

**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-13191, Marion County)	OF AN ADDITIONAL 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

JOEL (JOE) SCHUMACHER
38838 SHELBURNE DR
SCIO, OR 97374

Findings of Fact

1. On May 23, 2019, Joel (Joe) Schumacher filed a groundwater registration modification application for an additional point of appropriation under Registration Application GR-2353 (Certificate of Registration GR 2235). The Department assigned the application number T-13191
2. On July 25, 2017, Registration Application GR-2353 (Certificate of Registration GR-2235) was partially assigned to Hilda Schumacher and Tom Schumacher, Trustees of Dorothy C. Schumacher Revocable Living Trust.
3. On August 23, 2019, Registration Application GR-2353 (Certificate of Registration GR-2235) was affirmed by the Department as having been assigned to Hilda Schumacher and Joel (Joe) R. Schumacher for 50% and Dorothy L. Schumacher Trust dated October 25, 2000.

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 June 4, 2019, pursuant to OAR 690-382-0600. No comments were filed in response to the notice.
5. On June 14, 2021, the Department sent a copy of the draft Preliminary Determination proposing to approve Groundwater Registration Modification Application T-13191 to the applicant. The draft Preliminary Determination cover letter set forth a deadline of July 15, 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 and amended the application.
6. The portion of the groundwater registration to be modified is as follows:

Registration: Application GR-2353 (Certificate of Registration GR-2235), in the name of Hilda Schumacher; as modified by Special Order Volume 109 Page 988

Use: IRRIGATION of 29.3 Acres

Tentative

Priority Date: 1952

Quantity: 51.6 GALLONS PER MINUTE

Source: A WELL in the MILL CREEK BASIN

Original Point of Appropriation:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
8 S	1 W	WM	35	SW NW	1325 FEET NORTH AND 2474 FEET EAST FROM THE N1/4 CORNER OF SECTION 35

Original Place of Use:

Twp	Rng	Mer	Sec	Q-Q	Acres
8 S	1 W	WM	35	NE NW	12.8
8 S	1 W	WM	35	SE NW	16.5
Total					29.3

7. Groundwater Registration Modification Application T-13191 proposes an additional point of appropriation approximately 0.5 mile northeast from the original well to:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
8 S	1 W	WM	35	NE NW	RICHES WELL- 0.5 CHAINS SOUTH AND 2.5 CHAINS WEST FROM THE S1/4 CORNER OF SECTION 26

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

8. The proposed modification would not result in enlargement of the groundwater registration.

9. 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.
10. The proposed modification would not result in injury to other water rights.

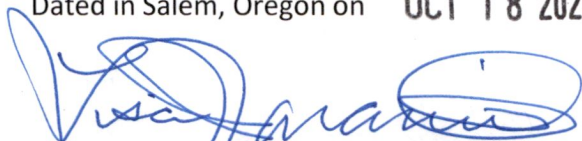
Determination and Proposed Action

The additional point of appropriation proposed in Groundwater Registration Modification T-13191 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-13191 is approved, the final order will include the following:

1. *The modification to Registration Application GR-2353 (Certificate of Registration GR-2235) proposed in Groundwater Registration Modification Application T-13191 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-2353 (Certificate of Registration GR-2235) 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, together with that diverted at the original point of appropriation, shall not exceed the quantity of water lawfully available at the original point of appropriation.*

Dated in Salem, Oregon on **OCT 18 2024**



Lisa J. Jaramillo, Transfer and Conservation Section Manager, for
IVAN GALL, DIRECTOR
Oregon Water Resources Department

This Preliminary Determination was prepared by Joan Smith. If you have questions about the information in this document, you may reach me at 503-986-0892 or Joan.M.Smith@water.oregon.gov

Protests

Under the provisions of ORS 540.520(6) & (7) and OAR 690-382-0900, within 30 days after the last date of publication of the newspaper notice or the Department's weekly notice as prescribed by OAR 690-382-0800, whichever is later, any person may file, jointly or severally, a protest expressing opposition of approval of the groundwater registration application and disagreement with this Preliminary Determination or a standing statement in support of this Preliminary Determination. Protests and standing statements must be received by the Water Resources Department within 30 days after the last date of publication of the newspaper notice or the Department's weekly notice as prescribed by OAR 690-382-0900, whichever is later.

