

**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-13067, Linn 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

THOMAS E. AND KAREN M. AVINELIS
PO BOX 1028
JEFFERSON, OR 97352

Findings of Fact

1. On November 29, 2018, THOMAS E. AND KAREN M. AVINELIS filed a ground water registration modification application to modify the point of appropriation under Registration Application GR-1859 (Certificate of Registration GR-1800). The Department assigned the application number T-13067.
2. On January 2, 2018, Registration Application GR-1859 (Certificate of Registration GR-1800) was assigned from Mrs. Tessa Watkins to Thomas E. and Karen M. Avinelis.
3. Notice of the application for ground water registration modification was published on December 4, 2018, 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 February 4, 2019, the Department mailed a copy of the draft Preliminary Determination proposing to approve Groundwater Registration Modification Application T-13067 to the applicants. The draft Preliminary Determination cover letter set forth a deadline of March 5, 2019, for the applicants to respond. The applicants 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.
5. On February 6, 2019, the applicant's agent revised the location of the proposed point of appropriation.
6. The ground water registration to be modified is as follows:

Registration: Application GR-1859 (Certificate of Registration GR-1800), in the name of MRS. TESSA WATKINS (*assigned to THOMAS E. AND KAREN M. AVINELIS*)

Use: IRRIGATION of 12.5 ACRES

Tentative

Priority Date: APRIL 1944

Quantity: 300 GALLONS PER MINUTE

Duty: 37.5 ACRE FEET PER YEAR

Source: PUMP WELL NO. 2

Original Point of Appropriation:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
10 S	2 W	WM	17	NE NW	WELL 2 - SOUTH 81 DEGREES 40 MINUTES EAST 27.7 CHAINS FROM THE NW CORNER OF SECTION 17

Original Place of Use:

IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
10 S	2 W	WM	17	NW NE	1.3
10 S	2 W	WM	17	NE NW	11.2
Total					12.5

7. Ground Water Registration Modification Application T-13067 proposes to modify the location of the original point of appropriation approximately 0.3 mile Southwest from the original well to:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
10 S	2 W	WM	17	SW NW	NEW WELL 1 - 1440 FEET SOUTH AND 760 FEET EAST FROM THE NW CORNER OF SECTION 17

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

8. The proposed modification would not result in enlargement of the ground water registration.

9. 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.
10. 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-13067 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-13067 is approved, the final order will include the following:

1. *The modification to Registration Application GR-1859 (Certificate of Registration GR-1800) proposed in Ground Water Registration Modification Application T-13067 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-1859 (Certificate of Registration GR-1800) 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 (Well 2) as part of this ground water certificate of registration.*
5. *The quantity of water diverted at the new point of appropriation (New Well 1), shall not exceed the quantity of water lawfully available at the original point of appropriation (Well 2).*

Dated at Salem, Oregon this 28th day of March, 2019.



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>