



Oregon

Kate Brown, Governor

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May 16, 2017

JLR LLC
ATTN: KEITH BECKMAN
PO BOX 588
WOODBURN, OR 97071

SUBJECT: Ground Water Registration Modification T-12334

Please find enclosed the Preliminary Determination indicating that, based on the information available, the Department intends to approve application T-12334. 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 503-986-0890 or Sarah.A.Henderson@oregon.gov if I may be of assistance.

Sincerely,

Ground Water Registration Modification Specialist

Transfer and Conservation Section

cc: GR Modification T-12334
Joel M. Plahn, District 16 Watermaster (*via e-mail*)
David E. Filippi, Agent for the applicant (*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-12334, Marion County)	RECOGNITION OF MODIFICATIONS
)	IN AN ADDITIONAL 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

JLR, LLC
PO BOX 588
WOODBURN, OR 97071

Findings of Fact

1. On April 11, 2016, JLR, LLC filed a ground water registration modification application to modify an additional point of appropriation, and change the character of use under Registration Application GR-2218 (Certificate of Registration GR-2123). The Department assigned the application number T-12334
2. On April 11, 2016, Registration Application GR-2218 (Certificate of Registration GR-2123) was assigned from General Foods Corp., Birds Eye Division to JLR, LLC.
3. Notice of the application for ground water registration modification was published on April 19, 2016, pursuant to OAR 690-382-0600. No comments were filed in response to the notice.
4. On March 27, 2017, the Department mailed a copy of the draft Preliminary Determination proposing to approve Transfer Application T-12334 to the applicant. The draft Preliminary Determination cover letter set forth a deadline of April 26, 2017, for the applicant to respond. The applicant requested that the Department proceed with issuance of a

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.

Preliminary Determination and provided the necessary information to demonstrate that the applicant is authorized to pursue the transfer.

5. The ground water registration to be modified is as follows:

Registration: Application GR-2218 (Certificate of Registration GR-2123), in the name of General Foods Corporation, Birds Eye Division (*assigned to JLR, LLC*)
Use: FOOD PROCESSING
Tentative
Priority Date: FEBRUARY 15, 1946
Quantity: 750 GALLONS PER MINUTE (GPM)
Source: PUMP WELL 2 within the PUDDING RIVER BASIN

Original Point of Appropriation:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
5 S	1 W	WM	17	NW SW	1700 FEET NORTH AND 300 FEET EAST FROM THE SW CORNER OF SECTION 17

Original Place of Use:

Twp	Rng	Mer	Sec	Q-Q
5 S	1 W	WM	17	NW SW

6. Ground Water Registration Application GR-2218 (Certificate of Registration GR-2123) does describe the location of the point of appropriation, however information is available from the Engineer and application indicating that the point of appropriation is more accurately described as follows:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
5 S	1 W	WM	17	NW SW	1700 FEET NORTH AND 300 FEET EAST FROM THE SW CORNER OF SECTION 17

7. Ground Water Registration Modification Application T-12334 proposes an additional point of appropriation approximately 50 feet from the original well to:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
5 S	1 W	WM	17	NW SW	1830 FEET NORTH AND 490 FEET EAST FROM THE SW CORNER OF SECTION 17

8. Transfer Application T-12334 also proposes to change the place of use of the right to (include all of Tax Lot 700) :

Twp	Rng	Mer	Sec	Q-Q
5 S	1 W	WM	17	NW SW
5 S	1 W	WM	17	NE SW
5 S	1 W	WM	17	SW SW
5 S	1 W	WM	17	SE SW
5 S	1 W	WM	18	NE SE
5 S	1 W	WM	18	SE SE
5 S	1 W	WM	20	NE NW

Twp	Rng	Mer	Sec	Q-Q
5 S	1 W	WM	20	NW NW

9. Ground Water Registration Modification Application T-12334 proposes to modify the character of use under the ground water registration to General Industrial Use.

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

10. The proposed modifications would not result in enlargement of the ground water registration.
11. 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.
12. The proposed modifications would not result in injury to other water rights.

Determination and Proposed Action

The additional point of appropriation and modification in character of use and place of use proposed in Ground Water Registration Modification T-12334 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-12334 is approved, the final order will include the following:

1. *The modifications to Registration Application GR-2218 (Certificate of Registration GR-2123) proposed in Ground Water Registration Modification Application T-12334 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-2218 (Certificate of Registration GR-2123) 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 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. *Water shall no longer be appropriated for the former character of use as part of this ground water certificate of registration.*

Dated at Salem, Oregon this 16 day of May, 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@wrp.state.or.us.

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>