



Oregon

Kate Brown, Governor

Water Resources Department
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Salem, OR 97301
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October 11, 2017

Robert J. and Dorothy C. Schumacher Trust
c/o Dave Schumacher – Trustee
PO Box 303
Sublimity, OR 97385

SUBJECT: Ground Water Registration Modification T-12456

Please find enclosed the Preliminary Determination indicating that, based on the information available, the Department intends to approve application T-12456. 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, 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 Jessica.L.Joye@oregon.gov or by phone at (503) 986-0814, if I may be of assistance.

Sincerely,

Jessica Joye
Groundwater Registration Modification Specialist
Transfer and Conservation Section

cc: GR Modification Application T-12456
Joel Plahn, District #16 Watermaster (via e-mail)
Eric Urstadt, 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-12456, Marion County)	RECOGNITION OF 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 J. AND DOROTHY C. SCHUMACHER TRUST
c/o DAVE SCHUMACHER, TRUSTEE
PO BOX 303
SUBLIMITY OR 97385

Findings of Fact

1. On August 1, 2016, ROBERT J. AND DOROTHY C. SCHUMACHER TRUST, c/o DAVE SCHUMACHER, TRUSTEE filed a ground water registration modification application for an additional point of appropriation under Registration Application GR-2353 (Certificate of Registration GR-2235). The Department assigned the application number T-12456.
2. On July 25, 2017, Registration Application GR-2353 (Certificate of Registration GR-2235) was partially assigned from Hilda Schumacher to Tom Schumacher, Trustee of Dorothy Schumacher Revocable Living Trust.
3. Notice of the application for ground water registration modification was published on August 16, 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 September 14, 2017, the Department mailed a copy of the draft Preliminary Determination proposing to approve Transfer Application T-12456 to the applicants. The draft Preliminary Determination cover letter set forth a deadline of October 16, 2017, for the applicants to respond. The applicants 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 transfer.
5. On October 9, 2017, the Applicant's Agent notified the Department of a few scrivener's errors found in the Draft Preliminary Determination related to the measured distance of the original point of appropriation (POA) and the quarter-quarter location of the proposed POA (well #3).
6. The portion of the ground water registration to be modified is as follows:

Registration: Application GR-2353 (Certificate of Registration GR-2235), in the name of HILDA SCHUMACHER (partially assigned to TOM SCHUMACHER, TRUSTEE OF DOROTHY C. SCHUMACHER REVOCABLE LIVING TRUST)

Use: IRRIGATION of 30.7 ACRES

Tentative

Priority Date: 1952

Quantity: 54 GALLONS PER MINUTE

Source: A WELL within the BEAVER CREEK BASIN

Original Point of Appropriation:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
8 S	1 W	WM	35	SW NW	1325 FEET NORTH AND 2474 FEET EAST TO THE N¼ CORNER OF SECTION 35

Original Place of Use:

IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
8 S	1 W	WM	35	NE NW	2.8
8 S	1 W	WM	35	NW NW	14.4
8 S	1 W	WM	35	SW NW	10.0
8 S	1 W	WM	35	SE NW	3.5
TOTAL					30.7

5. Ground Water Registration Modification Application T-12456 proposes an additional point of appropriation approximately 550 feet from the original well to:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
8 S	1 W	WM	35	NW NW	WELL 3 - 730 FEET SOUTH AND 170 FEET EAST FROM THE NW CORNER OF SECTION 35

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

6. The proposed modification would not result in enlargement of the ground water registration.
7. The proposed modification 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
8. The proposed modification would not result in injury to other water rights

Determination and Proposed Action

The modification for an additional point of appropriation proposed in Ground Water Registration Modification T-12456 appears 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.

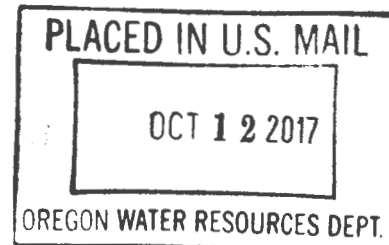
If Ground Water Registration Modification T-12456 is approved, the final order will include the following:

1. *The modification to Registration Application GR-2353 (Certificate of Registration GR-2235) proposed in Ground Water Registration Modification Application T-12456 is recognized. Recognition of the modification 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-2353 (Certificate of Registration GR-2235) 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.*

Dated at Salem, Oregon this 9 day of October, 2017.


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



This Preliminary Determination was prepared by Jessica Joye. If you have any questions about the information in this draft preliminary determination, you may reach me at Jessica.L.Joye@oregon.gov or by phone at 503-986-0814.

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>