

**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-12671, Linn County |) | RECOGNITION OF A MODIFICATION |
| |) | IN PLACE 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

THE ESTATE OF HUGO W. EHRLICH
BY SHERYL PETERSON AS PERSONAL REPRESENTATIVE
34344 SE COLUMBUS ST
ALBANY, OR 97321

Findings of Fact

1. On May 18, 2017, THE ESTATE OF HUGO W EHRLICH BY SHERYL PETERSON AS PERSONAL REPRESENTATIVE, filed a ground water registration modification application to modify the place of use under Registration Application GR-2208 (Certificate of Registration GR-2113). The Department assigned the application number T-12671.
2. On September 5, 2018, Registration Application GR-2208 (Certificate of Registration GR-2113) was assigned from HUGO W. and OLIVIA EHRLICH to Sheryl Peterson, Personal Representative of the Estate of Hugo W. Ehrlich.
3. Notice of the application for ground water registration modification was published on May 30, 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.

4. On March 27, 2018, the Department contacted the applicant by written correspondence to notify the applicant of the deficiencies in the application. The Department requested that the deficiencies be resolved by April 27, 2018. No response was received to the letter.
5. On March 27, 2018, the Department contacted the applicant by written correspondence to notify the applicant of the deficiencies in the application. The Department requested that the deficiencies be resolved by April 27, 2018. No response was received to the letter.
6. On June 12, 2018, the applicant's agent contacted the Department by telephone regarding the status of T-12671. The Department informed the agent that a Request for Assignment was needed in order to complete the Ground Water Registration Modification. The property containing the place of use to be modified is now owned by another land owner, and that it would take some time to resolve the issue.
7. On August 28, 2018, the Department contacted the applicant by written correspondence to notify the applicant of the deficiencies in the application. The Department requested that the deficiencies be resolved by October 12, 2018. No response was received to the letter.
8. On September 5, 2018, a Request for Assignment was submitted to the Department.
9. On September 18, 2018, the Department mailed a copy of the draft Preliminary Determination proposing to approve Transfer Application T-12671 to the applicant. The draft Preliminary Determination cover letter set forth a deadline of October 18, 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:

Certificate: APPLICATION GR-2208 (CERTIFICATE OF REGISTRATION GR- 2113) in the name of HUGO W. AND OLIVIA H. EHRLICH
Use: IRRIGATION of 19.5 ACRES
Priority Date: OCTOBER 1, 1952
Rate: 175 GALLONS PER MINUTE (GPM)
Source: PUMP WELL

Authorized Point of Appropriation:

| Twp | Rng | Mer | Sec | Q-Q | Measured Distances |
|------|-----|-----|-----|-------|---|
| 11 S | 3 W | WM | 32 | NE NW | SOUTH 33 DEG 30 MIN WEST 9.5 CHAINS FROM THE NE CORNER, NW1/4 OF SECTION 32 |

Authorized Place of Use:

| IRRIGATION | | | | | |
|------------|-----|-----|-----|-------|-------|
| Twp | Rng | Mer | Sec | Q-Q | Acres |
| 11 S | 3 W | WM | 32 | NE NW | 15.5 |
| 11 S | 3 W | WM | 32 | SE NW | 4.0 |
| Total | | | | | 19.5 |

11. The Department received information that better describes the location of the original point of appropriation in Finding #5 as follows:

| Twp | Rng | Mer | Sec | Q-Q | Survey Coordinates |
|------|-----|-----|-----|-------|---|
| 11 S | 3 W | WM | 32 | NE NW | 370 FEET SOUTH AND 390 FEET WEST FROM THE N1/4 CORNER OF SECTION 32 |

12. Ground Water Registration Modification Application T-12671 proposes to modify the place of use under the ground water registration to:

| IRRIGATION | | | | | |
|------------|-----|-----|-----|-------|-------|
| Twp | Rng | Mer | Sec | Q-Q | Acres |
| 11 S | 3 W | WM | 29 | SW NW | 7.7 |
| 11 S | 3 W | WM | 30 | SE NE | 10.2 |
| 11 S | 3 W | WM | 30 | NE SE | 1.6 |
| Total | | | | | 19.5 |

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

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

Determination and Proposed Action

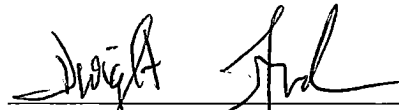
The modification in place of use proposed in Ground Water Registration Modification T-12671 appears to be consistent with the requirements of ORS 537.610, 537.705, 540.505 to 540.580 and OAR 690-382-1000. If protests are not filed pursuant to OAR 690-382-0900, the modification will be approved.

If Ground Water Registration Modification T-12671 is approved, the final order will include the following:

1. *The modification to Registration Application GR-2208 (Certificate of Registration GR-2113) proposed in Ground Water Registration Modification Application T-12671 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-2208 (Certificate of Registration GR-2113) and any related decree.*
3. *Water shall be acquired from the same aquifer (water source) as the original point of appropriation.*

4. *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.*

Dated at Salem, Oregon this OCT 08 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

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

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Salem, OR 97301

(503) 986-0900

Fax (503) 986-0904

October 8, 2018

THE ESTATE OF HUGO W. EHRLICH
BY SHERYL PETERSON AS PERSONAL REPRESENTATIVE
34344 SE COLUMBUS ST
ALBANY, OR 97321

SUBJECT: Ground Water Registration Modification T-12671

Please find enclosed the Preliminary Determination indicating that, based on the information available, the Department intends to approve application T-12671. 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.

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 or (503) 986-0825, if I may be of assistance.

Sincerely,

Corey Courchane
Transfer Specialist
Transfer and Conservation Section

cc: T-12671
Lanaya F. Blakely, District 2 Watermaster (via e-mail)
Ian McGuire, Agent for the applicant (via e-mail)
Edward F. Schultz, Attorney (via e-mail)

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