



Oregon

Tina Kotek, Governor

Water Resources Department

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February 10, 2023

VIA CERTIFIED MAIL AND E-MAIL

Applicant

FULL HARVEST AGRICULTURAL HOLDCO II, LLC
PO BOX 4967
KANSAS CITY, MO 64120

SUBJECT: Water Right Transfer Application T-13418

Please find enclosed the Preliminary Determination indicating that, based on the information available, the Department intends to approve application T-13418. 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 and in the **Scio Tribune** 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.

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 corey.a.courchane@water.oregon.gov or (503) 979-3917, if I may be of assistance.

Sincerely,

Corey Courchane
Transfer and Conservation Section

cc: Groundwater Registration Modification Application T-13418
Gregory J. Wacker, District 16 Watermaster (via e-mail)
William E. McGill, Agent for the applicant (via e-mail)

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

| | | |
|---------------------------------------|---|-----------------------------------|
| In the Matter of Groundwater |) | PRELIMINARY DETERMINATION |
| Registration Modification Application |) | PROPOSING APPROVAL OF RECOGNITION |
| T-13418, Marion County |) | 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.

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Findings of Fact

1. On April 9, 2020, FULL HARVEST AGRICULTURAL HOLDCO II, LLC filed a groundwater registration modification application to modify the point of appropriation under Registration Application GR-1219 (Certificate of Registration GR-1179). The Department assigned the application number T-13418.
2. On June 24, 2020, Registration Application GR-1219 (Certificate of Registration GR-1179) was assigned from WALTER GLASGOW to FULL HARVEST AGRICULTURAL HOLDCO II, LLC.
3. Notice of the application for groundwater registration modification was published on May 12, 2020, 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 1, 2021, the Department mailed a copy of the draft Preliminary Determination proposing to deny Transfer Application T-13418 to the applicant. The Department determined the proposed point of appropriation (POA) identified as South Well, would likely cause an overall increase in interference with the Santiam River. The draft Preliminary Determination cover letter set forth a deadline of November 1, 2021, for the applicant to respond.
5. On October 12, 2021, the applicant contacted the Department. They inquired whether the use could be reduced from the South Well under the applicable groundwater registration, to keep the impact to the Santiam River at its current authorized degree or less. The Department determined the impact to the river could be modeled, to determine what rate would not exceed that impact with the proposed APOA. The applicant intends to convert the acreage to drip irrigation, indicating that they intend to pump less.
6. On August 16, 2022, the Department completed the modeling to determine what pumping rate for the South Well would likely cause similar or lesser depletions of the Santiam River. The Department determined that restricting pumping of the South Well (MARI 65694) to a maximum rate of not to exceed 0.2593 cubic foot per second (116.4 gallons per minute) under T-13418, will likely prevent a substantial increase in depletions of the Santiam River.
7. On August 18, 2022, the applicant responded that the reduced rate for the South Well is acceptable and asked the Department to proceed.
8. On October 20, 2022, the Department mailed a copy of the revised draft Preliminary Determination proposing to approve Groundwater Registration Modification Application T-13418 to the applicant. The revised draft Preliminary Determination cover letter set forth a deadline of November 21, 2022, 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 transfer.
9. The portion of the groundwater registration to be modified is as follows:
 - Registration:** Application GR-1219 (Certificate of Registration GR-1179), in the name of WALTER GLASGOW (*assigned to* FULL HARVEST AGRICULTURAL HOLDCO II, LLC)
 - Use:** IRRIGATION of 8.0 ACRES
 - Tentative**
 - Priority Date:** JUNE 1945
 - Quantity:** 133.3 GALLONS PER MINUTE
 - Source:** PUMP WELL NO. 2

Original Point of Appropriation:

| Twp | Rng | Mer | Sec | Q-Q | Measured Distances |
|------|-----|-----|-----|-------|--|
| 10 S | 3 W | WM | 13 | NW SW | PUMP WELL NO. 2 - 3400 FEET SOUTH AND 900 FEET EAST FROM THE NW CORNER OF SECTION 13 |

Original Place of Use:

| IRRIGATION | | | | | |
|------------|-----|-----|-----|-------|-------|
| Twp | Rng | Mer | Sec | Q-Q | Acres |
| 10 S | 3 W | WM | 13 | NW SW | 8.0 |

10. Groundwater Registration Modification Application T-13418 proposes to modify the location of the original point of appropriation from the original well to:

| Twp | Rng | Mer | Sec | Q-Q | Measured Distances | Approximate distance from original point of appropriation in miles (mi.) |
|------|-----|-----|-----|-------|---|--|
| 10 S | 3 W | WM | 13 | NW SW | NORTH WELL - 1380 FEET NORTH AND 730 FEET EAST FROM THE SW CORNER OF SECTION 13 | 0.1 mi. |
| 10 S | 3 W | WM | 24 | NW NW | SOUTH WELL - 300 FEET SOUTH AND 670 FEET EAST FROM THE NW CORNER OF SECTION 24 | 0.4 mi. |

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

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

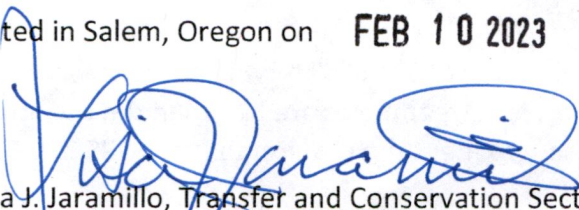
Determination and Proposed Action

The modification in point of appropriation proposed in Groundwater Registration Modification T-13418 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-13418 is approved, the final order will include the following:

- 1. The modification to Registration Application GR-1219 (Certificate of Registration GR-1179) proposed in Groundwater Registration Modification Application T-13418 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-1219 (Certificate of Registration GR-1179) 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 for the 8.0 acres described in Finding of Fact 9, as part of this groundwater certificate of registration.*
- 5. The quantity of water diverted at the new point of appropriation (North Well), shall not exceed the quantity of water lawfully available at the original point of appropriation (Pump Well No. 2).*
- 6. The quantity of water diverted at the new point of appropriation (South Well) is authorized a maximum rate of not to exceed 116.4 gallons per minute (0.2593 cubic foot per second).*

Dated in Salem, Oregon on **FEB 10 2023**



Lisa J. Jaramillo, Transfer and Conservation Section Manager, for
DOUGLAS E. WOODCOCK, ACTING 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 503-979-3917 or corey.a.courchane@water.oregon.gov

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

Notice Regarding Service Members: Active duty service members have a right to stay proceedings under the federal Service Members Civil Relief Act. 50 U.S.C. App. §§501-597b. You may contact the Oregon State Bar or the Oregon Military Department for more information. The toll-free telephone number for the Oregon State Bar is: 1 (800) 452-8260. The toll-free telephone number of the Oregon Military Department is: 1 (800) 452-7500. The Internet address for the United States Armed Forces Legal Assistance Legal Services Locator website is: <http://legalassistance.law.af.mil>