

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

In the Matter of Groundwater	)	PRELIMINARY DETERMINATION
Registration Modification Application	)	PROPOSING APPROVAL OF
T-13068, Marion County	)	RECOGNITION OF A MODIFICATION
	)	IN POINT OF APPROPRIATION

**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**

ELLEN AND GREGORY WILT  
SUBLIME ORGANICS LLC  
7908 BOEDIGHEIMER ROAD SE  
SUBLIMITY, OR 97385

**Findings of Fact**

1. On November 29, 2018, ELLEN AND GREGORY WILT, SUBLIME ORGANICS LLC filed a groundwater registration modification application to modify the point of appropriation under Registration Application GR-881 (Certificate of Registration GR-855). The Department assigned the application number T-13068.
2. On July 27, 2015, Registration Application GR-881 (Certificate of Registration GR-855) was partially assigned from EDWARD J. MIOTKE to GREGORY J. AND ELLEN W. LANCE.
3. Notice of the application for groundwater registration modification was published on August 6, 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.
--

4. On October 8, 2019, the Department contacted the applicant by written correspondence to notify the applicant of a deficiency in the application. The application identified a proposed point of appropriation (POA) that is an authorized POA under Registration Application GR-1351 (Certificate of Registration GR-1307), and is not located on the applicant's place of use. The Department requested that the deficiency be resolved by November 6, 2019.
5. On November 9, 2019, the applicant submitted a revised Table 1, resolving the deficiency.
6. On April 8, 2020, the Department contacted the applicant by written correspondence to notify the applicant of an additional deficiency in the application. The application map did not match Table 2, in identifying the amount of acres proposed for modification to the proposed POA.
7. On April 10, 2020, the applicant submitted a revised map and Table 2, resolving the deficiency.
8. On April 30, 2020, the Department contacted the applicant by written correspondence to notify the applicant of a deficiency in the acres identified in the revised map received on April 10, 2020. The map identified 4.18 acres in the NE SE of Section 26, but GR-881 only authorizes 4.0 acres. The applicant responded the same day with a revised map and Table 2, resolving the deficiency.
9. On May 21, 2020, the Department mailed a copy of the draft Preliminary Determination proposing to approve Transfer Application T-13068 to the applicants. The draft Preliminary Determination cover letter set forth a deadline of June 22, 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 transfer.
10. The portion of the groundwater registration to be modified is as follows:

**Registration:** Application GR-881 (Certificate of Registration GR-855), in the name of EDWARD J. MIOTKE (*partially assigned to GREGORY J. AND ELLEN W. LANCE*)

**Use:** IRRIGATION of 51.86 ACRES

**Tentative**

**Priority Date:** FEBRUARY 1951

**Quantity:** 129.7 GALLONS PER MINUTE

**Source:** PUMP WELL 1

**Original Point of Appropriation:**

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
8 S	1 W	WM	26	SW SE	PUMP WELL 1 – 100 FEET NORTH AND 350 FEET EAST FROM THE S1/4 CORNER OF SECTION 26

**Original Place of Use:**

IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
8 S	1 W	WM	26	NE SE	4.00
8 S	1 W	WM	26	NW SE	10.80
8 S	1 W	WM	26	SW SE	28.66
8 S	1 W	WM	26	SE SE	8.22
Total					51.68

11. Groundwater Registration Modification Application T-13068 proposes to modify the point of appropriation approximately 575.9 feet North from the original well to:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
8 S	1 W	WM	26	SW SE	WELL 2 – 675 FEET NORTH AND 370 FEET EAST FROM THE S1/4 CORNER OF SECTION 26

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

12. The proposed modification would not result in enlargement of the groundwater registration.
13. 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.
14. The proposed modification would not result in injury to other water rights.

**Determination and Proposed Action**

The modification in point of appropriation proposed in Groundwater Registration Modification T-13068 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-13068 is approved, the final order will include the following:*

1. *The modification to Registration Application GR-881 (Certificate of Registration GR-855) proposed in Groundwater Registration Modification Application T-13068 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-881 (Certificate of Registration GR-855) 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 (Well 2), shall not exceed the quantity of water lawfully available at the original point of appropriation (Pump Well 1).*

Dated in Salem, Oregon on

AUG 11 2020

  
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](mailto: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.*

**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.

**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

August 11, 2020

ELLEN AND GREGORY WILT  
SUBLIME ORGANICS LLC  
7908 BOEDIGHEIMER ROAD SE  
SUBLIMITY, OR 97385

SUBJECT: Water Right Transfer Application T-13068

Please find enclosed the Preliminary Determination indicating that, based on the information available, the Department intends to approve application T-13068. 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.

**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.

Please do not hesitate to contact me, at [corey.a.courchane@oregon.gov](mailto:corey.a.courchane@oregon.gov) or (503) 986-0825, if I may be of assistance.

Sincerely,

A handwritten signature in blue ink, appearing to read "Corey Courchane". The signature is fluid and cursive, with a long horizontal stroke at the end.

Corey Courchane  
Transfer Specialist  
Transfer and Conservation Section

cc: T-13068  
Gregory J. Wacker, District 16 Watermaster (*via e-mail*)

encs