



Oregon

Kate Brown, Governor

Water Resources Department

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Salem, OR 97301

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May 9, 2017

VIA E-MAIL

MARION CHURCH OF GOD (SEVENTH DAY)
7478 STAYTON RD. SE
TURNER, OR 97392

SUBJECT: Water Right Transfer Application T-12328

Please find enclosed the Preliminary Determination indicating that, based on the information available, the Department intends to approve application T-12328. 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 and in the Stayton Mail 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 503-986-0892 or Joan.M.Smith@wrd.state.or.us if I may be of assistance.

Sincerely,

Joan Smith
Transfer Specialist
Transfer and Conservation Section

cc: T-12328
Joel M. Plahn, District 16 Watermaster (*via e-mail*)
Will McGill, Agent for the applicant (*via e-mail*)

**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-12328, Marion County)	RECOGNITION OF MODIFICATIONS IN
)	POINTS OF APPROPRIATION, PLACE
)	OF USE AND PARTIAL
)	CANCELLATION OF A WATER RIGHT

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.

ORS 540.621 establishes the process for the owner of land to which a water right is appurtenant to certify under oath that the water right, or a portion thereof, has been abandoned and to voluntarily request that it be cancelled.

Applicant

MARION CHURCH OF GOD (SEVENTH DAY)
7478 STAYTON ROAD SE
TURNER, OR 97392

Findings of Fact

1. On April 5, 2016, Marion Church of God (Seventh Day) filed a ground water registration modification application to modify the points of appropriation and place of use under Registration Application GR-117 (Certificate of Registration GR-108). The Department assigned the application number T-12328
2. On April 6, 2016, Registration Application GR-117 (Certificate of Registration GR-108) was partially assigned from A.B. Hinz to Marion Church of God (Seventh Day).
3. Notice of the application for ground water registration modification was published on April 12, 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 March 22, 2017, the Department sent a copy of the draft Preliminary Determination proposing to approve Groundwater Registration Modification Application T-12328 to the applicant. The draft Preliminary Determination cover letter set forth a deadline of April 24, 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 portion of the ground water registration to be modified is as follows:

Registration: GR-117 (Certificate of Registration GR-108), in the name of A. B. HINZ (partially assigned to Marion Church of God (Seventh Day)).

Use: IRRIGATION of 3.4 ACRES

Tentative

Priority Dates: DECEMBER 10, 1948, 1950

Quantity: 20.85 Gallons per Minute (GPM) or (0.46 Cubic Feet per Second (CFS))

Source: WELLS #1 and #2 within the LOGAN SLOUGH BASIN

Original Points of Appropriation:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
9 S	2 W	WM	27	SW SE	WELL 2-500 FEET NORTH AND 1740 FEET WEST FROM THE SE CORNER OF SECTION 27
9 S	2 W	WM	27	SE SE	WELL 1 -850 FEET NORTH AND 340 FEET WEST FROM THE SE CORNER OF SECTION 27

Original Place of Use:

IRRIGATION									
Twp	Rng	Mer	Sec	Q-Q	Acres	GPM	CFS (additional information)	Well #	Priority dates
9 S	2 W	WM	27	SE SE	3.40	11.23	0.025	1	12/10/1948
						9.62	0.021	2	1950
Totals						20.85	0.046		

6. Ground Water Registration Modification Application T-12328 proposes to modify the location of the recognized points of appropriation approximately between 400 and 1700 feet from the recognized wells to:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
9 S	2 W	WM	27	SE SE	POA No 1 - 657 FEET NORTH AND 78 FEET WEST FROM THE SE CORNER OF SECTION 27
9 S	2 W	WM	26	SW SW	POA No. 2 - 771 FEET NORTH AND 36 FEET EAST FROM THE SE CORNER OF SECTION 27

7. Ground Water Registration Modification Application T-12328 proposes to modify the place of use under the ground water registration to:

IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
9 S	2 W	WM	26	SW SW	2.0
9 S	2 W	WM	27	SE SE	1.4
Total					3.4

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 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.

Partial Cancellation of a Water Right

11. On April 5, 2016, an affidavit certifying that a portion of a water right has been abandoned and requesting cancellation of the right was received from Will McGill.
The portion of the right to be cancelled is as follows:

Certificate: 26440 in the name of Y.M. MCGILL (perfected under Permit S-22150)

Use: IRRIGATION of 0.7 ACRE

Priority Date: FEBRUARY 25, 1953

Rate: 0.008 CUBIC FEET PER SECOND

Limit/Duty: The amount of water used for irrigation, together with the amount secured under any other right existing for the same lands, shall be limited to ONE-EIGHTIETH of one cubic foot per second per acre, or its equivalent for each acre irrigated and shall be further limited to a diversion of not to exceed 2.5 acre-feet per acre for each acre irrigated during the irrigation season of each year.

Source: NORTH SANTIAM RIVER a tributary to the WILLAMETTE RIVER

Authorized Points of Diversion:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
9 S	2 W	WM	34	NE NE	As projected within Chamness DLC 59
9 S	2 W	WM	34	SW NE	As projected within Chamness DLC 59

Authorized Place of Use to be cancelled:

IRRIGATION						
Twp	Rng	Mer	Sec	Q-Q	DLC	Acres
9 S	2 W	WM	27	SE SE	59	0.70

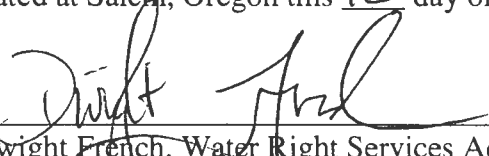
Determination and Proposed Action

The modification in points of appropriation and place of use proposed in Ground Water Registration Modification T-12328 appear to be consistent with the requirements of ORS 537.610, 537.705, 540.505 to 540.580 and OAR 690-382-1000, the abandoned right should be cancelled. If protests are not filed pursuant to OAR 690-382-0900, the modification will be approved and the abandoned right will be cancelled.

If Ground Water Registration Modification T-12328 is approved, the final order will include the following:

1. The modifications to Registration Application GR-117 (Certificate of Registration GR-108) proposed in Ground Water Registration Modification Application T-12328 are recognized and the abandoned right is cancelled. 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-117 (Certificate of Registration GR-108) 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 recognized points of appropriation as part of this ground water certificate of registration.
5. The quantity of water diverted at the new points of appropriation, together with that diverted at the original points of appropriation, shall not exceed the quantity of water lawfully available at the original points of appropriation.
6. 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.

Dated at Salem, Oregon this 12 day of July 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

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>