



Oregon
Kate Brown, Governor

Water Resources Department

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Salem, OR 97301

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January 17, 2018

VIA E-MAIL

CITY OF SUBLIMITY
PO BOX 146
SUBLIMITY, OR 97385

SUBJECT: Water Right Transfer Application T-12437

Please find enclosed the Preliminary Determination indicating that, based on the information available, the Department intends to approve application T-12437. 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 503-986-0890 or Sarah.A.Henderson@oregon.gov if I may be of assistance.

Sincerely,

Sarah Henderson
Ground Water Registration Modification Specialist
Transfer and Conservation Section

cc: GR Modification T-12437
Joel M. Plahn, District 16 Watermaster (via e-mail)
4B Engineering and Consulting LLC, 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-12437, Marion County)	RECOGNITION OF MODIFICATIONS
)	IN POINT OF APPROPRIATION AND
)	PLACE OF USE AND CHARACTER 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

CITY OF SUBLIMITY
PO BOX 146
SUBLIMITY, OR 97385

Findings of Fact

1. On July 21, 2016, CITY OF SUBLIMITY filed a ground water registration modification application to modify the point of appropriation, place of use and character of use under Registration Application GR-269 (Certificate of Registration GR-249). The Department assigned the application number T-12437.
2. On June 24, 2016, Registration Application GR-269 (Certificate of Registration GR-249) was assigned from Alvois Hassler to City of Sublimity.
3. Notice of the application for ground water registration modification was published on July 26, 2016, pursuant to OAR 690-382-0600. No comments were filed in response to the notice.
4. On August 18, 2017, the Department requested an amended map showing the authorized place of use location.

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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5. On August 24, 2017, the applicant's agent submitted the amended map, resolving the deficiency.
6. On December 1, 2017, the Department mailed a copy of the draft Preliminary Determination proposing to approve Transfer Application T-12437 to the applicant. The draft Preliminary Determination cover letter set forth a deadline of December 31, 2017, for the applicant to respond. The applicant requested that the Department proceed with issuance of a Preliminary Determination.
7. The ground water registration to be modified is as follows:

Registration: Application GR-269 (Certificate of Registration GR-249), in the name of ALVOIS HASSLER (*assigned to CITY OF SUBLIMITY*)

Use: IRRIGATION OF 72.5 ACRES

Tentative

Priority Date: SEPTEMBER 1, 1943

Quantity: 120 GALLONS PER MINUTE

Duty: 30 ACRE FEET PER YEAR

Source: PUMP WELL, within the BEAVER CREEK BASIN

Original Point of Appropriation:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
8 S	1 W	WM	34	SE SE	655 FEET NORTH AND 55 FEET WEST FROM THE SE CORNER OF SECTION 34

Original Place of Use:

IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
8 S	1 W	WM	34	NE SE	10.0
8 S	1 W	WM	34	SE SE	40.0
8 S	1 W	WM	35	SW SW	22.5
Total					72.5

8. Ground Water Registration Application GR-269 (Certificate of Registration GR-249) does not specify the irrigation season. However, the Willamette Basin Program (OAR 690-502-0040) establishes the irrigation season for the area as March 1 through October 31.
9. Ground Water Registration Application GR-269 (Certificate of Registration GR-249) does not describe a rate and duty limit per acre. However, the general basin wide standard specifies the rate limit as one-eightieth of one cubic foot per second per acre and the duty limit as 2.5 acre-feet per acre.
10. Ground Water Registration Modification Application T-12437 proposes to modify the location of the point of appropriation approximately 0.3 mile from the original well to:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
8 S	1 W	WM	34	NW SE	1423 FEET NORTH AND 1445 FEET WEST FROM THE SE CORNER OF SECTION 34

11. Ground Water Registration Modification Application T-12437 proposes to modify the character of use under the ground water registration to municipal use. The total volume of water that may be diverted annually for municipal use is 181.2 acre-feet ($2.5 \times 72.5 = 181.2$ acre feet). The new use will be limited to the irrigation season of March 1 through October 31.
12. Ground Water Registration Modification Application T-12437 proposes to modify the place of use under the ground water registration to:

MUNICIPAL
Within the City if Sublimity Urban Growth Boundary

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

13. The proposed modifications, as conditioned, would not result in enlargement of the ground water registration.
14. 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.
15. The proposed modifications, as conditioned, would not result in injury to other water rights.

Determination and Proposed Action

The modifications in point of appropriation, place of use, character of use proposed in Ground Water Registration Modification T-12437 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 modifications will be approved.

If Ground Water Registration Modification T-12437 is approved, the final order will include the following:

1. *The modifications to Registration Application GR-269 (Certificate of Registration GR-249) proposed in Ground Water Registration Modification Application T-12437 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-269 (Certificate of Registration GR-249) 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.*
6. *Water shall no longer be appropriated for the former character of use as part of this ground water certificate of registration.*
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, except for municipal use as modified by this order.*
8. *The use of water under the proposed municipal use shall be limited to a rate of diversion of 120 gallons per minute and further limited to a total quantity of water diverted of 181.2 acre feet during the irrigation season of March 1 through October 31.*

Dated at Salem, Oregon this 17 day of January 2018.


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

This Preliminary Determination was prepared by Sarah Henderson. If you have questions about the information in this document, you may reach me at 503-986-0890 or at Sarah.A.Henderson@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>