

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

In the Matter of Groundwater	)	PRELIMINARY DETERMINATION PROPOSING
Registration Modification Application	)	APPROVAL OF RECOGNITION OF AN
T-13712, Yamhill County	)	ADDITIONAL POINT OF APPROPRIATION, A
	)	CORRECTION 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**

RANDAL AEBI  
PO BOX 762  
MCMINNVILLE, OR 97128

**Findings of Fact**

1. On May 13, 2021, Randal Aebi filed a Groundwater Registration Modification Application to correct the point of appropriation, for an additional point of appropriation, and to modify the place of use under Groundwater Registration GR-1424 (Certificate of Registration GR-1378). The Department assigned the application number T-13712.
2. Notice of the application for groundwater registration modification was published on June 1, 2021, pursuant to OAR 690-382-0600. No comments were filed in response to the notice.
3. On June 3, 2021, Groundwater Registration GR-1424 (Certificate of Registration GR-1378) was partially assigned by proof of ownership from Matt Van Laanen to Randal Aebi.

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 the newspaper notice or the Department's weekly notice as prescribed by OAR 690-380-4020, whichever is later, of this preliminary determination.
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4. A portion of Groundwater Registration GR-1424 (Certificate of Registration GR-1378) remains in the name of Matt Van Laanen. This is the 1.5 acres on tax lot 501, as shown on the Groundwater Registration Modification Application map. Groundwater Registration Modification T-13712 appears to propose to correct the location of the existing point of appropriation (Well 1) and add an additional point of appropriation (Well 2) for the entirety of Groundwater Registration GR-1424. Since Matt Van Laanen is not part of this Groundwater Registration Modification Application T-13712, the portion of Groundwater Registration GR-1424 on tax lot 501 and held by Matt Van Laanen cannot be considered for correction and modification.
5. On March 21, 2024, the Department sent a copy of the draft Preliminary Determination proposing to deny Groundwater Registration Modification Application T-13712 to the applicant. The draft Preliminary Determination cover letter set forth a deadline of April 21, 2024, for the applicant to respond and explained how the applicant could resolve the deficiencies identified on the map, which resulted in the proposed denial of Groundwater Registration Modification Application T-13712.
6. On March 22, 2024, the applicant provided an amended map satisfying the deficiencies with the original application map and allowing Groundwater Registration Modification Application T-13712 to be approved, pursuant to OAR 690-380-401098).
7. On April 8, 2024, the applicant provided the necessary information to demonstrate that the applicant is authorized to pursue the Groundwater Registration Modification. The applicant requested that the Department proceed with issuance of a Preliminary Determination.
8. The portion of the groundwater registration that may be modified is as follows:

**Registration:** GR-1424 (Certificate of Registration GR-1378), in the name of Matt Van Laanen (partially assigned to Randal Aebi)

**Use:** Irrigation of 10.5 acres and Domestic

**Season of Use:** April to October for Irrigation

**Tentative**

**Priority Date:** March 26, 1951

**Quantity:** 87.5 Gallons Per Minute (GPM) for Irrigation Use

**Source:** PUMP WELL

**Original Point of Appropriation:**

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
4 S	4 W	WM	10	NE NE	WELL 1: 110 FEET SOUTH AND 100 FEET WEST FROM THE NE CORNER OF SECTION 10

**Original Place of Use:**

IRRIGATION AND DOMESTIC					
Twp	Rng	Mer	Sec	Q-Q	Acres
4 S	4 W	WM	3	SE SE	10.5

9. Groundwater Registration GR-1424 identifies that water was used continuously for domestic use; at the time the Groundwater Registration was filed with the Department. Domestic Use is generally presumed to be a year-round use. No specific quantity of water is identified as being associated with the Domestic Use portion of the Groundwater Registration.
10. The Groundwater Registration Modification applicant has identified that the original point of appropriation was mapped incorrectly at the time the Groundwater Registration GR-1424 was filed with the Department. The applicant asserts that the location of the original point of appropriation is located as follows:

