



Oregon

Kate Brown, Governor

Water Resources Department

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February 8, 2016

TERRA ENTERPRISES LLC
DBA FIVE OAK FARMS
JERRY DITCHEN
7705 HAZELGREEN RD NE
SALEM, OR 97305

SUBJECT: Ground Water Registration Modification T-12074

Please find enclosed the Preliminary Determination indicating that, based on the information available, the Department intends to approve application T-12074. 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@wrд.state.or.us or 503-986-0827 if I may be of assistance.

Sincerely,

Ms. Tracy Fox
Transfer Specialist
Transfer and Conservation Section

cc: T-12074
Joel M. Plahn, District 16 Watermaster (*via e-mail*)
Doann Hamilton, 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-12074, Marion County)	RECOGNITION OF A MODIFICATION
)	IN POINT OF APPROPRIATION

Authority

Oregon Revised Statutes (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 Rules (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

TERRA ENTERPRISES LLC
DBA FIVE OAK FARMS
JERRY DITCHEN
7705 HAZELGREEN RD NE
SALEM, OR 97305

Findings of Fact

1. On June 5, 2015, TERRA ENTERPRISES LLC, DBA FIVE OAK FARMS/JERRY DITCHEN, filed a ground water registration modification application to modify the point of appropriation under Registration Application GR-122 (Certificate of Registration GR-113). The Department assigned the application number T-12074.
2. On June 9, 2015, Registration Application GR-122 (Certificate of Registration GR-113) was assigned from Ed Haselbacher and Son to TERRA ENTERPRISE LLC, DBA FIVE OAK FARMS/JERRY DITCHEN.
3. Notice of the application for ground water registration modification was published on June 9, 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.
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4. On January 13, 2016, the Department sent a copy of the draft Preliminary Determination proposing to approve Groundwater Registration Modification Application T-12074 to the applicant. The draft Preliminary Determination cover letter set forth a deadline of February 12, 2016, 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 Groundwater Registration Modification.
5. The applicant's agent noted that in the draft Preliminary Determination, the Registration Application number and Certificate of Registration number were switched, those have been corrected in the Preliminary Determination. In addition, there was a scrivener's error on the draft Preliminary Determination stating that the priority date was July 24, 1955, when it is actually July 29, 1955, that has been corrected in the Preliminary Determination. In the draft Preliminary Determination, the quantity of water was displayed as cubic feet per second, in the Preliminary Determination it has been changed to gallons per minute for consistency with the Ground Water Registration. Changes are in **bold**.
6. The ground water registration to be modified is as follows:

Registration: Registration Application **GR-122** (Certificate of Registration **GR-113**) in the name of **TERRA ENTERPRISES LLC, FIVE OAK FARMS/JERRY DITCHEN**

Use: IRRIGATION of 102.0 ACRES

Tentative

Priority Date: **JULY 29, 1955**

Quantity: **320 GALLONS PER MINUTE**

Source: A WELL within the **WOODS CREEK BASIN**

Original Point of Appropriation:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
6 S	2 W	WM	26	NW SE	1375 FEET NORTH AND 1725 FEET WEST FROM THE SE CORNER OF SECTION 26

Original Place of Use:

Twp	Rng	Mer	Sec	Q-Q	Acres
6 S	2 W	WM	26	NE SW	20.0
6 S	2 W	WM	26	SE SW	3.0
6 S	2 W	WM	26	NE SE	15.0
6 S	2 W	WM	26	NW SE	25.0
6 S	2 W	WM	26	SW SE	25.0
6 S	2 W	WM	26	SE SE	14.0
Total:					102.0

7. Ground Water Registration Modification Application T-12074 proposes to modify the location of the original point of appropriation approximately 656 feet and 1230 feet respectively from the original well to:

Twp	Rng	Mer	Sec	Q-Q	DLC	Measured Distances
6 S	2 W	WM	26	NW SE	46	WELL 1: 1520 FEET NORTH AND 2365 FEET WEST FROM THE SE CORNER OF SECTION 26

Twp	Rng	Mer	Sec	Q-Q	DLC	Measured Distances
6 S	2 W	WM	26	NE SE	41	WELL 2: 2130 FEET NORTH AND 750 FEET WEST FROM THE SE CORNER OF SECTION 26

8. The map depicting the place of use described by Registration Application GR-122 (Certificate of Registration GR-113) broadly defines the actual location of the irrigated lands. For the place of use, the application itself appears to round the number of acres by quarter-quarter.
9. The following table lists the place of use as described in existing Registration Application GR-122 (Certificate of Registration GR-113) and a proposed re-description based on current mapping technology and aerial photos from May 1994 to current:

Twp	Rng	Sec	Original Description of Place of Use		Proposed Re-Description of Place of Use		
			Q-Q	Acres	Q-Q	DLC	Acres
6 S	2 W	26	NE SW	20.0	NE SW	46	21.4
6 S	2 W	26	SE SW	3.0	SE SW	46	1.0
6 S	2 W	26	NE SE	15.0	NE SE	41	23.0
6 S	2 W	26	NW SE	25.0	NW SE	41	17.6
6 S	2 W	26	SW SE	25.0	NW SE	46	6.9
6 S	2 W	26	SE SE	14.0	SW SE	41	15.3
6 S	2 W	26	--	--	SW SE	46	0.3
6 S	2 W	26	--	--	SE SE	41	16.5
Total:				102.0	Total: 102.0		

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

10. The proposed modification would not result in enlargement of the ground water registration.
11. 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.
12. 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-12074 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-12074 is approved, the final order will include the following:

1. *The modification to Registration Application GR-122 (Certificate of Registration GR-113) proposed in Ground Water Registration Modification Application T-12074 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 as re-described in this order and is subject to all other conditions and limitations contained in Registration Application GR-122 (Certificate of Registration GR-113) 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 points of appropriation, shall not exceed the quantity of water lawfully available at the original point of appropriation.*

Dated at Salem, Oregon this 8 day of February, 2016.



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@wr.d.state.or.us.