

**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-13937, Umatilla 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.

Applicant

VON DERAHE ORCHARDS LLC
56219 MARRACCI RD
WARREN, OR 97053

Findings of Fact

1. On March 2, 2022, VON DERAHE ORCHARDS LLC filed a groundwater registration modification application to modify the point of appropriation under Registration Application GR-2808 (Certificate of Registration GR-2650). The Department assigned the application number T-13937.
2. On March 22, 1960, Registration Application GR-2808 (Certificate of Registration GR-2650) was assigned from ROBERT R. IRELAND to MARCUS AND ELIZABETH VON DERAHE.
3. On March 8, 2022, Registration Application GR-2808 (Certificate of Registration GR-2650) was assigned from MARCUS AND ELIZABETH VON DERAHE to VON DERAHE ORCHARDS, LLC.

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. Notice of the application for groundwater registration modification was published on March 15, 2022, pursuant to OAR 690-382-0600. No comments were filed in response to the notice.
5. On March 24, 2023, the Department mailed a copy of the draft Preliminary Determination proposing to approve Transfer Application T-13937 to the applicant. The draft Preliminary Determination cover letter set forth a deadline of April 24, 2023, 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.
6. The groundwater registration to be modified is as follows:

Registration: Application GR-2808 (Certificate of Registration GR-2650), in the name of ROBERT R. IRELAND (*assigned to* VON DERAHE ORCHARDS, LLC)

Use: IRRIGATION of 15.0 ACRES

Tentative

Priority Date: 1919

Quantity: 250 GALLONS PER MINUTE

Duty: 36.0 ACRE FEET PER YEAR

Source: PUMP WELL

Original Point of Appropriation:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
6 N	35 E	WM	27	NE SW	1320 FEET NORTH AND 505 FEET WEST FROM THE S1/4 CORNER OF THE SECTION 27

Original Place of Use:

IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
6 N	35 E	WM	27	NE SW	15.0

7. Groundwater Registration Modification Application T-13937 proposes to modify the location of the original point of appropriation approximately 10 feet from the original well to:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
6 N	35 E	WM	27	NE SW	1330 FEET NORTH AND 500 FEET WEST FROM THE S1/4 CORNER OF SECTION 27

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

8. On April 13, 2022, the Department determined since the application does not specify well depth for the replacement well, the replacement well authorized by T-13937 shall be completed into the alluvial aquifer, to ensure water is appropriated from the same source.

9. The proposed modification would not result in enlargement of the groundwater registration.
10. 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.
11. 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-13937 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-13937 is approved, the final order will include the following:

1. *The modification to Registration Application GR-2808 (Certificate of Registration GR-2650) proposed in Groundwater Registration Modification Application T-13937 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-2808 (Certificate of Registration GR-2650) 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, shall not exceed the quantity of water lawfully available at the original point of appropriation.*
6. *The proposed new point of appropriation shall be completed into the alluvial aquifer.*

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 meters or measuring devices in good working order.*
- c. *The water user shall allow the Watermaster access to the meters or measuring devices; provided however, where the meters or measuring devices are located within a private structure, the Watermaster shall request access upon reasonable notice.*

Dated in Salem, Oregon on **MAY 03 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 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

Tina Kotek, Governor

Water Resources Department

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Salem, OR 97301
Phone 503 986-0900
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www.oregon.gov/owrd

May 3, 2023

VIA CERTIFIED MAIL AND E-MAIL

Applicant

VON DERAHE ORCHARDS LLC
56219 MARRACCI RD
WARREN, OR 97053

SUBJECT: Groundwater Registration Modification T-13937

Please find enclosed the Preliminary Determination indicating that, based on the information available, the Department intends to approve application T-13937. 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, 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,

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

Corey Courchane
Allocation of Conserved Water
Transfer and Conservation Section

cc: GR Modification application file T-13937
Luke Martin, District 23 Watermaster (*via e-mail*)

encs