Twsp	Rng	Mer	Sec	Q-Q	Measured Distances	Appx distance from original POA
4 S	4 W	WM	3	SE SE	WELL 1: 215 FEET NORTH AND 270 FEET WEST FROM THE NE CORNER OF SECTION 10	370 FEET NW

11. Groundwater Registration Modification Application T-13712 proposes an additional point of appropriation with approximate distances from the original point of appropriation and the corrected location for the original point of appropriation as follows:

Twsp	Rng	Mer	Sec	Q-Q	Measured Distances	Appx distance from original POA and corrected location
4 S	4 W	WM	11	NW NW	WELL 2: 350 FEET SOUTH AND 200 FEET EAST FROM THE NE CORNER OF SECTION 10	370 FEET NW 740 FEET NW

12. Groundwater Registration Modification Application T-13712 also proposes to modify a portion of the place of use under the ground water registration to:

IRRIGATION AND DOMESTIC					
Twsp	Rng	Mer	Sec	Q-Q	Acres
4 S	4 W	WM	2	SW SW	5.6
4 S	4 W	WM	2	SE SW	4.9
Total					10.5

***Review Criteria for Groundwater Registration Modification Applications***

***[OAR 690-382-0100(10), 690-382-0700(2), 690-382-1000(1) and 690-380-2110(2)]***

13. The proposed modifications would not result in a state Scenic Waterway not receiving previously available water during periods in which stream flows are less than the quantities determined by the Department to be necessary to meet the requirements of ORS 390.835.
14. The proposed additional point of appropriation develops groundwater from the same aquifer as the authorized point of appropriation, as required by OAR 690-380-2110(2).
15. The proposed modifications would not result in enlargement of the registration.
16. The proposed modifications would not result in injury to other water rights.
17. All other application requirements are met

### Determination and Proposed Action

The correction in point of appropriation, additional point of appropriation, and modification in place of use proposed in Groundwater Registration Modification T-13712 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 the Groundwater Registration Modification Application T-13712 is approved, the final order will include the following:*

- 1. The modifications to Groundwater Registration GR-1424 (Certificate of Registration GR-1378) proposed in Groundwater Registration Modification Application T-13712 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 Groundwater Registration GR-1424 (Certificate of Registration GR-1378) and any related decree.*
- 3. Approval of this Groundwater Registration Modification application does not constitute nor grant legal access onto or through another person's property for purposes of accessing the additional point of appropriation and/or the new place of use.*
- 4. Water shall be acquired from the same aquifer (water source) as the original point of appropriation.*
- 5. The combined quantity of water diverted at the proposed additional point of appropriation (Well 2), together with that diverted at the original point of appropriation (Well 1), shall not exceed the quantity of water lawfully available at the original point of appropriation (Well 1).*
- 6. The former place of use of the modified portion of the groundwater registration shall no longer receive water as part of the groundwater certificate of registration.*

Dated in Salem, Oregon on **JAN 21 2025**

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

This Preliminary Determination was prepared by Arla L Davis. If you have questions about the information in this document, you may reach me at 503-979-3129 or [arla.l.davis@water.oregon.gov](mailto:arla.l.davis@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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Phone 503 986-0900  
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[www.oregon.gov/owrd](http://www.oregon.gov/owrd)

January 21, 2025

### VIA CERTIFIED MAIL AND E-MAIL

RANDAL AEBI  
5305 NE POVERTY BEND RD  
MCMINNVILLE, OR 97128

SUBJECT: Water Right Transfer Application T-13712

Please find enclosed the Preliminary Determination indicating that, based on the information available, the Department intends to approve application T-13712. 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.

Please contact me at [arla.l.davis@water.oregon.gov](mailto:arla.l.davis@water.oregon.gov) or 503-979-3129 if I may be of assistance.

Sincerely,

*Arla Davis*

Arla Davis  
Transfer Specialist  
Transfer and Conservation Section

cc: Transfer Application file T-13712  
Joel Plahn, District 22 Watermaster (*via e-mail*)  
Will McGill, Agent for the applicant (*via e-mail*)

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