

**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-13626, Linn County	)	OF A MODIFICATION 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

CASE FAMILY LLC
33010 DEVER CONNER RD NE
ALBANY, OR 97321

Findings of Fact

1. On April 28, 2023, Case Family LLC filed a groundwater registration modification application to modify the point of appropriation and place of use under Groundwater Registration GR-1703 (Certificate of Registration GR-1652). The Department assigned the application number T-13626.
2. On August 16, 1968, Groundwater Registration GR-1703 (Certificate of Registration GR-1652) was assigned from Anna E. Lyon to Robert L. Brunson.
3. On March 3, 2021, Groundwater Registration GR-1703 (Certificate of Registration GR-1652) was assigned from Robert L. Brunson to Edward R. Perlenfein.
4. The Groundwater Registration Modification Application included consent to transfer and/or water right conveyance agreement Edward R. Perlenfein.

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.

5. Notice of the application for groundwater registration modification was published on March 9, 2021, pursuant to OAR 690-382-0600. No comments were filed in response to the notice.
6. On August 1, 2023, the Department sent a copy of the draft Preliminary Determination to the applicant, proposing to deny Groundwater Registration Modification T-13626. The application is incomplete as the application map does not meet the requirements of OAR 690-382-0400(11). The application map does not show the direction of flow for Crooks Creek. In addition, the application map needs to include the use type, not just the Agriculture/Industrial use, and priority date. The application map should also show existing roads and the delivery system for irrigation. Therefore, all other application requirements are not met. The draft Preliminary Determination cover letter set forth a deadline of August 30, 2023, for the applicant to respond.
7. On August 9, 2023, the applicant's agent submitted an amended map to the Department, satisfying the deficiency and allowing Groundwater Registration Modification T-13626 to be approved.
8. On August 10, 2023, the applicant's agent requested that the Department proceed with issuance of a Preliminary Determination and provided the required report of ownership information.
9. On October 25, 2023, and March 18, 2024, the Department contacted the applicant and the applicant's agent by email regarding deficiencies in the Report of Ownership Information submitted to the Department on August 10, 2023. The deficiencies were outlined as follows:

The Report of Ownership provided to the Department on August 10, 2023, needs to show the following information:

- a. The report of ownership must include a "prepared by" date;
 - b. The report of ownership must be prepared within 3 months of the Draft Preliminary Determination showing current ownership;
 - c. The report of ownership must be prepared within 3 months of the recording of a water right conveyance agreement;
 - d. Draft Preliminary Determination showing current ownership;
 - e. Clarified ownership information and if necessary, affidavits of consent forms for Tax Lots 400 (Duran), 500 (Santoyo), 501 (Glidewell), 600 (Cole), 601 (Helms);
 - f. Portions of the lands proposed for modification under Groundwater GR-1703 (Certificate of Registration GR-1652), are located within roadways identified as being "owned" by the City of Millersburg.
10. On May 14, 2024, the applicant's agent provided an amended Report of Ownership information and notarized consent forms.
 11. On March 27, 2025, the Department met with applicant's agent to clarify information contained in the Report of Ownership information satisfying the deficiencies outlined in the DPD cover letter, allowing T-13697 to be approved.

12. The groundwater registration to be modified is as follows:

Registration: Application GR-1703 (Certificate of Registration GR-1652), in the name of J.H. Lyon (*assigned to Edward R. Perlenfein*)

Use: Irrigation of 3.5 acres

Tentative

Priority Date: 1951

Quantity: 30.0 Gallons per Minute (GPM)

Duty: 10.0 Acre-Feet (AF) annually

Source: Pump Well within the CROOKS CREEK BASIN

Original Point of Appropriation:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
10 S	3 W	WM	16	SW SE	PUMP WELL - 660 FEET NORTH AND 3820 FEET EAST FROM THE SW CORNER OF SECTION 16

Original Place of Use:

IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
10 S	3 W	WM	16	SW SE	3.50

13. The applicant has provided information that better describes the location of the original point of appropriation as follows:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
10 S	3 W	WM	16	SW SE	PUMP WELL - 1120 FEET NORTH AND 3430 FEET EAST FROM THE SW CORNER OF SECTION 16

