

**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-12127, Marion County)	RECOGNITION OF ADDITIONAL
)	POINTS 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.

Applicants

MIKE AND CONNIE DAVIDSON, TRUSTEES
DAVIDSON LIVING TRUST
3988 DAVIDSON RD NE
SAINT PAUL, OR 97137

Findings of Fact

1. On August 7, 2015, MIKE AND CONNIE DAVIDSON, TRUSTEES, DAVIDSON LIVING TRUST, filed a ground water registration modification application to add additional points of appropriation under Registration Application GR-1378 (Certificate of Registration GR-1335). The Department assigned the application number T-12127
2. On August 6, 2015, Registration Application GR-1378 (Certificate of Registration GR-1335) was assigned from THEODORE M. VAN DYKE to MIKE AND CONNIE DAVIDSON, TRUSTEES, DAVIDSON LIVING TRUST.
3. Notice of the application for ground water registration modification was published on August 11, 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.

NOTICE TO ACTIVE DUTY SERVICEMEMBERS: Active duty service members have a right to stay these proceedings under the federal Service Members Civil Relief Act. For more information contact the Oregon State Bar at 800-452-8260, the Oregon Military Department at 800-452-7500 or the nearest United States Armed Forces Legal Assistance Office through <http://legalassistance.law.af.mil>.

4. On July 31, 2015, the Davidson Living Trust submitted Transfer Application T-12117. Proposed "well one" for T-12117 is the same as proposed "well one" in this application. On December 23, 2015, the applicant's agent was informed that proposed "well one" would not be approved as requested.
5. On January 26, 2016, the applicant's agent proposed to remove "well one" for both Transfer Applications T-12117 and T-12127 and change the location of "well two" for both Transfer Applications T-12117 and T-12127. On February 3, 2016, the applicant's agent submitted amended documents removing "well one" and changing the location of "well two".
6. On February 9, 2016, the Department contacted the applicant's agent for clarification on the proposed changes in the transfer. On February 25, 2016, the applicant's agent amended the application to clarify that they are also requesting to modify the place of use.
7. On March 14, 2016, the Department sent a copy of the draft Preliminary Determination proposing to approve Groundwater Registration Modification Application T-12127 to the applicants. The draft Preliminary Determination cover letter set forth a deadline of April 13, 2016, 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 Groundwater Registration Modification.
8. The ground water registration to be modified is as follows:

Registration: Application GR-1378 (Certificate of Registration GR-1335), in the name of THEODORE M. VAN DYKE (*assigned to* MIKE AND CONNIE DAVIDSON, TRUSTEES, DAVIDSON LIVING TRUST)

Use: IRRIGATION of 30.0 ACRES

Tentative

Priority Date: APRIL 10, 1954

Quantity: 280 GALLONS PER MINUTE

Source: PUMP WELL NO. 2

Original Point of Appropriation:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
4 S	2 W	WM	36	NW NE	PUMP WELL NO. 2: 2175 FEET SOUTH 86 DEGREES WEST FROM THE SE CORNER OF SECTION 25

Original Place of Use:

Twp	Rng	Mer	Sec	Q-Q	Acres
4 S	2 W	WM	25	SW SE	14.0
4 S	2 W	WM	36	NE NE	3.0
4 S	2 W	WM	36	NW NE	13.0
Total:					30.0

9. Ground Water Registration Modification Application T-12127 proposes two additional points of appropriation, described as follows, with the approximate distances from the original well identified below:

Twp	Rng	Mer	Sec	Q-Q	DLC	Measured Distances	Distance from Well
4 S	2 W	WM	31	NW NW	89	WELL 2: 415 FEET SOUTH AND 1170 FEET EAST FROM THE SW CORNER OF SECTION 30	3350 feet SE
4 S	3 W	WM	36	NE NW	65	WELL 3: 350 FEET SOUTH AND 2780 FEET WEST FROM THE SW CORNER OF SECTION 30	640 feet SW

10. Ground Water Registration Modification Application T-12127 proposes to modify the place of use under the ground water registration to:

Twp	Rng	Mer	Sec	Q-Q	DLC	Acres
4 S	3 W	WM	25	SW SE	65	17.0
4 S	3 W	WM	25	SE SE	85	2.4
4 S	3 W	WM	36	NE NE	85	6.2
4 S	3 W	WM	36	NW NE	65	4.4
Total:						30.0

11. The applicant has changed the identification of the original well, "Pump Well 2", to "Well 5" for reference purposes.

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

12. The proposed modifications would not result in enlargement of the ground water registration.
13. 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.
14. The proposed modifications would not result in injury to other water rights.

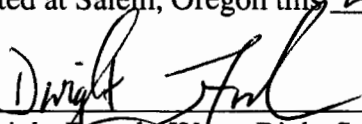
Determination and Proposed Action

The additional points of appropriation and modification in place of use proposed in Ground Water Registration Modification T-12127 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-12127 is approved, the final order will include the following:

- 1. The modifications to Registration Application GR-1378 (Certificate of Registration GR-1335) proposed in Ground Water Registration Modification Application T-12127 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-1378 (Certificate of Registration GR-1335) and any related decree.*
- 3. Water shall be acquired from the same aquifer (water source) as the original point of appropriation.*
- 4. The quantity of water diverted at the additional points of appropriation, together with that diverted at the original point of appropriation, shall not exceed the quantity of water lawfully available at the original points 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 21 day of April, 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



Oregon

Kate Brown, Governor

Water Resources Department

725 Summer St NE, Suite A

Salem, OR 97301

(503) 986-0900

Fax (503) 986-0904

April ~~20~~²⁵, 2016

MIKE AND CONNIE DAVIDSON TRUSTEES
DAVIDSON LIVING TRUST
3988 DAVIDSON RD NE
SAINT PAUL, OR 97137

SUBJECT: Ground Water Registration Modification T-12127

Please find enclosed the Preliminary Determination indicating that, based on the information available, the Department intends to approve application T-12127. 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 and in the Woodburn Independent newspaper, 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 last date of newspaper publication, whichever is later.

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
Groundwater Registration Modification Specialist
Transfer and Conservation Section

cc: T-12127
Joel Plahn, District 16 Watermaster (*via e-mail*)
Doann Hamilton, Agent for the applicant and CWRE (*via e-mail*)

enclosure