



Oregon

Kate Brown, Governor

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

January 31, 2017

GUIDO LAND & EQUIPMENT CO. LLC &
CALLAHAN RIDGE LLC
640 SHADY DRIVE
ROSEBURG, OREGON 97471

SUBJECT: Water Right Transfer Application T-12269

Please find enclosed the Preliminary Determination indicating that, based on the information available, the Department intends to approve application T-12269. 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 Roseburg News Review 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.

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 if I may be of assistance.

Sincerely,

Sarah Henderson
Ground Water Registration Modification Specialist
Transfer and Conservation Section

cc: GR Modification T-12269
Susan Douthit, District 15 Watermaster (*via e-mail*)
Clay Jordan, CWRE (*via e-mail*)

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**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-12269, Douglas County)	RECOGNITION OF MODIFICATIONS
)	IN POINT OF APPROPRIATION,
)	PLACE OF USE, AND CHARACTER
)	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

GUIDO LAND & EQUIPMENT CO. LLC &
CALLAHAN RIDGE LLC
640 SHADY DRIVE
ROSEBURG, OREGON 97471

Findings of Fact

1. On February 5, 2016, GUIDO LAND & EQUIPMENT CO. LLC & CALLAHAN RIDGE LLC filed a ground water registration modification application to modify the point of appropriation, the place of use, and the character of use under Registration Application GR-1691 (Certificate of Registration GR-1641). The Department assigned the application number T-12269.
2. On February 5, 2016, Registration Application GR-1691 (Certificate of Registration GR-1641) was assigned from BUSENBARK BROTHERS to GUIDO LAND & EQUIPMENT CO. LLC & CALLAHAN RIDGE LLC.
3. Notice of the application for ground water registration modification was published on February 16, 2016, 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 November 16, 2016, the Department contacted the applicants Certified Water Right Examiner to notify them of the deficiencies in the application and application map.
5. On November 28, 2016, the Certified Water Right Examiner submitted documentation resolving the deficiencies.
6. On December 16, 2016, the Department mailed a copy of the draft Preliminary Determination proposing to approve Transfer Application T-12269 to the applicants. The draft Preliminary Determination cover letter set forth a deadline of January 15, 2017, 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 transfer.
7. The portion of the ground water registration to be modified is as follows:

Registration: Application GR-1691 (Certificate of Registration GR-1641), in the name of BUSENBARK BROTHERS (*assigned to* GUIDO LAND & EQUIPMENT CO. LLC & CALLAHAN RIDGE LLC)

Use: IRRIGATION of 20.6 ACRES

Tentative

Priority Date: MAY, 1936

Rate: 130 GALLONS PER MINUTE

Source: WELL #1 within the SOUTH UMPQUA RIVER BASIN

Original Point of Appropriation:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
27 S	6 W	WM	4	SE SW	BEGINNING AT THE INTERIOR L CORNER OF DLC 50 T 27 S, R 6 W, NORTH 1477.9 FEET AND N 39°22'W 651.2 FEET

Original Place of Use:

Twp	Rng	Mer	Sec	Q-Q	Acres
27 S	6 W	WM	4	NE SW	12.1
27 S	6 W	WM	4	SE SW	8.5
Total					20.6

8. Information is available from the applicant and Certified Water Right Examiner indicating that the point of appropriation is more accurately described as follows:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
27 S	6 W	WM	4	SE SW	1190 FEET NORTH AND 1735 FEET EAST FROM THE SW CORNER OF SECTION 4

9. Ground Water Registration Application GR-1691 (Certificate of Registration GR-1641) does not specify the irrigation season. Nor is an irrigation season specified by Basin Program or Decree. Consistent with OAR 690-250, the irrigation season is March 1 through October 31.

