



Oregon

Kate Brown, 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

PAN AMERICAN BERRY GROWERS LLC
6826 55th AVE NE
SALEM, OR 97305

SUBJECT: Ground Water Registration Modification T-11990

Please find enclosed the Preliminary Determination indicating that, based on the information available, the Department intends to approve application T-11990. 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 503-986-0892 or Joan.M.Smith@ wrd.state.or.us if I may be of assistance.

Sincerely,

Joan Smith
Groundwater Registration Modification Specialist
Transfer and Conservation Section

cc: T-11990
Joel Plahn, District 16 Watermaster (*via e-mail*)
James Schuette, Agent for the applicant (*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-11990, Marion County)	RECOGNITION OF A MODIFICATION
)	IN A POINT OF APPROPRIATION
)	AND AN ADDITIONAL 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.

Applicant

PAN AMERICAN BERRY GROWERS LLC
6826 55TH AVE NE
SALEM, OR 97305
stevee@pbgblues.com

Findings of Fact

1. On February 26, 2015, PAN AMERICAN BERRY GROWERS LLC filed a ground water registration modification application to modify the point of appropriation and add an additional point of appropriation under Registration Application GR-3287 (Certificate of Registration GR-3056). The Department assigned the application number T-11990
2. On February 24, 2015, Registration Application GR-3287 (Certificate of Registration GR-3056) was assigned from DOROTHY B. ZIELINSKI to PAN AMERICAN BERRY GROWERS LLC.
3. Notice of the application for ground water registration modification was published on March 3, 2015, 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.

4. On July 28, 2015, the Department mailed a copy of the draft Preliminary Determination proposing to approve Transfer Application T-11990 to the applicant. The draft Preliminary Determination cover letter set forth a deadline of August 28, 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 demonstrate that the applicant is authorized to pursue the transfer.
5. The ground water registration to be modified is as follows:

Registration: Application GR-3287 (Certificate of Registration GR-3056), in the name of DOROTHY B. ZIELINSKI (*assigned to PAN AMERICAN BERRY GROWERS LLC*)

Use: IRRIGATION of 75.0 ACRES

Tentative

Priority Date: APRIL 1953

Quantity: 240 GALLONS PER MINUTE (GPM)

Source: A WELL within the LITTLE PUDDING RIVER BASIN

Original Point of Appropriation:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
6 S	2 W	WM	33	NE NW	MARI 4702- 20 FEET NORTH AND 650 FEET WEST FROM THE SE CORNER OF THE NE NW OF SECTION 33

Original Place of Use:

IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
6 S	2 W	WM	33	NE NW	40.00
6 S	2 W	WM	33	SE NW	35.00

6. Ground Water Registration Modification Application T-11990 proposes to modify the location of the original point of appropriation and add an additional point of appropriation with approximate measurements in feet from the original well to:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances	Approximate Distance from the Original POA
6 S	2 W	WM	33	SE NW	WELL #1-30 FEET SOUTH AND 660 FEET WEST FROM THE SE CORNER OF THE NE NW OF SECTION 33	187.0 Feet
6 S	2 W	WM	33	SE NW	WELL #2 (MARI 4706) 20 FEET NORTH AND 2040 FEET EAST FROM THE WEST ¼ CORNER OF SECTION 33	1280.0 Feet

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

7. The proposed modifications would not result in enlargement of the ground water registration.
8. 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.

9. The proposed modifications would not result in injury to other water rights.

Determination and Proposed Action

The modification in point of appropriation and an additional point of appropriation proposed in Ground Water Registration Modification T-11990 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-11990 is approved, the final order will include the following:

- 1. The modifications to Registration Application GR-3287 (Certificate of Registration GR-3056) proposed in Ground Water Registration Modification Application T-11990 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-3287(Certificate of Registration GR-3056) 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 and additional points of appropriation, shall not exceed the quantity of water lawfully available at the original point of appropriation.*

Dated at Salem, Oregon this 15 day of Sept 2015.


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

This Preliminary Determination was prepared by Joan Smith. If you have questions about the information in this document, you may reach me at 503-986-0892 or Joan.M.Smith@wrdd.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.