

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

In the Matter of Groundwater	)	PRELIMINARY DETERMINATION
Registration Modification Application	)	PROPOSING APPROVAL OF
T-13002, Marion County	)	RECOGNITION OF MODIFICATIONS
	)	FOR AN ADDITIONAL POINT OF
	)	APPROPRIATION AND 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 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

THOMAS M. AND BARBARA R. BUCHHOLZ
PO BOX 710
MT. ANGEL, OR 97362

Findings of Fact

1. On August 10, 2018, THOMAS M. AND BARBARA R. BUCHHOLZ filed a groundwater registration modification application for an additional point of appropriation and to modify the place of use under Registration Application GR-353 (Certificate of Registration GR-339). The Department assigned the application number T-13002.
2. Notice of the application for groundwater registration modification was published on August 21, 2018, pursuant to OAR 690-382-0600. No comments were filed in response to the notice.
3. On August 10, 2018, Registration Application GR-353 (Certificate of Registration GR-339) was assigned from Walter Duda to Thomas M. and Barbara R. Buchholz.

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 October 21, 2019, the Department mailed a copy of the draft Preliminary Determination proposing to approve Transfer Application T-13002 to the applicants. The draft Preliminary Determination cover letter set forth a deadline of November 20, 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. The groundwater registration to be modified is as follows:

Registration: Application GR-353 (Certificate of Registration GR-339), in the name of WALTER DUDA (*Assigned to Thomas M. and Barbara R. Buchholz*)

Use: IRRIGATION of 38.94 ACRES

Tentative

Priority Date: SEPTEMBER 1, 1952

Quantity: 240 GALLONS PER MINUTE

Source: PUMP WELL #2

Original Point of Appropriation:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
6 S	1 W	WM	1	SW SW	PUMP WELL #2 - 84.3 FEET NORTH AND 324.7 FEET EAST FROM THE CORNER SECTIONS OF 1, 2, 11,12

Original Place of Use:

IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
6 S	1 W	WM	1	SW SW	38.94

6. Groundwater Registration Modification Application T-13002 proposes an additional point of appropriation approximately 0.3 mile from the original well to:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
6 S	1 W	WM	12	NE NW	PROPOSED WELL 2 - 940 FEET SOUTH AND 1360 FEET EAST FROM THE NW CORNER OF SECTION 12

7. Groundwater Registration Modification Application T-13002 proposes to modify the place of use under the ground water registration to:

IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
6 S	1 W	WM	12	NE NW	6.20
6 S	1 W	WM	12	SW NW	5.54
6 S	1 W	WM	12	SE NW	27.20
Total					38.94

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

8. The proposed modifications would not result in enlargement of the groundwater 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 modifications would not result in injury to other water rights.

Determination and Proposed Action

The additional point of appropriation and modification in place of use proposed in Groundwater Registration Modification T-13002 appear 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.

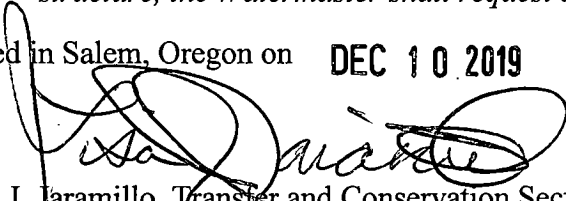
If Groundwater Registration Modification T-13002 is approved, the final order will include the following:

1. *The modifications to Registration Application GR-353 (Certificate of Registration GR-339) proposed in Groundwater Registration Modification Application T-13002 are recognized. Recognition of the modifications 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-353 (Certificate of Registration GR-339) 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 (Proposed Well 2), together with that diverted at the original point of appropriation (Pump Well #2), shall not exceed the quantity of water lawfully available at the original point of appropriation (Pump Well #2).*
5. *The former place of use of the modified groundwater registration shall no longer receive water as part of the groundwater certificate of registration.*

6. *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 in Salem, Oregon on **DEC 10 2019**


Lisa J. Jaramillo, Transfer and Conservation Section Manager, 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 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.



Oregon
Kate Brown, Governor

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December 10, 2019

THOMAS M. AND BARBARA R. BUCHHOLZ
PO BOX 710
MT. ANGEL, OR 97362

SUBJECT: Water Right Transfer Application T-13002

Please find enclosed the Preliminary Determination indicating that, based on the information available, the Department intends to approve application T-13002. 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 and in the Silverton Appeal 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.

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-13002
Joel M. Plahn, District 16 Watermaster (*via e-mail*)
Doann Hamilton, Agent for the applicant (*via e-mail*)

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