modified is as follows:

Registration: Registration Application GR-917 (Certificate of Registration GR-891), in the name of FRANK E. GATES (*assigned to* THOMAS E. & KAREN M. AVINELIS)

Use: IRRIGATION of 46.8 ACRES

Tentative

Priority Date: JANUARY 1947

Quantity: 400 GALLONS PER MINUTE

Duty: 117.0 ACRE FEET PER YEAR

Source: PUMP WELL #1

Original Point of Appropriation:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
10 S	2 W	WM	17	NW SW	SOUTH 59 DEGREES EAST 8.5 CHAINS FROM THE NW CORNER OF SW 1/4 OF SECTION 17

Original Place of Use:

IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
10 S	2 W	WM	17	NE SW	15.7
10 S	2 W	WM	17	NW SW	31.1

8. Ground Water Registration Modification Application T-11752 proposes to modify the location of the original point of appropriation approximately 21 feet from the original well to:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
10 S	2 W	WM	17	NW SW	237 FEET SOUTH AND 487 FEET EAST FROM THE NW CORNER OF SW 1/4 OF SECTION 17

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 point of appropriation proposed in Ground Water Registration Modification T-11752 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-11752 is approved, the final order will include the following:

1. *The modification to Registration Application GR-917 (Certificate of Registration GR-891) proposed in Ground Water Registration Modification Application T-11752 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-917 (Certificate of Registration GR-891) 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 point of appropriation, shall not exceed the quantity of water lawfully available at the original point of appropriation.*
6. *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 each 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 6 day of January, 2015.



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

This Preliminary Determination was prepared by Sarah Henderson. If you have questions about the information in this document, you may reach me at 503-986-0890 or Sarah.A.Henderson@wrp.state.or.us.

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