



Oregon

Kate Brown, Governor

Water Resources Department

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March 18, 2016

FJD 2, LLC
13445 SW DAVIES RD
BEAVERTON, OR 97008

SUBJECT: Ground Water Registration Modification T-12115

Please find enclosed the Preliminary Determination indicating that, based on the information available, the Department intends to approve application T-12115. 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
Transfer Specialist
Transfer and Conservation Section

cc: T-12115
Joel M. Plahn, District 16 Watermaster (*via e-mail*)
Doann Hamilton, Agent for the applicant and CWRE (*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 RECOGNITION OF AN
T-12115, Marion County)	ADDITIONAL POINT OF
)	APPROPRIATION AND PLACE OF
)	USE

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

FJD 2, LLC
13445 SW DAVIES RD
BEAVERTON, OR 97008

Findings of Fact

1. On July 24, 2015, FJD 2, LLC filed a ground water registration modification application to modify an additional point of appropriation and place of use under Registration Application GR-1592 (Certificate of Registration GR-1540). The Department assigned the application number T-12115.
2. On July 30, 2015, Registration Application GR-1592 (Certificate of Registration GR-1540) was partially assigned from DONALD DAVIDSON to DONALD DAVIDSON and FJD 2, LLC.
3. Notice of the application for ground water registration modification was published on August 4, 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 February 18, 2016, the Department sent a copy of the draft Preliminary Determination proposing to approve Groundwater Registration Modification Application T-12115 to the applicant. The draft Preliminary Determination cover letter set forth a deadline of March 21, 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 ground water registration to be modified is as follows:

Registration: Application GR-1592 (Certificate of Registration GR-1540), in the name of DONALD DAVIDSON (partially assigned to DONALD DAVIDSON and FJD 2, LLC)

Use: IRRIGATION of 109.3 ACRES

Tentative

Priority Date: APRIL 30, 1950

Quantity: 313 GALLONS PER MINUTE

Source: A WELL within the MISSION CREEK BASIN

Original Point of Appropriation:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
4 S	2 W	WM	30	NE SE	280 FEET NORTH AND 400 FEET WEST THE FROM THE NE CORNER OF CERIL BERTRAND DLC 89

Original Place of Use:

Twp	Rng	Mer	Sec	Q-Q	Acres
4 S	2 W	WM	30	SW NE	10.1
4 S	2 W	WM	30	SE NE	17.2
4 S	2 W	WM	30	NE SE	22.0
4 S	2 W	WM	30	NW SE	12.9
4 S	2 W	WM	30	SW SE	12.9
4 S	2 W	WM	30	SE SE	22.0
4 S	2 W	WM	31	NE NE	7.6
4 S	2 W	WM	31	NW NE	4.6
Total:					109.3

5. Ground Water Registration Modification Application T-12115 proposes an additional point of appropriation approximately 990 feet from the original well to:

Twp	Rng	Mer	Sec	Q-Q	DLC	Measured Distances
4 S	2 W	WM	30	SW NE	63	WELL 2: 3185 FEET NORTH AND 1520 FEET WEST FROM THE SE CORNER OF SECTION 30

6. Ground Water Registration Modification Application T-12115 proposes to modify the place of use under the ground water registration to:

Twp	Rng	Mer	Sec	Q-Q	DLC	Acres
4 S	2 W	WM	30	SW NE	63	7.8
4 S	2 W	WM	30	SE NE	94	2.2
4 S	2 W	WM	30	SE NE	63	17.2
4 S	2 W	WM	30	NE SE	94	1.2
4 S	2 W	WM	30	NE SE	63	8.5

Twp	Rng	Mer	Sec	Q-Q	DLC	Acres
4 S	2 W	WM	30	NE SE	89	13.9
4 S	2 W	WM	30	NE SE	80	1.5
4 S	2 W	WM	30	NW SE	89	6.2
4 S	2 W	WM	30	NW SE	63	4.0
4 S	2 W	WM	30	SW SE	89	10.2
4 S	2 W	WM	30	SE SE	89	21.5
4 S	2 W	WM	30	SE SE	80	3.5
4 S	2 W	WM	31	NE NE	80	1.0
4 S	2 W	WM	31	NE NE	89	7.3
4 S	2 W	WM	31	NW NE	89	3.3
Total:						109.3

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 additional point of appropriation and modification in place of use proposed in Ground Water Registration Modification T-12115 appear 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-12115 is approved, the final order will include the following:

1. *The modifications to Registration Application GR-1592 (Certificate of Registration GR-1540) proposed in Ground Water Registration Modification Application T-12115 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-1592 (Certificate of Registration GR-1540) and any related decree.*
3. *Water shall be acquired from the same aquifer (water source) as the original point of appropriation. The proposed point of appropriation must be completed in the alluvial aquifer.*

4. *The quantity of water diverted at the additional point of appropriation, together with that diverted at the original point of appropriation, shall not exceed the quantity of water lawfully available at the original point of appropriation.*
5. *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 15 day of March, 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@ wrd.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