



Oregon

Kate Brown, Governor

Water Resources Department

725 Summer St NE, Suite A

Salem, OR 97301

(503) 986-0900

Fax (503) 986-0904

June 9, 2016

VIA E-MAIL

KCK PARTNERS LLC
ATTN: RANDY CULLEY
11483 SE AMITY-DAYTON HWY
DAYTON, OR 97114

NORTHWEST FARM CREDIT SERVICES FLCA
ATTN: SUE SPINNEY
650 HOWTHORNE AVE SUITE 210
SALEM OR 97301

SUBJECT: Ground Water Registration Modification T-12045

Please find enclosed the Preliminary Determination indicating that, based on the information available, the Department intends to approve application T-12045. 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@wr.d.state.or.us or 503-986-0827 if I may be of assistance.

Sincerely,

Ms. Tracy Fox
Transfer Specialist
Transfer and Conservation Section

cc: GR-Modification T-12045
Joel M. Plahn, District 16 Watermaster (*via e-mail*)
William E. Ferber, 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-12045, Yamhill 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.

Applicants

KCK PARTNERS LLC
ATTN: RANDY CULLEY
11483 SE AMITY-DAYTON HWY
DAYTON, OR 97114

NORTHWEST FARM CREDIT SERVICES, FLCA
650 HAWTHORNE AVE, SUITE 210
SALEM, OR 97301

Findings of Fact

1. On April 21, 2015, KCK PARTNERS LLC filed a ground water registration modification application to modify the point of appropriation under Registration Application GR-980 (Certificate of Registration GR-950). The Department assigned the application number T-12045.
2. On January 31, 2013, Registration Application GR-980 (Certificate of Registration GR-950) was assigned from KCK PARTNERS LLC to KCK PARTNERS LLC and NORTHWEST FARM CREDIT SERVICES, FLCA.
3. Notice of the application for ground water registration modification was published on April 28, 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 11, 2016, the Department contacted the applicant's agent by written correspondence (email) to notify them of deficiencies in the application. The main deficiency being that Registration Application GR-980 (Certificate of Registration GR-950) is also in the name of NW Farm Credit Services, FLCA and they are not currently party to the transfer application, there are also a couple of minor location description questions. The Department requested that the deficiencies be resolved by February 11, 2016. This date was later extended.
5. On January 11 and 13, 2016, the applicant's agent submitted documentation resolving the location description deficiencies.
6. On May 3, 2016, NORTHWEST FARM CREDIT SERVICES, FLCA was added to the transfer application as an applicant.
7. On May 6, 2016, the Department sent a copy of the draft Preliminary Determination proposing to approve Groundwater Registration Modification Application T-12045 to the applicants. The draft Preliminary Determination cover letter set forth a deadline of June 6, 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-980 (Certificate of Registration GR-950), in the name of ARTHUR LEPPIN SR. (assigned to KCK PARTNERS, LLC and NORTHWEST FARM CREDIT SERVICES, FLCA)

Use: IRRIGATION of 96.0 ACRES

Tentative

Priority Date: OCTOBER 27, 1952

Quantity: 400 GALLONS PER MINUTE (GPM)

Source: A WELL within the YAMHILL RIVER BASIN

Original Point of Appropriation:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
4 S	4 W	WM	36	SE NE	BEING 97 FEET ± WEST AND NORTH 20 DEGREES 55 MINUTES EAST 1240 FEET ± FROM IRON PIPE AT NW CORNER OF COUNTY SURVEY NO. 3238; SAID IRON PIPE BEING SOUTH 89 DEGREES 27 MINUTES WEST 785.4 FEET AND NORTH 20 DEGREES 34 MINUTES EAST 1102.86 FEET AND NORTH 20 DEGREES 55 MINUTES EAST 582.1 FEET FROM THE SE CORNER OF WILLIAM GOODRICH DLC

Original Place of Use:

Twp	Rng	Mer	Sec	Q-Q	Acres
4 S	4 W	WM	36	NW NE	8.0
4 S	4 W	WM	36	SW NE	33.0
4 S	4 W	WM	36	SE NE	2.0
4 S	4 W	WM	36	NE NW	12.0
4 S	4 W	WM	36	NW NW	2.0
4 S	4 W	WM	36	SW NW	6.0
4 S	4 W	WM	36	SE NW	33.0
Total:					96.0

9. The applicant further describes the GPS coordinates of the point of appropriation as follows:

Twp	Rng	Mer	Sec	Q-Q	GPS Coordinates
4 S	4 W	WM	36	SE NE	Latitude: 45.181674 Longitude: -123.119540

10. Ground Water Registration Modification Application T-12045 proposes to modify the location of the original point of appropriation approximately 20 feet from the original well to:

Twp	Rng	Mer	Sec	Q-Q	GPS Coordinates
4 S	4 W	WM	36	SE NE	Latitude: 45.181532 Longitude: -123.11966

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

11. The proposed modification would not result in enlargement of the ground water registration.
12. 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.
13. 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-12045 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.

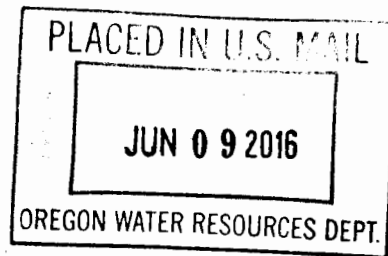
If Ground Water Registration Modification T-12045 is approved, the final order will include the following:

1. *The modification to Registration Application GR-980 (Certificate of Registration GR-950) proposed in Ground Water Registration Modification Application T-12045 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-980 (Certificate of Registration GR-950) 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 point of appropriation, shall not exceed the quantity of water lawfully available at the original point of appropriation.*

Dated at Salem, Oregon this 3 day of June, 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@wrds.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.

Notice Regarding Service Members: Active duty service members have a right to stay proceedings under the federal Service Members Civil Relief Act. 50 U.S.C. App. §§501-597b. You may contact the Oregon State Bar or the Oregon Military Department for more information. The toll-free telephone number for the Oregon State Bar is: 1 (800) 452-8260. The toll-free telephone number of the Oregon Military Department is: 1 (800) 452-7500. The Internet address for the United States Armed Forces Legal Assistance Legal Services Locator website is: <http://legalassistance.law.af.mil>