

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

In the Matter of Groundwater)	PRELIMINARY DETERMINATION
Registration Modification Application)	PROPOSING APPROVAL OF
T-13277, Yamhill 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 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

GARY A. AND SHELLY MULL
20925 SE DERA EVE LANE
AMITY, OR 97101

Findings of Fact

1. On October 22, 2019, Gary A. and Shelly Mull filed a groundwater registration modification application to modify the place of use under Registration Application GR-395 (Certificate of Registration GR-2437). The Department assigned the application number T-13277
2. On October 24, 2019, Registration Application GR-395 (Certificate of Registration GR-2437) was partially assigned from Alf DeRaeve to Nu T. Huynh, Tyler Cummins and Gary A. and Shelly Mull.
3. On October 22, 2019, Nu T. Huynh and Tyler Cummins submitted an affidavit consenting to the groundwater modification application was submitted with the application.
4. Notice of the application for groundwater registration modification was published on November 5, 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.

5. On January 30, 2020, the Department sent a copy of the draft Preliminary Determination proposing to approve Groundwater Registration Modification Application T-13277 to the applicants. The draft Preliminary Determination cover letter set forth a deadline of March 1, 2020, 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 Groundwater Registration Modification.

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

Registration: Application GR-395 (Certificate of Registration GR-2437), in the name of ALF DERA EVE (*partially assigned to* NU T. HUYNH, TYLER CUMMINS and GARY A. AND SHELLY MULL)

Use: IRRIGATION of 22.8 ACRES

Tentative

Priority Date: MARCH 1953

Quantity: 120 GALLONS PER MINUTE AND 25 ACRE FEET PER YEAR

Source: A WELL

Original Point of Appropriation:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
5 S	4 W	WM	27	SW NW	2075 FEET SOUTH AND 1750 FEET EAST FROM THE NW CORNER OF W BUFFUM DLC

Original Place of Use:

Twp	Rng	Mer	Sec	Q-Q	Acres
5 S	4 W	WM	27	SW NW	22.80

7. Groundwater Registration Modification Application T-13277 proposes to modify the place of use under the ground water registration to:

IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
5 S	4 W	WM	27	NW NW	18.3
5 S	4 W	WM	27	SW NW	4.5
Total					22.8

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

8. The proposed modification 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 modification would not result in injury to other water rights.

Determination and Proposed Action

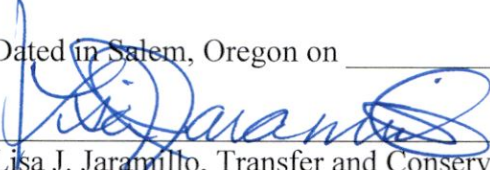
The modification in place of use proposed in Groundwater Registration Modification T-13277 appears to be consistent with the requirements of ORS 537.610, 537.705, 540.505 to 540.580 and OAR 690-382-1000. If protests are not filed pursuant to OAR 690-382-0900, the modification will be approved.

If Groundwater Registration Modification T-13277 is approved, the final order will include the following:

- 1. The modification to Registration Application GR-395 (Certificate of Registration GR-2437) proposed in Groundwater Registration Modification Application T-13277 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-395 (Certificate of Registration GR-2437) and any related decree.*
- 3. 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 _____

MAR 05 2020



Lisa J. Jaramillo, Transfer and Conservation Section Manager, for
THOMAS M BYLER, DIRECTOR
Oregon Water Resources Department

This Preliminary Determination was prepared by Joan Smith. If you have questions about the information in this document, you may reach me at 503-986-0892 or Joan.M.SMITH@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

March 5, 2020

GARY A. AND SHELLY MULL
20925 SE DERA EVE LANE
AMITY, OR 97101

SUBJECT: Water Right Transfer Application T-13277

Please find enclosed the Preliminary Determination indicating that, based on the information available, the Department intends to approve application T-13277. 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 503-986-0892 or Joan.M.Smith@oregon.gov if I may be of assistance.

Sincerely,


Joan Smith
Transfer Specialist
Transfer and Conservation Section

cc: T-13277
Joel M. Plahn, District 16 Watermaster (*via e-mail*)
William E. McGill, Agent for the applicant & CWRE (*via e-mail*)

encs