



# Oregon

Kate Brown, Governor

**Water Resources Department**

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Salem, OR 97301

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August 16, 2017

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

SUBJECT: Ground Water Registration Modification Application T-12360

Please find enclosed the Preliminary Determination indicating that, based on the information available, the Department intends to approve application T-12360. 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 Department's notice.

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](mailto:Joan.M.Smith@oregon.gov) if I may be of assistance.

Sincerely,

Joan Smith

Transfer Specialist

Transfer and Conservation Section

cc: Ground Water Registration Modification Application T-12360  
Joel M. Plahn, District 16 Watermaster *(via e-mail)*  
Doann Hamilton, Agent and CWRE for the applicant *(via e-mail)* encs

**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-12360, Marion County	)	RECOGNITION OF ADDITIONAL
	)	POINTS OF APPROPRIATION AND A
	)	MODIFICATION IN 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**

ROBERT W GABRIEL TRUST  
8474 HAZELGREEN RD NE  
SILVERTON OR 97381

**Findings of Fact**

1. On April 29, 2016, Robert Gabriel filed a ground water registration modification application for an additional point of appropriation and a change in place of use under Registration Application GR-3312 (Certificate of Registration GR-3074). The Department assigned the application number T-12360.
2. On April 29, 2016, Registration Application GR-3312 (Certificate of Registration GR-3074) was assigned from E. J. McCloud to Robert W. Gabriel Trust.
3. Notice of the application for ground water registration modification was published on May 17, 2016, pursuant to OAR 690-382-0600. No comments were filed in response to the notice.
4. On March 14, 2017, the Department sent a copy of the draft Preliminary Determination proposing to approve Ground Water Registration Modification Application T-12360 to the applicant. The draft Preliminary Determination cover letter set forth a deadline of April 14, 2017, for the applicant to respond. The applicant requested that the Department proceed

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.

with issuance of a Preliminary Determination and provided the necessary information to demonstrate that the applicant is authorized to pursue the Ground Water Registration Modification.

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

**Registration:** Application GR-3312 (Certificate of Registration GR-3074), in the name of E J. MCCLOUD (assigned to ROBERT W. GABRIEL TRUST)

**Use:** IRRIGATION OF 10.3 ACRES

**Tentative**

**Priority Date:** SEPTEMBER 30, 1949

**Quantity:** 103 GALLONS PER MINUTE

**Source:** A WELL within the LABISH CREEK BASIN

**Original Point of Appropriation:**

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
6 S	3 W	WM	24	NW NE	300 FEET SOUTH AND 2240 FEET WEST FROM THE NE CORNER OF SECTION 24

**Original Place of Use:**

IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
7 S	3 W	WM	24	NW NE	10.3

6. Ground Water Registration GR-3312 (Certificate of Registration GR-3074) identifies the place of use as being within Township 7 South, however, the place of use is in Township 6 South, as is reflected on the Ground Water Registration map of record.
7. Ground Water Registration Modification Application T-12360 proposes additional points of appropriation approximately between 200 and 800 feet from the original well. The proposed points of appropriation are located as follows:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
6 S	3 W	WM	24	NW NE	1085 FEET SOUTH AND 865 FEET EAST FROM THE N1/4 CORNER OF SECTION 24
6 S	3 W	WM	24	NW NE	330 FEET SOUTH AND 1690 FEET EAST FROM THE SW CORNER OF DLC 66
6 S	3 W	WM	24	NW NE	215 FEET SOUTH AND 1235 FEET EAST FROM THE N1/4 CORNER OF SECTION 24

8. Ground Water Registration Modification Application T12360 proposes to modify the place of use under the ground water registration to:

IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
6 S	3 W	WM	24	NE NE	0.4
6 S	3 W	WM	24	NW NE	9.9
Total					10.3

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

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

**Determination and Proposed Action**

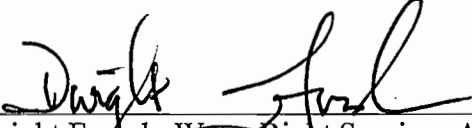
The additional points of appropriation and modification in place of use proposed in Ground Water Registration Modification T-12360 appear to be consistent with the requirements of ORS 537.610, 537.705, 540.505 to 540.580 and OAR 690-382-1000. If protests are not filed pursuant to OAR 690-382-0900, the modification will be approved.

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

1. *The modifications to Registration Application GR-3312 (Certificate of Registration GR-3074) proposed in Ground Water Registration Modification Application T-12360 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-3312 (Certificate of Registration GR-3074) 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 points 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.*

Dated at Salem, Oregon this 14 day of August 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@wrд.state.or.us](mailto:Joan.M.Smith@wrд.state.or.us)

*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>