



# Oregon

Kate Brown, Governor

**Water Resources Department**

725 Summer St NE, Suite A

Salem, OR 97301

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September 27, 2018

ROBERT J. SCHUMACHER AND DOROTHY C. SCHUMACHER TRUST  
C/O TOM SCHUMACHER  
PO BOX 303  
SUBLIMITY, OR 97385

SUBJECT: Ground Water Registration Modification T-12721

Please find enclosed the Preliminary Determination indicating that, based on the information available, the Department intends to approve application T-12721. 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 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, 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 [corey.a.courchane@oregon.gov](mailto: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-12721  
Joel M. Plahn, District 16 Watermaster (*via e-mail*)  
Eric Urstadt, Agent for the applicant (*via e-mail*)  
City of Sublimity, Receiving Landowner

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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-12721, Marion County	)	RECOGNITION OF MODIFICATIONS
	)	IN POINTS OF APPROPRIATION,
	)	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**

ROBERT J. SCHUMACHER AND  
DOROTHY C. SCHUMACHER TRUST  
C/O TOM SCHUMACHER  
PO BOX 303  
SUBLIMITY, OR 97385

**Findings of Fact**

1. On July 18, 2017, ROBERT J. SCHUMACHER AND DOROTHY C. SCHUMACHER TRUST, C/O TOM SCHUMACHER filed a ground water registration modification application to modify the point of appropriation, place of use, and character of use under Registration Application GR-2353 (Certificate of Registration GR-2235). The Department assigned the application number T-12721
2. On July 25, 2017, Registration Application GR-2353 (Certificate of Registration GR-2235) was partially assigned by proof from Hilda Schumacher to Tom Schumacher, Trustee of Dorothy C. Schumacher Revocable Living Trust.
3. Notice of the application for ground water registration modification was published on August 1, 2017, 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.
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4. On June 5, 2018, the Department contacted the applicant by written correspondence to notify the applicant and the applicant's agent of the deficiencies in the application. The Department requested that the deficiencies be resolved by July 5, 2018.
5. On June 22, 2018, the Department contacted the applicant by written correspondence to notify the applicant and the applicant's agent of the deficiencies in the application. The Department requested that the deficiencies be resolved by July 31, 2018.
6. On July 2, 2018, the applicant's agent submitted a revised map and Table 2, removing lands to be abandoned from the transfer application.
7. On August 9, 2018, the Department mailed a copy of the draft Preliminary Determination proposing to approve Transfer Application T-12720 to the applicant. The draft Preliminary Determination cover letter set forth a deadline of September 7, 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.
8. 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:** 17.4 GALLONS PER MINUTE

**Source:** PUMP WELL

**Original Points of Appropriation:**

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
8 S	1 W	WM	35	SW NW	WELL #2 - 1325 FEET SOUTH AND 2474 FEET WEST FROM THE N1/4 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	14.5
8 S	1 W	WM	35	SW NW	9.9
8 S	1 W	WM	35	SE NW	3.5
Total					30.7

9. Ground Water Registration Modification Application T-12721 proposes to modify the location of the original points of appropriation to:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances	Approximate distance from original well locations measured in miles (mi.)	
						WELL #2	WELL #3
8 S	1 W	WM	34	SE SE	SUBLIMITY WELL #1 - 1330 FEET SOUTH AND 1250 FEET WEST FROM THE E1/4 CORNER OF SECTION 34	0.6 mi.	0.7 mi.
8 S	1 W	WM	34	NE SW	SUBLIMITY WELL #2 - 340 FEET SOUTH AND 3040 FEET WEST FROM THE E1/4 CORNER OF SECTION 34	0.7 mi.	0.8 mi.
8 S	1 W	WM	34	SE SE	SUBLIMITY WELL #3 - 2000 FEET SOUTH AND 880 FEET WEST FROM THE E1/4 CORNER OF SECTION 34	0.6 mi.	0.8 mi.
8 S	1 W	WM	35	SW NE	SUBLIMITY WELL #4 - 100 FEET NORTH AND 2920 FEET EAST FROM THE E1/4 CORNER OF SECTION 34	0.6 mi.	0.6 mi.

