



Oregon
Kate Brown, Governor

Water Resources Department

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Salem, OR 97301

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August 27, 2019

MWE, LLC
ATTN: MARILYN REAR
91820 TERRITORIAL HWY
JUNCTION CITY, OR 97448

SUBJECT: Water Right Transfer Application T-12868

Please find enclosed the Preliminary Determination indicating that, based on the information available, the Department intends to approve application T-12868. 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 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-12868
Lanaya F. Blakely, District 2 Watermaster *(via e-mail)*
Bruce Brody-heine, 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-12868, Lane County)	RECOGNITION OF AN ADDITIONAL
)	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 groundwater 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 groundwater registration modification applications.

Applicant

MWE, LLC
ATTN: MARILYN REAR
91820 TERRITORIAL HWY
JUNCTION CITY, OR 97448

Findings of Fact

1. On March 12, 2018, MWE, LLC; ATTN: MARILYN REAR filed a groundwater registration modification application for an additional point of appropriation under Registration Application GR-1796 (Certificate of Registration GR-3995). The Department assigned the application number T-12868.
2. On January 22, 2018, Registration Application GR-1796 (Certificate of Registration GR-3995) was assigned from Vern Rishell to MWE, LLC.
3. Notice of the application for groundwater registration modification was published on March 20, 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.
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4. On June 28, 2019, the Department mailed a copy of the draft Preliminary Determination proposing to approve Transfer Application T-12868 to the applicant. The draft Preliminary Determination cover letter set forth a deadline of July 29, 2019, 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

5. The groundwater registration to be modified is as follows:

Registration: Application GR-1796 (Certificate of Registration GR-3995), in the name of VERN RISHHELL (*assigned to MWE, LLC*)

Use: IRRIGATION of 15.0 ACRES

Tentative

Priority Date: FEBRUARY 10, 1949

Quantity: 140 GALLONS PER MINUTE

Source: PUMP WELL

Original Point of Appropriation:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
16 S	4 W	WM	3	NW SW	OLD WELL - 300 FEET SOUTH AND 5 FEET EAST FROM THE W1/4 CORNER OF SECTION 3

Original Place of Use:

IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
16 S	4 W	WM	3	NW SW	10.0
16 S	4 W	WM	4	NE SE	5.0
Total					15.0

6. Groundwater Registration Modification Application T-12868 proposes an additional point of appropriation approximately 85 feet Southwest from the original well to:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
16 S	4 W	WM	4	NE SE	NEW WELL - 340 FEET SOUTH AND 70 FEET WEST FROM THE E1/4 CORNER OF SECTION 4

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

7. The proposed modification would not result in enlargement of the groundwater registration.
8. 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.
9. The proposed modification would not result in injury to other water rights.

Determination and Proposed Action

The additional point of appropriation proposed in Groundwater Registration Modification T-12868 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 Groundwater Registration Modification T-12868 is approved, the final order will include the following:

- 1. The modification to Registration Application GR-1796 (Certificate of Registration GR-3995) proposed in Groundwater Registration Modification Application T-12868 is recognized. Recognition of the modification shall not be construed as a final determination of the right to appropriate groundwater 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-1796 (Certificate of Registration GR-3995) 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 additional point of appropriation (New Well), together with that diverted at the original point of appropriation (Old Well), shall not exceed the quantity of water lawfully available at the original point of appropriation (Old Well).*

AUG 27 2019

Dated in Salem, Oregon on _____


Lisa J. Jaramillo, Transfer and Conservation Section Manager, for
THOMAS M BYLLER, 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 servicemembers have a right to stay these proceedings under the federal Servicemembers Civil Relief Act. For more information contact the Oregon State Bar at 800-452-8260, the Oregon Military Department at 503-584-3571, or the nearest United States Armed Forces Legal Assistance Office through <http://legalassistance.law.af.mil>. The Oregon Military Department does not have a toll free number.

09/12/10