

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

In the Matter of Groundwater
Registration Modification Application
T-13080, Marion County

) **R E V I S E D**
) PRELIMINARY DETERMINATION
) PROPOSING APPROVAL OF
) RECOGNITION OF AN ADDITIONAL
) POINT OF APPROPRIATION AND 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

B. DAVIDSON FARMS, LLC
c/o BRUCE AND SHANNON DAVIDSON
549 TURNBERRY AVE
WOODBURN, OR 97101

Findings of Fact

1. On December 10, 2018, B. Davidson Farms, LLC c/o Bruce and Shannon Davidson filed a groundwater registration modification application for an additional point of appropriation and change of place of use under Registration Application GR-3467 (Certificate of Registration GR-3207). The Department assigned the application number T-13080.
2. On December 1, 2009, Registration Application GR-3467 (Certificate of Registration GR-3207) was assigned from Richard McKay to Bruce M. and Shannon Davidson.
3. Notice of the application for groundwater registration modification was published on December 18, 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.

4. On March 27, 2020, the Department sent a copy of the draft Preliminary Determination proposing to approve Groundwater Registration Modification Application T-13080 to the applicant. The draft Preliminary Determination cover letter set forth a deadline of April 26, 2020 for the applicant to respond. The applicant 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. Further review of Transfer Application T-13080 revealed that the location of the wells in the application were incorrect. The applicant supplied a revised Table 1 and Map to reflect the location of the wells. This Revised Preliminary Determination corrects the quarter-quarter locations of the wells.
6. The groundwater registration to be modified is as follows:

Registration: GR-3467 (Certificate of Registration GR-3207), in the name of RICHARD MCKAY *assigned to* BRUCE M. DAVIDSON and SHANNON DAVIDSON
Use: IRRIGATION of 63.0 ACRES
Tentative
Priority Date: MAY 1, 1952
Quantity: 350 GALLONS PER MINUTE
Source: PUMP WELL #2

Original Point of Appropriation:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
4 S	2 W	WM	28	NE NW	PUMP WELL #2 - 1150 FEET SOUTH AND 1300 FEET (WEST) FROM THE N1/4 CORNER OF SECTION 28

Original Place of Use:

IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
4 S	2 W	WM	28	NE NW	12.0
4 S	2 W	WM	28	NW NW	15.0
4 S	2 W	WM	28	SW NW	18.0
4 S	2 W	WM	28	SE NW	18.0
Total					63.0

7. The Department received information from the applicant that better describes the location of the authorized point of appropriation for GR-3467 as follows:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
4 S	2 W	WM	28	SW NW	POD 1 (WELL #2) - 1125 FEET SOUTH AND 1600 FEET EAST FROM NW CORNER OF DLC 59

8. Groundwater Registration Modification Application T-13080 proposes an additional point of appropriation approximately 450.0 feet from the original well to:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
4 S	2 W	WM	28	SW NW	POD 2 - 1310 FEET SOUTH AND 1595 FEET EAST FROM THE NW CORNER OF DLC 59

9. Groundwater Registration Modification Application T-13080 proposes to modify the place of use of the groundwater registration to:

IRRIGATION						
Twp	Rng	Mer	Sec	Q-Q	DLC	Acres
4 S	2 W	WM	28	NE NW	59	6.2
4 S	2 W	WM	28	NW NW	59	5.1
4 S	2 W	WM	28	SW NW	59	5.6
4 S	2 W	WM	28	SW NW	59	4.2
4 S	2 W	WM	28	SW NW	58	6.2
4 S	2 W	WM	28	SW NW	59	2.3
4 S	2 W	WM	28	SW NW	58	4.7
4 S	2 W	WM	28	SE NW	59	8.0
4 S	2 W	WM	28	SE NW	59	2.7
4 S	2 W	WM	28	SE NW	58	8.7
4 S	2 W	WM	29	SE NE	59	2.1
4 S	2 W	WM	29	SE NE	58	7.2
					Total	63.0

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

10. The proposed modifications would not result in enlargement of the groundwater registration.
11. 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.
12. The proposed modifications would not result in injury to other water rights.

Determination and Proposed Action

The additional point of appropriation and modification in place of use proposed in Groundwater Registration Modification T-13080 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-13080 is approved, the final order will include the following:

1. *The modifications to Registration Application GR-3467 (Certificate of Registration GR-3207) proposed in Groundwater Registration Modification Application T-13080 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-3467 (Certificate of Registration GR-3207) 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 proposed additional point of appropriation (POD 2), together with that diverted at the original point of appropriation (Pump Well #2), shall not exceed the quantity of water lawfully available at the original point of appropriation (Pump Well #2).*
5. *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 **SEP 03 2020**


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

This Revised Preliminary Determination was prepared by Scott Grew. If you have questions about the information in this document, you may reach him at scott.a.grew@oregon.gov or 503-986-0890.

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

September 3, 2020

Applicant

B. DAVIDSON FARMS, LLC
c/o BRUCE AND SHANNON DAVIDSON
549 TURNBERRY AVE
WOODBURN, OR 97101

SUBJECT: Water Right Transfer Application T-13080

Please find enclosed the REVISED Preliminary Determination indicating that, based on the information available, the Department intends to approve application T-13080. 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 contact me at scott.a.grew@oregon.gov or 503-986-0890 if I may be of assistance.

Sincerely,

Scott Grew

Transfer Specialist

cc: T-13080
Joel M. Plahn, District 16 Watermaster (*via e-mail*)
Aspen Rural Land Consulting, Agent for the applicant (*via e-mail*)

encs