10. Ground Water Registration Application GR-1691 (Certificate of Registration GR-1641) does not describe a rate and duty limit per acre. However, the Watermaster specifies the rate limit as 1/80th cubic foot per second and the duty limit as 2.5 acre-feet per acre.
11. Ground Water Registration Modification Application T-12269 proposes to modify the location of the original point of appropriation to six sumps with portable pumps. The following describes the area of the sumps and the center of the sumps:

Twp	Rng	Mer	Sec	Q-Q (Area)	GLot	Measured Distances (Center of Sumps)
27 S	6 W	WM	5	SE NE	1	SUMP A – 1860 FEET SOUTH AND 25 FEET WEST FROM THE NE CORNER OF SECTION 5
27 S	6 W	WM	5	SE NE		SUMP B – 2680 FEET SOUTH AND 310 FEET WEST FROM THE NE CORNER OF SECTION 5
27 S	6 W	WM	4	SW NW		SUMP C – 2565 FEET SOUTH AND 595 FEET EAST FROM THE NW CORNER OF SECTION 4
27 S	6 W	WM	4	SE NW	9	SUMP D – 2590 FEET SOUTH AND 1625 FEET EAST FROM THE NW CORNER OF SECTION 4
27 S	6 W	WM	5	NE NE	1	SUMP E – 1110 FEET SOUTH AND 895 FEET WEST FROM THE NE CORNER OF SECTION 5
27 S	6 W	WM	5	NE NE	1	SUMP F – 1115 FEET SOUTH AND 270 FEET WEST FROM THE NE CORNER OF SECTION 5

12. Ground Water Registration Modification Application T-12269 also proposes to modify the place of use under the ground water registration to:

Twp	Rng	Mer	Sec	Q-Q
26 S	6 W	WM	32	SE SE
26 S	6 W	WM	33	SW SW
27 S	6 W	WM	4	NE NW
27 S	6 W	WM	4	NW NW
27 S	6 W	WM	4	SW NW
27 S	6 W	WM	4	SE NW
27 S	6 W	WM	4	NE SW
27 S	6 W	WM	4	NW SW
27 S	6 W	WM	4	SW SW
27 S	6 W	WM	4	SE SW
27 S	6 W	WM	5	NE NE
27 S	6 W	WM	5	SE NE
27 S	6 W	WM	5	NE SE
27 S	6 W	WM	5	SE SE

13. Ground Water Registration Modification Application T-12269 also proposes to modify the character of use under the ground water registration to Quasi-Municipal use. The use will be limited to the irrigation season of March 1 through October 31.

14. The total volume of water that may be diverted annually for Quasi-Municipal uses is 51.5 acre-feet during March 1 through October 31. ($2.5 \times 20.6 = 51.5$)

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

15. The proposed modifications, as conditioned, would not result in enlargement of the ground water registration.
16. 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.
17. The proposed modifications, as conditioned, would not result in injury to other water rights.

Determination and Proposed Action

The modification in point of appropriation and modification in place of use and modification in character of use proposed in Ground Water Registration Modification T-12269 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-12269 is approved, the final order will include the following:

1. *The modifications to Registration Application GR-1691 (Certificate of Registration GR-1641) proposed in Ground Water Registration Modification Application T-12269 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-1691 (Certificate of Registration GR-1641) 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.*
6. *Water shall no longer be appropriated for the former character of use as part of this ground water certificate of registration.*

7. *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, except for quasi-municipal use as modified by this order.*
8. *The use of water under the proposed quasi-municipal use shall be limited to a rate of diversion of 130 gallons per minute and further limited to a total quantity of water diverted of 51.5 acre feet during the irrigation season March 1 through October 31.*
9. *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 each point of appropriation at each new point of appropriation.*
 - b. *The water user shall maintain the meters or measuring devices in good working order.*
 - c. *The water user shall allow the Watermaster access to the meters or measuring devices; provided however, where the meters or measuring devices are located within a private structure, the Watermaster shall request access upon reasonable notice.*

Dated at Salem, Oregon this 31 day of January 2017.



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@oregon.gov

Protests should be addressed to the attention of Water Rights 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>