

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

In the Matter of Groundwater	)	PRELIMINARY DETERMINATION
Registration Modification Application	)	PROPOSING APPROVAL OF
T-12789, Clackamas 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**

LIEPOLD FARMS  
ROD LIEPOLD  
14480 SE RICHEY RD  
BORING, OR 97009

**Findings of Fact**

1. On December 13, 2017, LIEPOLD FARMS, ROD LIEPOLD filed a groundwater registration modification application to modify the point of appropriation and add an additional point of appropriation under Registration Application GR-1044 (Certificate of Registration GR 1006). The Department assigned the application number T-12789
2. Notice of the application for groundwater registration modification was published on December 26, 2017, pursuant to OAR 690-382-0600. No comments were filed in response to the notice.
3. Although Groundwater Registration Modification Application T-12789 indicated a modification of a point of appropriation and an additional point of appropriation, it appears the applicant is requesting a modification of the authorized point of appropriation and a modification of the authorized place of use.

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.

**IMPORTANT:** Due to COVID-19, the Department's office is closed to walk-in services. The Department encourages the submission of protests by U.S. mail. Please consider mailing early to ensure the Department receives the protest by the deadline specified above.

4. On August 22, 2018, the Department notified the agent for the applicant by phone and email of deficiencies in the application, specifically that the proposed place of use area provided by the applicant on Table 2 and on the map provided with the application would cause enlargement of the right. The agent for the applicant was provided a deadline of October 1, 2018 to satisfy the deficiency.
5. On December 20, 2018, the agent for the applicant provided an amended Table 2 and an amended application map satisfying the deficiency.
6. On January 14, 2019, the Department notified the agent for the applicant regarding a deficiency in the application regarding Table 3, specifically the intervals for casing, sealing, and perforation/screen appear to be incorrect.
7. On January 15, 2019, and February 1, 2019, the agent for the applicant provided amended application pages, correcting Table 3 and satisfying the deficiency.
8. On June 19, 2019, the Department contacted the agent for the applicant regarding deficiencies with the application. A deadline of July 3, 2019 was given for receiving items to satisfy the deficiencies.
9. Groundwater Modification Application T-12789, does not meet the requirement of OAR 690-382-0300(1)(a)(b)(c). The application was not filed by the holder of Groundwater Registration Application GR-1044 (Certificate of Registration GR-1006), the applicant has not been assigned to Groundwater Registration Application GR-1044 (Certificate of Registration GR-1006), nor does the application demonstrate that the applicant is authorized to request recognition of a modification.
10. Groundwater Modification Application T-12789, does not meet the requirement of OAR 690-382-0400(12). The application is missing a completed Land Use Form.
11. On June 19, 2019, the Department contacted the agent for the applicant requesting a completed Land Use Form. The agent for the applicant did not respond to the request for additional information to complete the application.
12. On October 24, 2019, the Department mailed a copy of the draft Preliminary Determination proposing to deny Groundwater Registration Modification Application T-12789 to the applicant. The draft Preliminary Determination cover letter set forth a deadline of November 23, 2019, for the applicant to respond. The applicant requested that the Department proceed with issuance of a Preliminary Determination.
13. On December 2, 2019, the applicant provided documentation to demonstrate that the applicant is authorized to pursue the modification and provided a Land Use Form and Assignment form satisfying the deficiencies and allowing approval of Groundwater Registration Modification Application T-12789.
14. On February 28, 2020, the Department approved an assignment by proof, changing the groundwater registration holder from K. Nishikawa to Rod Liepold.

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

**Registration:** Application GR-1044 (Certificate of Registration GR-1006), in the name of K NISHIKAWA (*assigned to Rod Liepold*)

**Use:** IRRIGATION of 25.0 ACRES

**Tentative**

**Priority Date:** JANUARY 1953

**Quantity:** 30 GALLONS PER MINUTE (GPM)

**Source:** PUMP WELL

**Original Point of Appropriation:**

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
2 S	3 E	WM	1	SE SE	PUMP WELL - NORTH 86 DEGREES WEST AND 1305 FEET FROM THE SE CORNER OF SECTION 1

**Original Place of Use:**

Twp	Rng	Mer	Sec	Q-Q	Acres
2 S	3 E	WM	1	SE SE	25.0

16. Groundwater Registration Modification Application T-12789 proposes to modify the location of the original point of appropriation approximately 0.2 mile from the original well to:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
2 S	3 E	WM	1	SE SE	WELL #2 - 1270 FEET NORTH AND 840 FEET WEST FROM THE SE CORNER OF SECTION 1

17. Groundwater Registration Modification Application T-12789 proposes to modify the place of use under the ground water registration to:

IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
2 S	3 E	WM	1	SE SE	25.0

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

18. The proposed modification would not result in enlargement of the groundwater registration.

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

**Determination and Proposed Action**

The modifications in point of appropriation and place of use proposed in Groundwater Registration Modification T-12789 appear to be consistent with the requirements of ORS 537.610, 537.705, 540.505 to 540.580 and OAR 690-382-1000, OAR 690-382-0300, and OAR 690-382-0400. If protests are not filed pursuant to OAR 690-382-0900, the modification will be approved.

*If Groundwater Registration Modification T-12789 is approved, the final order will include the following:*

- The modifications to Registration Application GR-1044 (Certificate of Registration GR-1006) proposed in Groundwater Registration Modification Application T-12789 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-1044 (Certificate of Registration GR-1006) 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 new point of appropriation (WELL #2), shall not exceed the quantity of water lawfully available at the original point of appropriation (PUMP WELL).*
5. *Water shall no longer be appropriated from the original point of appropriation as part of this groundwater certificate of registration.*
6. *The former place of use of the modified groundwater registration shall no longer receive water as part of the groundwater certificate of registration.*
7. *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 meter or measuring device in good working order.*
  - c. *The water user shall allow the Watermaster access to the meter or measuring device; provided however, where the meter or measuring device is located within a private structure, the Watermaster shall request access upon reasonable notice.*

Dated in Salem, Oregon on

JUN 04 2020

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

This Preliminary Determination was prepared by Arla Davis. If you have questions about the information in this document, you may reach me at 503-986-0806 or [arla.l.davis@oregon.gov](mailto:arla.l.davis@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**  
725 Summer St NE, Suite A  
Salem, OR 97301  
(503) 986-0900  
Fax (503) 986-0904

June 4, 2020

ROD LIEPOLD  
14480 SE RICHEY RD  
BORING, OR 97009

SUBJECT: Water Right Transfer Application T-12789

Please find enclosed the Preliminary Determination indicating that, based on the information available, the Department intends to approve application T-12789. 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.

**IMPORTANT:** Due to COVID-19, the Department's office is closed to walk-in services. The Department encourages the submission of protests by U.S. mail. Please consider mailing early to ensure the Department receives the protest by the deadline specified above.

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 [arla.l.davis@oregon.gov](mailto:arla.l.davis@oregon.gov), if I may be of assistance.

Sincerely,

Arla L Davis  
Groundwater Registration Modification Specialist  
Transfer and Conservation Section

cc: T-12789  
Amy J. Landvoigt, District 20 Watermaster (*via e-mail*)  
Dale Hult, Agent for the applicant (*via e-mail*)

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