



**Oregon**  
Kate Brown, Governor

**Water Resources Department**  
725 Summer St NE, Suite A  
Salem, OR 97301  
(503) 986-0900  
Fax (503) 986-0904

November 23, 2016

VIA E-MAIL

OSPREY CORNER LLC  
SHONDA K. WARNER  
145 DELTA  
CLARKSDALE, MS 38614

SUBJECT: Water Right Transfer Application T-12282

Please find enclosed the Preliminary Determination indicating that, based on the information available, the Department intends to approve application T-12282. This document is an intermediate step in the approval process; water may not be used legally as proposed in the transfer 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 503-986-0890 or [Sarah.A.Henderson@oregon.gov](mailto:Sarah.A.Henderson@oregon.gov) if I may be of assistance.

Sincerely,

Sarah Henderson  
Ground Water Registration Modification Specialist  
Transfer and Conservation Section

cc: GR Modification T-12282  
Michael J. Mattick, District 2 Watermaster (*via e-mail*)

enc

**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-12282, Linn 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**

OSPREY CORNER LLC  
SHONDA K. WARNER  
145 DELTA  
CLARKSDALE, MS 38614

**Findings of Fact**

1. On February 26, 2016, SHONDA K. WARNER FOR OSPREY CORNER LLC filed a ground water registration modification application to modify the POINT OF APPROPRIATION under Registration Application GR-476 (Certificate of Registration GR-458). The Department assigned the application number T-12282.
2. On December 15, 2015, Registration Application GR-476 (Certificate of Registration GR-458) was assigned from BOSE BROTHERS to OSPREY CORNER LLC, SHONDA K. WARNER.
3. Notice of the application for ground water registration modification was published on March 8, 2016, pursuant to OAR 690-382-0600. No comments were filed in response to the notice.
4. On October 19, 2016, the Department sent notification to the applicant of the deficiency in the application map and requested a revised map showing the authorized place of use of the right. On November 18, 2016, the applicant submitted the revised map resolving the deficiency.

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.

5. On October 26, 2016, the Department mailed a copy of the draft Preliminary Determination proposing to approve Transfer Application T-12282 to the applicant. The draft Preliminary Determination cover letter set forth a deadline of November 25, 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 transfer.
6. The ground water registration to be modified is as follows:

**Registration:** Application GR-476 (Certificate of Registration GR-458), in the name of BOSE BROTHERS (*assigned to OSPREY CORNER LLC, SHONDA K. WARNER*)

**Use:** IRRIGATION of 67.0 ACRES

**Tentative**

**Priority Date:** OCTOBER 10, 1953

**Quantity:** 480 GALLONS PER MINUTE

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

**Original Point of Appropriation:**

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
11 S	2 W	WM	5	NW SE	NORTH 32 DEGREES 20 MINUTES WEST 32.5 CHAINS FROM THE SE CORNER OF SECTION 5

\*POA is actually in NE SE

**Original Place of Use:**

Twp	Rng	Mer	Sec	Q-Q	Acres
11 S	2 W	WM	5	SW NE	2.5
11 S	2 W	WM	5	SE NE	3.5
11 S	2 W	WM	5	NE SW	0.3
11 S	2 W	WM	5	SE SW	0.2
11 S	2 W	WM	5	NE SE	29.0
11 S	2 W	WM	5	NW SE	27.0
11 S	2 W	WM	5	SW SE	3.5
11 S	2 W	WM	5	SE SE	1.0
Total					67.0

7. Ground Water Registration Modification Application T-12282 proposes to modify the location of the original point of appropriation approximately 39 feet from the original well to:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
11 S	2 W	WM	5	NE SE	1850 FEET NORTH AND 1160 FEET WEST FROM THE SE CORNER OF SECTION 5

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

8. The proposed modification would not result in enlargement of the ground water registration.
9. 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.

10. The proposed modification would not result in injury to other water rights.

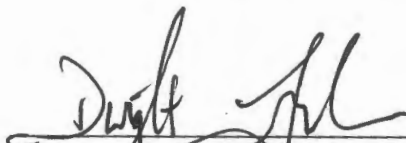
### **Determination and Proposed Action**

The modification in point of appropriation proposed in Ground Water Registration Modification T-12282 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-12282 is approved, the final order will include the following:*

1. *The modification to Registration Application GR-476 (Certificate of Registration GR-458) proposed in Ground Water Registration Modification Application T-12282 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-476 (Certificate of Registration GR-458) 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.*
6. *Water use measurement conditions:*
  - a. *Before water use may begin under this order, the water user shall install a totalizing flow meter, or, with prior approval of the Director, another suitable measuring device at the new point of appropriation.*
  - b. *The water user shall maintain the meter or measuring device in good working order.*
  - c. *The water user shall allow the Watermaster access to the meter or measuring device; provided however, where the meter or measuring device is located within a private structure, the Watermaster shall request access upon reasonable notice.*

Dated at Salem, Oregon this 23 day of November, 2016.

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

This Preliminary Determination was prepared by Sarah Henderson. If you have questions about the information in this document, you may reach me at 503-986-0890 or [Sarah.A.Henderson@wrд.state.or.us](mailto:Sarah.A.Henderson@wrд.state.or.us)

*Protests should be addressed to the attention of Water Rights Services Division, Water Resources Department, 725 Summer St. NE, 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>