

**BEFORE THE WATER RESOURCES DEPARTMENT
OF THE
STATE OF OREGON**

In the Matter of Ground Water
Registration Modification Application
T-12563, Linn County

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R E V I S E D
PRELIMINARY DETERMINATION
PROPOSING APPROVAL OF
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

LINDA DAVIS
5237 CHAPMAN ST S
SALEM, OR 97306

Findings of Fact

1. On January 9, 2017, LINDA DAVIS filed a ground water registration modification application to modify the point of appropriation under Registration Application GR-4250 (Certificate of Registration GR-3836). The Department assigned the application number T-12563
2. On July 12, 1960, Registration Application GR-4250 (Certificate of Registration GR-3836) was assigned from Raymond K. Baker to Viril W. Case.
3. On December 28, 1967, Registration Application GR-4250 (Certificate of Registration GR-3836) was assigned from Viril W. Case to Gordon H. and Hazel G. Hoefler.
4. On January 17, 2017, Registration Application GR-4250 (Certificate of Registration GR-3836) was assigned from Gordon H. and Hazel G. Hoefler to Linda Davis.

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 revised preliminary determination.

5. Notice of the application for ground water registration modification was published on January 24, 2017, pursuant to OAR 690-382-0600. No comments were filed in response to the notice.
6. On June 4, 2018, the Department mailed a copy of the draft Preliminary Determination proposing to approve Transfer Application T-12563 to the applicant. The draft Preliminary Determination cover letter set forth a deadline of July 5, 2018, for the applicant to respond. The applicant 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.
7. On July 2, 2018, the Department issued a Preliminary Determination proposing to approve Transfer T-12563 and mailed a copy to the applicant. Additionally, notice of the Preliminary Determination for the transfer application was published on the Department's weekly notice on July 3, 2018, and in the Albany Democrat Herald newspaper on July 6 and 13, 2018, pursuant to ORS 540.520 and OAR 690-380-4020. No protests were filed in response to the notice.
8. On July 5, 2018, the Department identified a scrivener's error in the quantity of water to be transferred in the modification in point of appropriation. The applicant is modifying the point of appropriation for 6.0 acres, and not the full amount of 45.8 acres, as authorized by Registration Application GR-4250 (Certificate of Registration GR-3836).
9. On July 26, 2018, the Department mailed a copy of a revised draft Preliminary Determination proposing to approve Transfer Application T-12563 to the applicant. The draft Preliminary Determination cover letter set forth a deadline of August 24, 2018, for the applicant to respond. The applicant 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.
10. The portion of the ground water registration to be modified is as follows:

Registration: APPLICATION GR-4250 (CERTIFICATE OF REGISTRATION GR-3836), IN THE NAME OF GORDON H. and HAZEL G. HOEFER
(*partially assigned to LINDA DAVIS*)

Use: IRRIGATION of 6.0 ACRES

Tentative

Priority Date: 1953

Quantity: 39.3 GALLONS PER MINUTE (GPM); 2.0 ACRE-FEET (AF) PER YEAR

Source: PUMP WELL #6

Original Point of Appropriation:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
10 S	4 W	WM	12	SE SW	PUMP WELL #6 - NORTH 83 DEGREES 30 MINUTES WEST, 59.32 CHAINS FROM THE SE CORNER OF SECTION 12

Original Place of Use:

IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
10 S	4 W	WM	12	SE SW	6.0

11. Ground Water Registration Modification Application T-12563 proposes to modify the location of the original point of appropriation to:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances	DLC	Approximate distance from the original well in feet (ft.)
10 S	4 W	WM	12	SW SE	PUMP WELL #2 - NORTH-58 DEGREES 30 MINUTES WEST, 35.3 CHAINS FROM THE SE CORNER OF SECTION 12	38	2,055.3 ft.
10 S	4 W	WM	12	SW SE	PUMP WELL #1 - NORTH 65 DEGREES 10 MINUTES WEST, 43.5 CHAINS FROM THE SE CORNER OF SECTION 12	38	1,493.8 ft.

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

12. The proposed modification would not result in enlargement of the ground water registration.
13. 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.
14. The proposed modification would not result in injury to other water rights.

Determination and Proposed Action

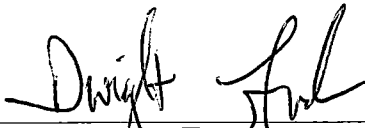
The modification in point of appropriation proposed in Ground Water Registration Modification T-12563 appears to be consistent with the requirements of ORS 537.610, 537.705, 540.505 to 540.580 and OAR 690-382-1000. If protests are not filed pursuant to OAR 690-382-0900, the modification will be approved.

If Ground Water Registration Modification T-12563 is approved, the final order will include the following:

1. *The modification to Registration Application GR-4250 (Certificate of Registration GR-3836) proposed in Ground Water Registration Modification Application T-12563 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-4250 (Certificate of Registration GR-3836) 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 new points of appropriation, shall not exceed the quantity of water lawfully available at the original point of appropriation.*
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 devices in good working order.*
 - c. *The water user shall allow the Watermaster access to the meters or measuring devices; provided however, where the meters or measuring devices are located within a private structure, the Watermaster shall request access upon reasonable notice.*

Dated at Salem, Oregon this SEP 20 2018.



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

This revised Preliminary Determination was prepared by Corey Courchane. If you have questions about the information in this document, you may reach me at 503-986-0825 or corey.a.courchane@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>



Oregon

Kate Brown, Governor

Water Resources Department

725 Summer St NE, Suite A

Salem, OR 97301

(503) 986-0900

Fax (503) 986-0904

September 20, 2018

LINDA DAVIS
5237 CHAPMAN ST S
SALEM, OR 97306

SUBJECT: Water Right Transfer Application T-12563

Please find enclosed the revised Preliminary Determination indicating that, based on the information available, the Department intends to approve application T-12563. 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, simultaneously with issuance of the revised 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 revised 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 revised 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 revised Preliminary Determination to present information and arguments supporting their position in a quasi-judicial proceeding.

Please do not hesitate to contact me, at corey.a.courchane@oregon.gov or (503) 986-0825, if I may be of assistance.

Sincerely,

Corey Courchane
Transfer Specialist
Transfer and Conservation Section

cc: T-12563
Lanaya F. Blakely, District 2 Watermaster (*via e-mail*)
Doann Hamilton, Agent for the applicant (*via e-mail*)

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