

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

In the Matter of Groundwater)	PRELIMINARY DETERMINATION
Registration Modification Application)	PROPOSING APPROVAL OF
T-12962, Marion County)	RECOGNITION OF MODIFICATIONS
)	OF A 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

BRUCE ERNST
P.O.BOX 460
ST.PAUL, OR. 97317

Findings of Fact

1. On June 29, 2018, Bruce Ernst filed a groundwater registration modification application to modify the point of appropriation and place of use under Registration Application GR-2447 (Certificate of Registration GR-2319). The Department assigned the application number T-12962
2. On June 29, 2018, Registration Application GR-2447 (Certificate of Registration GR-2319) was assigned from Irl Davis to Bruce Ernst.
3. Notice of the application for groundwater registration modification was published on July 3, 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 October 15, 2019, the Department sent a copy of the draft Preliminary Determination proposing to approve Groundwater Registration Modification Application T-12962 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 Groundwater Registration Modification.

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

Registration: Application GR-2447 (Certificate of Registration GR-2319), in the name of IRL DAVIS (*assigned to* BRUCE ERNST)

Use: IRRIGATION of 7.3 ACRES

Tentative

Priority Date: MARCH 2, 1952

Quantity: 38.8 GALLONS PER MINUTE

Source: A WELL within the MILL CREEK BASIN

Original Point of Appropriation:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
4 S	1 W	WM	22	SE NE	AUTHORIZED WELL- 400 FEET NORTH AND 500 FEET WEST FROM THE E1/4 CORNER OF SECTION 22

Original Place of Use:

IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
4 S	1 W	WM	22	NE SE	7.3

6. Groundwater Registration Modification Application proposes to modify the location of the original point of appropriation approximately 0.5 mile from the original well to:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
4 S	1 W	WM	22	SE SE	PROPOSED WELL- 595 FEET NORTH AND 100 FEET WEST FROM SE CORNER OF SECTION 22

7. Groundwater Registration Modification Application T-12962 proposes to modify the place of use under the groundwater registration to:

IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
4 S	1 W	WM	22	SE SE	1.3
4 S	1 W	WM	23	SW SW	6.0
Total					7.3

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 as conditioned would not result in injury to other water rights.

Determination and Proposed Action

The modification of the point of appropriation and modification in place of use proposed in Groundwater Registration Modification T-12962 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-12962 is approved, the final order will include the following:

1. *The modifications to Registration Application GR-2447 (Certificate of Registration GR-2319) proposed in Groundwater Registration Modification Application T-12962 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-2447 (Certificate of Registration GR-2319) 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 modified point of appropriation (proposed well), shall not exceed the quantity of water lawfully available at the original point of appropriation (original well).*

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. *The new point of appropriation should be 200 feet from nearby domestic wells.*

Dated in Salem, Oregon on

MAR 19 2020


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

Protests should be addressed to the attention of Water Rights Division, Water Resources Department, 725 Summer St. NE, Suite A, Salem, OR 97301-1266.

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

Notice Regarding Service Members: Active duty service members have a right to stay these proceedings under the federal Service members 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 18, 2020

BRUCE ERNST
PO BOX 460
ST PAUL, OR 97137

SUBJECT: Groundwater Registration Modification T-12962

Please find enclosed the Preliminary Determination indicating that, based on the information available, the Department intends to approve application T-12962. This document is an intermediate step in the approval process; water may not be used legally as proposed in the groundwater registration modification 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 Woodburn Independent 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, whichever is later.

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
Groundwater Registration Modification Specialist
Transfer and Conservation Section

cc: T-12962
Joel Plahn, District 16 Watermaster (*via e-mail*)
Doann Hamilton, Agent for the applicant (*via e-mail*)

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