



# 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

February 25, 2014

JOHN A. BIERLY  
12160 SW KOBBE DR  
BEAVERTON, OR 97007

SUBJECT: Ground Water Registration Modification T-11875

Your water Ground Water Registration Modification is in one of three phases of processing. Enclosed is a draft of our Preliminary Determination regarding Ground Water Registration (GR) Modification Application T-11875. The document reflects the Department's conclusion that, based on the information currently available, the modification will be approved.

### Items needed before the next phase of processing...

1. Please review the draft carefully to see if it accurately reflects the changes you intend to make, and to become familiar with all proposed conditions. **You will need to respond in writing** by the deadline provided below, whether you agree with the proposed action and conditions. Also we will appreciate having you let us know if there are typographical errors that need to be corrected.
2. A report of landownership for the lands to which the Ground Water Registration is appurtenant (the FROM lands) is required. **The report must be prepared by a title company and meet the criteria below.** (Reports may be called by various names, such as Customer Service Report, Property Analysis Report (PAR), List Pack, Lot Book Report, etc.)
  - a) The title company's report must either be:
    - i) prepared within 3 months of the draft Preliminary Determination showing current ownership, or
    - ii) prepared within 3 months of recording of a water right conveyance agreement, or
    - iii) prepared at any time, but showing ownership at the time a water right conveyance agreement was recorded.
  - b) The ownership report shall include:
    - i) Date reflected by the ownership information
    - ii) List of owners at that time
    - iii) Legal description of the property where the water right to be modified is currently located.
  - c) You will need to submit a notarized statement of consent from any landowner listed in the ownership report who is not already included in the application, or other information such as a water right conveyance agreement, if applicable.

### Conditions to your GR registration modification...

The Watermaster has required a water measurement device at the point of appropriation prior to appropriation of water. Enclosed is a contact information sheet to assist you in pursuing additional information or approval of the required (or alternate) device.

**What happens next...**

Once the preliminary determination is issued a publication period is required. The Department will publish a notice in their weekly publication, which opens a 30-day period in which the modification can be protested.

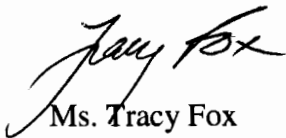
Issuance of the Preliminary Determination will occur shortly after we receive:

1. your written response to the conditions and proposed action in the draft Preliminary Determination (e-mail is acceptable); and
2. report of ownership, and affidavits of consent from any landowners shown in the ownership report who have not signed the application.

**If we do not receive the items listed above by March 27, 2015, a Preliminary Determination may be issued denying the application as incomplete.**

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  
Groundwater Registration Modification Specialist  
Transfer and Conservation Section

cc: T-11875  
Jake Constans, District 18 Watermaster (*via e-mail*)  
Stuntzner Engineering and Forestry LLC, Agent for the applicant (*via e-mail*)

enclosures

**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-11875, Washington County	)	RECOGNITION OF A MODIFICATION
	)	IN PLACE OF USE

**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.

**Applicant**

JOHN A. BIERLY  
12160 SW KOBBE DR  
BEAVERTON, OR 97007

**Findings of Fact**

1. On August 12, 2014, JOHN BIERLY filed a ground water registration modification application to modify the place of use under Registration Application GR-2954 (Certificate of Registration GR-2772). The Department assigned the application number T-11875.
2. On January 9, 2015, Registration Application GR-2954 (Certificate of Registration GR-2772) was assigned from ORVILLE L BIERLY to LEWIS BIERLY, JOHN BIERLY, SUSAN THOMPSON, CHRISTINE CULLEN, CAROL BAUMGARTEL, AND PHILIP BIERLY.
3. Notice of the application for ground water registration modification was published on August 19, 2014, pursuant to OAR 690-382-0600. No comments were filed in response to the notice.
4. On January 13, 2015, the Department sent a copy of the draft Preliminary Determination proposing to approve Groundwater Registration Modification Application T-11875 to the applicant. The draft Preliminary Determination cover letter set forth a deadline of February 13, 2015, for the applicant to respond. The applicant requested that the Department proceed with issuance of a Preliminary Determination and provided the necessary information to

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.

demonstrate that the applicant is authorized to pursue the Groundwater Registration Modification.

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

**Registration:** Application GR-2954 (Certificate of Registration GR-2772), in the name of JOHN BIERLY; as modified by Special Order Volume 80, page 1007.  
**Use:** IRRIGATION OF 13.0 ACRES  
**Tentative Priority Date:** APRIL 30, 1950  
**Quantity:** 75.5 GALLONS PER MINUTE  
**Duty:** 31.1 ACRE-FEET PER YEAR  
**Source:** A WELL within an BASIN tributary to the Tualatin River

**Original Point of Appropriation:**

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
2 S	2 W	WM	1	NE SE	2840 FEET SOUTH AND 1000 FEET WEST FROM THE NE CORNER OF SECTION 1

Note: The measured distance as given in Application GR-2954 can also be described as 75 FEET SOUTH AND 1000 FEET WEST OF THE EAST ¼ CORNER OF SECTION 1.

**Original Place of Use:**

IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
2 S	2 W	WM	1	NE SE	13.0

6. Ground Water Registration Modification Application T-11875 proposes to modify the place of use under the ground water registration to:

IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
2 S	2 W	WM	1	SW NE	0.1
2 S	2 W	WM	1	SE NE	7.3
2 S	2 W	WM	1	NE SE	5.6
Total:					13.0

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

7. The proposed modification would not result in enlargement of the ground water registration.
8. 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.
9. The proposed modification would not result in injury to other water rights.

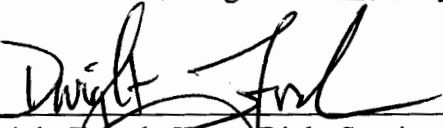
## Determination and Proposed Action

The modification in place of use proposed in Ground Water Registration Modification T-11875 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 690-382-0900, the modification will be approved.

*If Ground Water Registration Modification T-11875 is approved, the final order will include the following:*

- 1. The modification to Registration Application GR-2954 (Certificate of Registration GR-2772) proposed in Ground Water Registration Modification Application T-11875 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-2954 (Certificate of Registration GR-2772) 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.*
- 4. 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 point of appropriation.*
  - b. The water user shall maintain the meters or measuring devices in good working order.*
  - c. The water user shall allow the Watermaster access to the meters or measuring devices; provided however, where the meters or measuring devices are located within a private structure, the Watermaster shall request access upon reasonable notice.*

Dated at Salem, Oregon this 26 day of February, 2015.

  
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@wrp.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.