



Oregon

Kate Brown, Governor

Water Resources Department

North Mall Office Building

725 Summer St NE, Suite A

Salem, OR 97301

Phone (503) 986-0900

Fax (503) 986-0904

www.wrd.state.or.us

July 14, 2017

WENDY YU ZHEN
12226 SE VERLIE ST
HAPPY VALLEY, OR 97086

SUBJECT: Ground Water Registration Modification T-12344

Please find enclosed the Preliminary Determination indicating that, based on the information available, the Department intends to approve application T-12344. 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, 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 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@oregon.gov if I may be of assistance.

Sincerely,

Joan Smith
Groundwater Registration Modification Specialist
Transfer and Conservation Section

cc: Groundwater Modification T-12344
Amy Kim, District 20 Watermaster (*via e-mail*)
J.H. Greenman, 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-12344, Clackamas County	)	RECOGNITION OF MODIFICATIONS
	)	IN POINT OF APPROPRIATION AND
	)	PLACE 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

WENDY YU ZHEN
12226 SE VERLIE ST
HAPPY VALLEY, OR 97086

Findings of Fact

1. On April 18, 2016, WENDY YU ZHEN filed a ground water registration modification application to modify the point of appropriation and place of use change under Registration Application GR-1401 (Certificate of Registration GR-1439). The Department assigned the application number T-12344.
2. Notice of the application for ground water registration modification was published on April 18, 2016, and October 26, 2016, pursuant to OAR 690-382-0600. No comments were filed in response to the notice.
3. On April 18, 2016, GR-1401(Certificate of Registration GR-1439) was assigned to Wendy Yu Zhen.
4. On February 14, 2017, the Department requested that new application pages and a new map be submitted to describe more accurately the requested changes.
5. On February 20, 2017, the applicants' agent submitted a corrected map and application pages.
6. On April 14, 2017, the applicant's agent submitted an amended application and map removing all the acres in tax lot 1400 from the application.

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.

7. On March 15, 2017, the Department sent a copy of the draft Preliminary Determination proposing to approve Groundwater Registration Modification Application T-12344 to the applicant. The draft Preliminary Determination cover letter set forth a deadline of April 15, 2017, for the applicant to respond. The applicant amended the application, 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.

8. The portion of the ground water registration to be modified is as follows:

Registration: GR-1401 (Certificate of Registration GR-1439), in the name of ERNEST BLASER (assigned to Wendy Yu Zhen)

Use: IRRIGATION of 6.35 ACRES

Tentative

Priority Date: MARCH 31, 1952

Quantity: 26.93 GALLONS PER MINUTE (0.06 Cubic Foot per Second (CFS))

Source: A WELL within the UNNAMED STREAM BASIN

Original Point of Appropriation:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
1 S	4 E	WM	29	SE SW	1060 FEET NORTH AND 1040 FEET WEST FROM THE S1/4 CORNER OF SECTION 29

Original Place of Use:

Twp	Rng	Mer	Sec	Q-Q	Acres
1 S	4 E	WM	29	SE SW	6.35

9. Ground Water Registration Modification Application T-12344 proposes to modify the location of the original point of appropriation approximately 700 feet from the original well to:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
1 S	4 E	WM	29	SE SW	1210 FEET NORTH AND 220 FEET WEST FROM THE S 1/4 CORNER OF SECTION 29

10. Ground Water Registration Modification Application T-12344 proposes to modify the place of use under the ground water registration to:

Twp	Rng	Mer	Sec	Q-Q	Tax lot	Acres
1 S	4 E	WM	29	SE SW	1300	6.35

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

11. The proposed modifications would not result in enlargement of the ground water registration.

12. 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.

13. The proposed modifications 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 proposed in Ground Water Registration Modification T-12344 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-12344 is approved, the final order will include the following:

- 1. The modifications to Registration Application GR-1401(Certificate of Registration GR-1439) proposed in Ground Water Registration Modification Application T-12344 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-1401 (Certificate of Registration GR-1439) 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. 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 (new and existing).*
 - b. The water user shall maintain the meters or measuring device in good working order.*
 - c. The water user shall allow the Watermaster access to the meters 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.*
- 6. 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.*
- 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.*

Dated at Salem, Oregon this 14 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>