14. Groundwater Registration Modification Application T-13626 proposes to modify the location of the place of use under the groundwater registration to:

IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
10 S	3 W	WM	8	NW SE	3.50

15. Groundwater Registration Modification Application T-13626 proposes to move the authorized point of appropriation approximately 1.8 miles NW from the original well to:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
10 S	3 W	WM	8	SW NE	WELL 1 - NORTH 61 DEGREES 30 SECONDS WEST 41 CHAINS FROM THE SE CORNER OF THE NE1/4 CORNER OF SECTION 8
10 S	3 W	WM	8	SW NE	WELL 2 - NORTH 75 DEGREES 10 SECONDS WEST 39 CHAINS FROM THE SE CORNER OF THE NE1/4 CORNER OF SECTION 8
10 S	3 W	WM	8	SW NE	WELL 4 - NORTH 68 DEGREES 20 SECONDS WEST 26 CHAINS FROM THE SE CORNER OF THE NE1/4 CORNER OF SECTION 8
10 S	3 W	WM	8	NW SE	WELL 3 - SOUTH 81 DEGREES 5 SECONDS WEST 38.25 CHAINS FROM THE NE CORNER OF THE SE1/4 CORNER OF SECTION 8

***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)]***

16. 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.
17. The proposed points of appropriation develop groundwater from the same aquifer as the authorized points of appropriation, as required by OAR 690-380-2110(2).
18. The proposed modifications would not result in enlargement of the groundwater registration.
19. The proposed modifications to the groundwater registration would not result in injury to other water rights.
20. All other application requirements are met.

Determination and Proposed Action

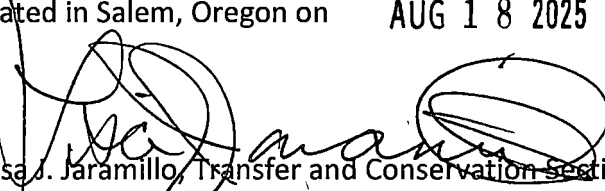
The modification in point of appropriation and modification in place of use proposed in Groundwater Registration Modification T-13626 appear to be consistent with the requirements of ORS 537.610, 537.705, 540.505 to 540.580 and OAR 690-382-1000. If protests are not filed pursuant to OAR 690-382-0900 modification will be approved.

If Groundwater Registration Modification Application T-13626 is approved, the final order will include the following:

1. *The modifications to Groundwater Registration GR-1703 (Certificate of Registration GR-1652) proposed in Groundwater Registration Modification Application T-13626 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-1703 (Certificate of Registration GR-1652) 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 new points of appropriation or the new place of use.*
4. *Water shall be acquired from the same aquifer (water source) as the original point of appropriation.*
5. *Water shall no longer be appropriated from the original point of appropriation as part of this groundwater certificate of registration.*

6. *The quantity of water diverted at the proposed points of appropriation (Wells 1, 2, 3, and 4) shall not exceed the quantity of water lawfully available at the original point of appropriation (pump well).*
7. *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 **AUG 18 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.

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 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 for 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>.

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 503-986-0801.

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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August 18, 2025

VIA CERTIFIED MAIL AND E-MAIL

Applicant

CASE FAMILY LLC
33010 DEVER CONNER RD NE
ALBANY, OR 97321

SUBJECT: Groundwater Registration Modification T-13626

Please find enclosed the Preliminary Determination indicating that, based on the information available, the Department intends to approve application T-13626. 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 Albany Democrat Herald 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 at 503-979-3129 or arla.l.davis@water.oregon.gov if I may be of assistance.

Sincerely,

Arla L Davis

Arla L Davis
Groundwater Registration Modification Specialist
Transfers and Conservation Section

cc: GR Modification application file T-13693, T-13697, and T-13626
Gregory J. Wacker, District 16 Watermaster (*via e-mail*)
Will McGill Surveying LLC, Agent for the applicant (*via e-mail*)

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