

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

In the Matter of Groundwater)	PRELIMINARY DETERMINATION
Registration Modification Application)	PROPOSING APPROVAL OF
T-13125, Marion County)	RECOGNITION OF A MODIFICATION
)	IN 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

PAUL AND SUSAN FOBERT
18899 FOBERT RD NE
HUBBARD, OR 97032

Findings of Fact

1. On February 19, 2019, PAUL AND SUSAN FOBERT filed a groundwater registration modification application to modify the point of appropriation and place of use under Registration Application GR-1614 (Certificate of Registration GR-1571). The Department assigned the application number T-13125.
2. On February 21, 2019, Registration Application GR-1614 (Certificate of Registration GR-1571) was partially assigned from ED BUDREAU to PAUL AND SUSAN FOBERT.
3. Notice of the application for groundwater registration modification was published on February 26, 2019, 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 November 4, 2019, the Department mailed a copy of the draft Preliminary Determination proposing to approve Transfer Application T-13125 to the applicants. The draft Preliminary Determination cover letter set forth a deadline of December 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. The portion of the groundwater registration to be modified is as follows:

Registration: Application GR-1614 (Certificate of Registration GR-1571), in the name of ED BUDREAU (*partially assigned to PAUL AND SUSAN FOBERT*)

Use: IRRIGATION of 8.6 ACRES

Tentative

Priority Date: JUNE 1950

Quantity: 57.3 GALLONS PER MINUTE

Source: A WELL

Original Point of Appropriation:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
4 S	1 W	WM	26	SW NE	AUTHORIZED WELL - 1600 FEET SOUTH AND 1900 FEET WEST FROM THE NE CORNER OF SECTION 26

Original Place of Use:

IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
4 S	1 W	WM	26	NE NE	3.0
4 S	1 W	WM	26	NW NE	1.8
4 S	1 W	WM	26	SW NE	1.3
4 S	1 W	WM	26	SE NE	2.5
Total					8.6

6. Groundwater Registration Modification Application T-13125 proposes to modify the location of the original point of appropriation approximately 521 feet from the original well to:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
4 S	1 W	WM	26	NW NE	PROPOSED WELL - 1020 FEET NORTH AND 230 FEET WEST FROM THE SE CORNER OF DLC 52

7. Groundwater Registration Modification Application T-13125 also proposes to modify the place of use under the ground water registration to:

IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
4 S	1 W	WM	26	NW NE	1.6
4 S	1 W	WM	26	NE NW	7.0
Total					8.6

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 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.
10. The proposed modifications would not result in injury to other water rights.

Determination and Proposed Action

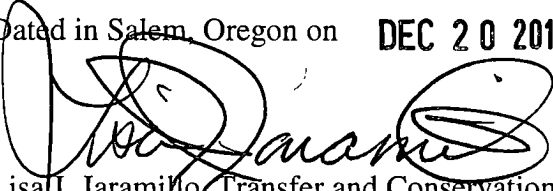
The modification in point of appropriation and modification in place of use proposed in Groundwater Registration Modification T-13125 appears to be consistent with the requirements of ORS 537.610, 537.705, 540.505 to 540.580 and OAR 690-382-1000. If protests are not filed pursuant to OAR 690-382-0900, the modification will be approved.

If Groundwater Registration Modification T-13125 is approved, the final order will include the following:

1. *The modifications to Registration Application GR-1614 (Certificate of Registration GR-1571) proposed in Groundwater Registration Modification Application T-13125 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-1614 (Certificate of Registration GR-1571) 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 as part of this groundwater certificate of registration.*
5. *The quantity of water diverted at the new point of appropriation (Proposed Well), shall not exceed the quantity of water lawfully available at the original point of appropriation (Authorized Well).*

6. *The former place of use of the modified groundwater registration shall no longer receive water as part of the groundwater certificate of registration.*

Dated in Salem, Oregon on **DEC 20 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

Water Resources Department
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Salem, OR 97301
(503) 986-0900
Fax (503) 986-0904

December 20, 2019

PAUL AND SUSAN FOBERT
18899 FOBERT RD NE
HUBBARD, OR 97032

SUBJECT: Water Right Transfer Application T-13125

Please find enclosed the Preliminary Determination indicating that, based on the information available, the Department intends to approve application T-13125. 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-13125
Joel M. Plahn, District 16 Watermaster (*via e-mail*)
Doann Hamilton, Agent for the applicant (*via e-mail*)

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