10. Ground Water Registration Modification Application T-12721 proposes to modify the place of use under the ground water registration to:

MUNICIPAL USE
WITHIN THE SERVICE AREA OF THE CITY OF SUBLIMITY

11. Ground Water Registration Modification Application T-12721 proposes to modify the character of use under the ground water registration to Municipal uses. The use will be limited to the irrigation season.
12. Ground Water Registration Application GR-2353 does not list a duty of water; however, the limit of the water right is the maximum quantity that could be beneficially used without waste. Based on Cuenca's crop water use data, the most consumptive crop use for the area of this water right is 2.20 acre feet per acre per year. Therefore, to prevent enlargement of this right, the maximum diverted annual volume of water for municipal use under this right should be limited to 67.54 acre feet per year (2.20 AF x 30.7 acres) during the irrigation season.

***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.

**Partial Abandonment of a Groundwater Registration**

16. On June 29, 2018, the applicant submitted an Affidavit for Partial Abandonment of a Ground Water Certificate of Registration for Registration Application GR-2353 (Certificate of Registration GR-2235).
17. On July 19, 2018, the applicant submitted a request to withdraw the Affidavit for Partial Abandonment of a Ground Water Certificate of Registration for Registration Application GR-2353 (Certificate of Registration GR-2235).
18. Registration Application GR-2353 (Certificate of Registration GR-2235) is layered with Registration Application GR-2352 (Certificate of Registration GR-2234) and the applicant shall abandon that portion of the place of use (POU) of Registration Application GR-2352 (Certificate of Registration GR-2234) prior to issuance of a Final Order for this Ground Water Registration Modification.
19. The portion of the ground water registration to be abandoned is as follows:

**Registration:** Application 2352 (Certificate of Registration GR-2234), in the name of HILDA SCHUMACHER  
**Use:** IRRIGATION of 30.7 ACRES  
**Tentative**  
**Priority Date:** MARCH 1939  
**Quantity:** 10.8 GALLONS PER MINUTE  
**Source:** PUMP WELL

**Original Point of Appropriation:**

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
8 S	1 W	WM	35	SW NW	1325 FEET NORTH AND 2494 FEET EAST TO THE N1/4 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	14.5
8 S	1 W	WM	35	SW NW	9.9
8 S	1 W	WM	35	SE NW	3.5
Total					30.7

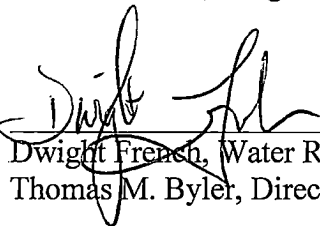
**Determination and Proposed Action**

The modification in point of appropriation, modification in place of use, and modification in character of use proposed in Ground Water Registration Modification T-12721 appears to be consistent with the requirements of ORS 537.610, 537.705, 540.505 to 540.580 and OAR 690-382-1000 and the partial abandonment of the Groundwater Registration should be recognized. If protests are not filed pursuant to OAR 690-382-0900, the modification will be approved and the abandonment of a portion of the Groundwater Registration shall be recognized.

*If Ground Water Registration Modification T-12721 is approved, the final order will include the following:*

- 1. The modifications to Registration Application GR-2353 (Certificate of Registration GR-2235) and partial abandonment of Registration Application GR-2352 (Certificate of Registration GR-2234) proposed in Ground Water Registration Modification Application T-12721 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-2353 (Certificate of Registration GR-2235) and any related decree.*
- 3. Water shall be acquired from the same aquifer (water source) as the original points 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 points of appropriation.*
- 5. Water shall no longer be appropriated for the former character of use as part of this ground water certificate of registration.*
- 6. 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.*
- 7. The use of water under the proposed municipal use shall be limited to a rate of diversion of 17.4 gallons per minute and further limited to a total quantity of water diverted of 67.54 acre-feet during the irrigation season.*

Dated at Salem, Oregon this SEP 27 2018.



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

This 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](mailto: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>