



# Oregon

Kate Brown, Governor

**Water Resources Department**

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Salem, OR 97301

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September 29, 2021

C AND E BRENTANO FAMILY LP  
5009 DAVIDSON ROAD NE  
SAINT PAUL, OR 97137

Please find enclosed the Preliminary Determination indicating that, based on the information available, the Department intends to approve application T-12858. 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 Department's notice *or* 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 by email at [arla.l.davis@oregon.gov](mailto:arla.l.davis@oregon.gov)

Sincerely,

for Arla L Davis

Groundwater Registration Modification Specialist  
Transfer and Conservation Section

cc: GR Modification T-12917  
Joel M. Plahn, District 16 Watermaster (*via e-mail*)  
William E. McGill, agent for the applicant (*via e-mail*)

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

In the Matter of Groundwater	)	PRELIMINARY DETERMINATION
Registration Modification Application	)	PROPOSING APPROVAL
T-12858, Marion County	)	OF RECOGNITION OF ADDITIONAL POINTS
	)	OF APPROPRIATION, CHANGE IN 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**

C AND E BRENTANO FAMILY LP  
5009 DAVIDSON ROAD NE  
SAINT PAUL, OR 97137

**Findings of Fact**

1. On March 1, 2018, C AND E BRENTANO FAMILY LP, filed a groundwater registration modification application for additional points of appropriation, a change in point of appropriation and to modify the place of use under Registration Application GR-1377 (Certificate of Registration GR-1334). The Department assigned the application number T-12858.
2. On March 15, 2018, the agent for the applicant contacted the Department regarding an error in the application submitted to the Department.
3. On March 21, 2018, the agent for the applicant submitted amended application pages and maps addressing a mapping error.
4. On November 14, 1966, Registration Application GR-1377 (Certificate of Registration GR-1334) was assigned from T. M. VAN DYKE to EDWARD T. BRENTANO.
5. On March 5, 2018, Registration Application GR-1377 (Certificate of Registration GR-1334) was partially assigned by proof of ownership from THEODORE M. VAN DYKE to C&E BRENTANO FAMILY LIMITED PARTNERSHIP.

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.

6. On March 27, 2018, Registration Application GR-1377 (Certificate of Registration GR-1334) was partially assigned from CAROL M. BRENTANO (authorized to sign for EDWARD T. BRENTANO, deceased) to RD FARMS INC.
7. Notice of the application for groundwater registration modification was published on March 6, 2018, pursuant to OAR 690-382-0600. No comments were filed in response to the notice.
8. On June 29, 2021, the Department sent a copy of the draft Preliminary Determination proposing to approve Groundwater Registration Modification Application T-12858 to the applicant. The draft Preliminary Determination cover letter set forth a deadline of August 1, 2021, 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.
9. The portion of the groundwater registration to be modified is as follows:

**Registration:** Registration Application GR-1377 (Certificate of Registration GR-1334), in the name of THEODORE M. VAN DYKE (*assigned to EDWARD T. BRENTANO*) and partially assigned to (C&E BRENTANO FAMILY LIMITED PARTNERSHIP AND RD FARMS INC.)

**Use:** IRRIGATION of 29.7 ACRES

**Tentative**

**Priority Date:** FEBRUARY 1955

**Quantity:** 150 GALLONS PER MINUTE (GPM)

**Source:** PUMP WELL #1

**Original Point of Appropriation:**

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
4 S	2 W	WM	29	NW NE	POA 4 - 1010 FEET SOUTH AND 2415 FEET WEST FROM THE NE CORNER OF SECTION 29

**Original Place of Use:**

IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
4 S	2 W	WM	20	SW SE	3.5
4 S	2 W	WM	20	SE SW	5.2
4 S	2 W	WM	29	NW NE	14.0
4 S	2 W	WM	29	NE NW	7.0
Total					29.7

10. Groundwater Registration Modification Application T-12858 proposes to modify the point of appropriation 0.3 to 0.7 mile from the original well to:

Twp	Rng	Mer	Sec	Q-Q	DLC	Measured Distances
4 S	2 W	WM	29	SW NW	94	RD POA 5 - 3450 FEET NORTH AND 470 FEET EAST FROM THE NW CORNER OF DLC 56
4 S	2 W	WM	30	NE SE	80	RD POA 4 - 1565 FEET NORTH AND 400 FEET WEST FROM THE SE CORNER OF SECTION 30
4 S	2 W	WM	32	NW NW	80	RD POA 3 - 425 FEET SOUTH AND 180 FEET EAST FROM THE NW CORNER OF SECTION 32

11. Groundwater Registration Modification Application T-12858 proposes to add additional points of appropriation approximately 0.3 mile from the original well to:

Twp	Rng	Mer	Sec	Q-Q	DLC	Measured Distances
4 S	2 W	WM	20	SW SE	94	APOA 3 - 490 FEET SOUTH AND 2230 FEET WEST FROM THE NW CORNER OF DLC 95

12. Groundwater Registration Modification Application T-12858 proposes to modify the place of use under the ground water registration to:

IRRIGATION						
Twp	Rng	Mer	Sec	Q-Q	Acres	POA
4 S	2 W	WM	29	NE NE	5.0	POA 4 APOA 3
4 S	2 W	WM	29	SE NE	1.9	POA 4 APOA 3
4 S	2 W	WM	29	NW NE	7.8	POA 4 APOA 3
4 S	2 W	WM	29	NE NW	9.94	POA 4 APOA 3
4 S	2 W	WM	29	NE NW	1.06	RD POA 5 RD POA 4 RD POA 3
4 S	2 W	WM	29	SE NW	0.3	POA 4 APOA 3
4 S	2 W	WM	29	SW NE	13.7	POA 4 APOA 3
Total					29.7	

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

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

**Determination and Proposed Action**

The additional points of appropriation, change in point of appropriation and modification in place of use proposed in Groundwater Registration Modification T-12858 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-12858 is approved, the final order will include the following:*

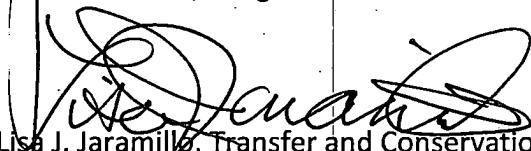
- The modifications to Registration Application GR-1377 (Certificate of Registration GR-1334) proposed in Groundwater Registration Modification Application T-12858 are recognized.*

*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-1377(Certificate of Registration GR-1334) 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 additional point of appropriation (APOA3), together with that diverted at the original point of appropriation (POA 4), shall not exceed the quantity of water lawfully available at the original point of appropriation.*
5. *The quantity of water diverted at the new points of appropriation (POA 3, POA 4, and POA 5) together with that diverted at the original point of appropriation (POA 4), shall not exceed the quantity of water lawfully available at the original point of appropriation.*
6. *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 29 2021**

  
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 any questions about the information in this document you may reach me by email at [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.*

**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.