



Oregon
Kate Brown, Governor

Water Resources Department
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June 2, 2017

VIA E-MAIL

ROBERT W. GABRIEL TRUST
8474 HAZELGREEN RD NE
SILVERTON, OR 97381

SUBJECT: Groundwater Modification Application T-12292

Please find enclosed the Preliminary Determination indicating that, based on the information available, the Department intends to approve application T-12292. This document is an intermediate step in the approval process; water may not be used legally as proposed in the Groundwater 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 Statesman Journal 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 Department's notice or 30 days after the last date of newspaper publication whichever is the 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 503-986-0892 or Joan M.Smith@oregon.gov if I may be of assistance.

Sincerely,

Joan Smith
Transfer Specialist
Transfer and Conservation Section

cc: T-12292
Joel M. Plahn, District 16 Watermaster (*via e-mail*)
Doann Hamilton, Agent for the applicant and 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-12292, Marion County)	RECOGNITION OF MODIFICATIONS
)	IN POINTS OF APPROPRIATION AND
)	AN ADDITIONAL 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

ROBERT W. GABRIEL TRUST
8474 HAZELGREEN RD NE
SILVERTON, OR 97381

Findings of Fact

1. On March 4, 2016, ROBERT W. GABRIEL TRUST filed a ground water registration modification application to modify the POINT OF APPROPRIATION and to add a POINT OF APPROPRIATION under Registration Application GR-2908 (Certificate of Registration GR-2737). The Department assigned the application number T-12292
2. On March 4, 2016, Registration Application GR-2908 (Certificate of Registration GR-2737) was assigned from Maurice Hynes to the Robert W. Gabriel Trust.
3. Notice of the application for ground water registration modification was published on March 15, 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.

4. On December 12, 2017, the Department sent a copy of the draft Preliminary Determination proposing to approve Groundwater Registration Modification Application T-12292 to the applicants. The draft Preliminary Determination cover letter set forth a deadline of January 12, 2017, 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 Groundwater Registration Modification.

5. The groundwater registration (GR) to be modified is as follows:

Registration: Application GR-2908 (Certificate of Registration GR-2737), in the name of Maurice Hynes (assigned to Robert W. Gabriel Trust)

Use: IRRIGATION of 11.0 ACRES

Tentative Priority Date: MARCH 10, 1937

Quantity: 55 Gallons per Minute

Source: A WELL within the HOWELL PRAIRIE CREEK BASIN

Original Point of Appropriation:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
6 S	2 W	WM	36	SW NW	560 FEET NORTH AND 345 FEET EAST FROM THE WEST ¼ CORNER OF SECTION 36

Original Place of Use:

Twp	Rng	Mer	Sec	Q-Q	Acres
6 S	2 W	WM	36	SE NW	11.00

6. A scrivener’s error in GR-2908 (Certificate GR -2737) lists the place of use in the SE NW; however, the map from GR-2908 application file clearly shows the place of use in the SW NW of section 36 T. 6S, R. 2W. W.M.

7. Ground Water Registration Modification Application T-12292 proposes to modify the location of the original recognized point of appropriation and add a point of appropriation approximately 650 feet West and 1100 feet Southwest from the original well to:

Twp	Rng	Mer	Sec	Q-Q	DLC	Measured Distances
6 S	2 W	WM	35	SE NE	41	WELL 1-1890 FEET SOUTH AND 160 FEET WEST FROM THE NE CORNER OF SECTION 35
6 S	2 W	WM	36	NW SW	41	WELL 2- 3200 FEET SOUTH AND 180 FEET EAST FROM THE NE CORNER OF SECTION 35

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

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

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

Determination and Proposed Action

The modification in point of appropriation and additional point of appropriation proposed in Ground Water Registration Modification T-12292 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-12292 is approved, the final order will include the following:

- 1. The modifications to Registration Application GR-2908 (Certificate of Registration GR-2737) proposed in Ground Water Registration Modification Application T-12292 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-2908 (Certificate of Registration GR-2737) 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 or recognized point of appropriation as part of this ground water certificate of registration.*
- 5. The quantity of water diverted at the new and additional points of appropriation, shall not exceed the quantity of water lawfully available at the original point of appropriation.*

Dated at Salem, Oregon this 5 day of June 2017.



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

This Preliminary Determination was prepared by Joan Smith. If you have questions about the information in this document, you may reach me at 503-986-0892 or Joan.M.Smith@oregon.gov