



Oregon

Kate Brown, Governor

Water Resources Department

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Salem, OR 97301

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November 9, 2017

CLEARLAKE FARMS LLC
C/O ROBERT GABRIEL
8474 HAZELGREEN RD NE
SILVERTON, OR 97381

SUBJECT: Ground Water Registration Modification T-12432

Please find enclosed the Preliminary Determination indicating that, based on the information available, the Department intends to approve application T-12432. 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, 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 503-986-0806 or arla.l.heard@oregon.gov if I may be of assistance.

Sincerely,

Arla L Heard
Ground Water Registration Modification Specialist

cc: GR Modification T-12432
Joel M. Plahn, District 16 Watermaster (*via e-mail*)
Doann Hamilton, Agent for the applicant (*via e-mail*)

enc

**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-12432, Marion County)	RECOGNITION OF A MODIFICATION
)	IN 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

CLEARLAKE FARMS LLC
C/O ROBERT GABRIEL
8474 HAZELGREEN RD NE
SILVERTON, OR 97381

Findings of Fact

1. On July 15, 2016, CLEARLAKE FARMS LLC, c/o ROBERT GABRIEL filed a ground water registration modification application to modify the point of appropriation under Registration Application GR-907 (Certificate of Registration GR-881). The Department assigned the application number T-12432.
2. On July 5, 2016, Registration Application GR-907 (Certificate of Registration GR-881) was partially assigned from DAVE SCHLAG to CLEAR LAKE FARMS LLC c/o ROBERT GABRIEL.
3. Notice of the application for ground water registration modification was published on December 20, 2016, pursuant to OAR 690-382-0600. No comments were filed in response to the notice.
4. On October 24, 2017, the Department mailed a copy of the draft Preliminary Determination proposing to approve Transfer Application T-12432 to the applicant and emailed a copy to the agent. The Draft Preliminary Determination cover letter set forth a deadline of November 24, 2017, for the applicant to respond.

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.

- On November 9, 2017, the agent responded on behalf of the applicant and accepted the Draft Preliminary Determination and provided the Department the report of ownership indicating CLEARLAKE FARMS LLC as the landowner.
- The portion of the ground water registration to be modified is as follows:

Registration: Application GR-907 (Certificate of Registration GR-881), in the name of DAVE SCHLAG (*partially assigned to CLEAR LAKE FARMS LLC c/o ROBERT GABRIEL*)

Use: IRRIGATION OF 1.5 ACRES

Tentative

Priority Date: 1953

Quantity: 0.0223 CUBIC FOOT PER SECOND

Source: ONE WELL within the LABISH CREEK BASIN

Original Point of Appropriation:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
6 S	3 W	WM	23	NE SE	200 FEET SOUTH AND 1200 FEET WEST FROM THE E¼ CORNER OF SECTION 23

Original Place of Use:

IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
6 S	3 W	WM	23	SE NE	1.5

- Ground Water Registration Modification Application T-12432 proposes to modify the location of the original point of appropriation approximately 661 feet northeast, located as follows:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
6 S	3 W	WM	23	SE NE	40 FEET NORTH AND 580 FEET WEST FROM THE E¼ CORNER OF SECTION 23

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

- The proposed modification would not result in enlargement of the ground water registration.
- The proposed modification would not result in a state Scenic Waterway not receiving previously available water during periods in which stream flows are less than the quantities determined by the Department to be necessary to meet the requirements of ORS 390.835.
- The proposed modification would not result in injury to other water rights.

Determination and Proposed Action

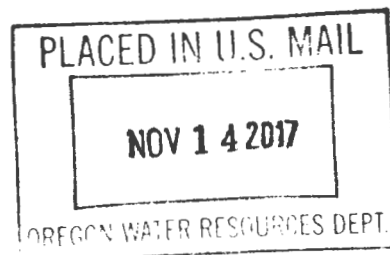
The modification in point of appropriation proposed in Ground Water Registration Modification Application T-12432 appears to be consistent with the requirements of ORS 537.610, 537.705, 540.505 to 540.580 and OAR 690-382-1000. If protests are not filed pursuant to OAR 690-382-0900, the modification will be approved.

If Ground Water Registration Modification T-12432 is recognized, the final order will include the following:

1. The modification to Registration Application GR-907 (Certificate of Registration GR-881) proposed in Ground Water Registration Modification Application T-12432 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-907 (Certificate of Registration GR-881) 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. 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.

Dated at Salem, Oregon this 13 day of November, 2017.


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



This Preliminary Determination was prepared by Arla Heard. If you have any questions about the information in this document, you may reach me at 503-986-0806 or arla.l.heard@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>