Protests must be in writing and received in hard copy form with the appropriate statutory protest filing fee; protests cannot be filed by electronic mail. [OAR 690-002-0025(3) and 690-382-0900]. and include the following:

- The person's name, address, and telephone number;
- All reasonably ascertainable issues and all reasonably available arguments supporting the person's position by the close of the protest period. Failure to raise a reasonably ascertainable issue in a protest or failure to provide sufficient specificity to afford the Department an opportunity to respond to the issue may preclude consideration of the issue during the hearing;
- If you are the applicant, a protest fee of \$480 required by ORS 536.050; and
- If you are not the applicant, a protest fee of \$950 required by ORS 536.050 and proof of service of the protest upon the applicant.

Requests for Standing

Under the provisions of OAR 690-382-0900(5), the Department shall provide to persons who have filed standing statements as defined under OAR 690-382-0100(8) notice of any differences between the Department's Preliminary Determination and the Final Order, notice of a hearing on the application under OAR 137-003-0535, and an opportunity to request limited party status or party status in the hearing.

Requests for standing must be received in the Water Resources Department no later than 30 days after the last date of publication of the newspaper notice or the Department's weekly notice as prescribed by OAR 690-382-0900, whichever is later. Requests for standing must be in writing, and must include the following:

- The requester's name, mailing address and telephone number;

- If the requester is representing a group, association or other organization, the name, address and telephone number of the represented group;
- A statement that the requester supports the preliminary determination as issued.

After the protest period has ended, the Director will either issue a Final Order or schedule a contested case hearing. The contested case hearing will be scheduled only if a protest has been filed under OAR 690-382-0900. In accordance with OAR 690-382-1100, notice and conduct of the hearing shall:

- Be under the applicable provisions of ORS 183.310 to 183.550, pertaining to contested cases, and the hearing shall be held in the area where the rights are located unless all parties stipulate otherwise; and
- If a protest has asserted that a water right to be transferred has been forfeited through non-use, include the notice and procedures described in OAR 690-017-0500 to 690-017-0900.

If you do not request a hearing within 30 days after the close of the protest period, or if you withdraw a request for a hearing, notify the Department or the administrative law judge that you will not appear, or fail to appear at a scheduled hearing, the Director may issue a final order by default. If the Director issues a Final Order by default, the Department designates the relevant portions of its files on this matter, including all materials that you have submitted relating to this matter, as the record for purpose of proving a *prima facie* case upon default.

You may be represented by an attorney at the hearing. Legal aid organizations may be able to assist a party with limited financial resources. Generally, partnerships, corporations, associations, governmental subdivisions, or public or private organizations are represented by an attorney. However, consistent with OAR 690-002-0020 and OAR 690-137-0555, an agency representative may represent partnerships, corporations, associations, governmental subdivisions or public, or private organizations if the Department determines that appearance of a person by an authorized representative will not hinder the orderly and timely development of the record in this case.

Notice Regarding Servicemembers: Active-duty servicemembers have a right to stay proceedings under the federal Servicemembers Civil Relief Act. 50 U.S.C. App. §§501-597b. For more information contact the Oregon State Bar at 800-452-8260, the Oregon Military Department at 971-355-4127, or the nearest United States Armed Forces Legal Assistance Office through <http://legalassistance.law.af.mil>.

If you have questions about how to file a protest or if you have previously filed a protest and you want to know the status, please contact Will Davidson at 503-507-2749.

If you have questions about the Department or any of its programs, please contact our Water Resources Customer Service Group at 503-986-0900.

Address any correspondence to: Oregon Water Resources Department, Transfer and Conservation Section, 725 Summer Street NE, Suite A, Salem OR 97301-1266



Oregon

Tina Kotek, Governor

Water Resources Department

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October 18, 2024

JOE SCHUMACHER
38838 SHELBURNE DR
SCIO, OR 97374

VIA CERTIFIED MAIL AND E-MAIL

SUBJECT: Groundwater Registration Modification T-13191

Please find enclosed the Preliminary Determination indicating that, based on the information available, the Department intends to approve application T-13191. 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 Statesman Journal 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, 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 at Please don't hesitate to contact me at 503-986-0896 or Joan.M.Smith@water.oregon.gov if I may be of assistance.

Sincerely,

Joan Smith
Groundwater Registration Modification Specialist
Transfers and Conservation Section

cc: GR Modification application file T-13191
Gregory J. Wacker, District 16 Watermaster (*via e-mail*)
Eric Urstadt, Agent for the applicant (*via e-mail*)

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