

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

In the Matter of Groundwater	)	PROPOSED FINAL ORDER APPROVING
Registration Modification Application	)	RECOGNITION FOR AN ADDITIONAL
T-14491, Polk and Yamhill Counties	)	POINT OF APPROPRIATION AND A
	)	MODIFICATION IN PLACE OF USE AND
	)	PARTIAL CANCELLATION OF A WATER
	)	RIGHT CERTIFICATE

Authority

Oregon Revised Statutes (ORS) 537.610, 537.705 and 540.505 to 540.586 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.

ORS 540.621 establishes the process for the owner of land to which a water right is appurtenant to certify under oath that the water right, or a portion thereof, has been abandoned and to voluntarily request that it be cancelled.

Applicant

TPWC, INC.
C/O PAUL SCHERBAK
207 HIGH POINT DR., BLDG 100
VICTOR, NY 14564

Findings of Fact

1. On July 1, 2024, TPWC, Inc., c/o Paul Scherbak filed a Groundwater Registration Modification application for an additional point of appropriation and to modify the place of use under Registration Application GR-139 (Certificate of Registration GR-129). The Department assigned the application number T-14491.

Under OAR 690-382-0900 and ORS 536.077(1), any person may file a protest of this Proposed Final Order within 45 days after publication of notice of this Proposed Final Order in the Department's weekly notice. Under OAR 690-382-0900 and ORS 536.077(2), if a protest is filed, any person who supports this Proposed Final Order may file a request for party status within 30 days after the deadline for filing a protest. Please refer to the end of this document for further information about filing protests and requests for party status.

2. On January 9, 2013, Registration Application GR-139 (Certificate of Registration GR-129) was assigned from Gust Janzen to LS Vineyards LLC.
3. On March 22, 2022, Registration Application GR-139 (Certificate of Registration GR-129) was assigned from LS Vineyards LLC to TPWC, Inc.
4. Notice of the application for groundwater registration modification was published on July 9, 2024, pursuant to OAR 690-382-0600. No comments were filed in response to the notice.
5. On April 3, 2026, the Department mailed a copy of the Initial Review proposing to deny Groundwater Registration Modification Application T-14491 to the applicant. The applicant is seeking to re-describe the place of use under Registration Application GR-139 (Certificate of Registration GR-129), and additional historical evidence to show GR-139 was described in error was requested. In addition, the Land Use Information Forms for Polk and Yamhill Counties did not indicate land use had been approved, and were not signed, the “FROM” acres proposed for modification in place of use (POU) did not match the “TO” lands, and GR-139 is currently layered with a portion of Certificate 94880 in the name of Palmer Creek Water District Improvement Company (PCWDIC). The Initial Review cover letter set forth a deadline of May 4, 2026, for the applicant to respond.
6. On April 7, 2026, the Department received reports of ownership for tax lots 100, 101, and 102, which are located in Polk County. The Department also received additional details in re-describing the POU under GR-139, as well as a revised application map and Table 2.
7. On June 15, 2026, the Department received an Affidavit for Voluntary Cancellation from PCWDIC, to cancel a portion of Certificate 94880.
8. On July 2, 2026, the Department received signed Land Use Information Forms from Polk and Yamhill Counties, indicating the land uses were allowed outright.
9. On July 6, 2026, upon review of the reports of ownership submitted on April 7, 2026, the Department determined that the reports were incomplete. Tax lot 2100, which is located in Yamhill County, and encompasses the northern portion of the POU, was not included with the reports of ownership. The revised application map also indicated that tax lot 100 was the northern boundary of the property. This is incorrect, as tax lot 2100 is the northern boundary of the property as evidenced by the Yamhill County Assessor’s map. The map included with the Affidavit for Voluntary Cancellation from PCWDIC did not clearly identify 2.8 acres to be cancelled in the SE SE of Section 6, T6S, R3W, WM. The Department requested a complete report of ownership and revised maps.

10. On July 7, 2026, the Department received a report of ownership for tax lot 2100 and revised maps, however, the revised application map did not match the revised Table 2 received on April 7, 2026.
11. On July 9, 2026, the Department received a revised Table 2, matching the revised application map and resolving the deficiencies.
12. The portion of the groundwater registration to be modified is as follows:

Registration: Application GR-139 (Certificate of Registration GR-129), in the name of GUST JANZEN (*assigned to TPWC, INC.*)

Use: IRRIGATION of 11.8 ACRES and DOMESTIC

Tentative

Priority Date: OCTOBER 1952

Quantity: 44.9 GALLONS PER MINUTE

Source: PUMP WELL

Original Point of Appropriation:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
6 S	3 W	WM	6	NE SE	PUMP WELL* - 1100 FEET NORTH AND 280 FEET WEST FROM SE CORNER, SECTION 6

*The Applicant identifies this as POA-1

Original Place of Use:

IRRIGATION AND DOMESTIC					
Twp	Rng	Mer	Sec	Q-Q	Acres
6 S	3 W	WM	6	SE SE	11.8

13. The Applicant has provided a map which describes a more accurate location of the original point of appropriation (POA). The Department's Groundwater Section has also tied this location to the original POA identified as POLK 990:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
6 S	3 W	WM	6	SE SE	POA-1 (POLK 990) - 860 FEET NORTH AND 273 FEET WEST FROM SE CORNER, SECTION 6

14. Groundwater Registration Modification Application T-14491 proposes an additional point of appropriation approximately 329 feet South from the original well to:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
6 S	3 W	WM	6	SE SE	POA-2 - 770 FEET NORTH AND 298 FEET WEST FROM SE CORNER, SECTION 6

15. Groundwater Registration Modification Application T-14491 also proposes to modify the place of use under the ground water registration to:

IRRIGATION AND DOMESTIC					
Twp	Rng	Mer	Sec	Q-Q	Acres
6 S	3 W	WM	6	SW SE	9.9
6 S	3 W	WM	6	SE SE	1.9
Total					11.8

16. The application states, “The Applicant would like to address multiple issues with the map depicting the place of use (POU), the POU as described within the original groundwater registration, and the POU shapefile within the OWRD’s database, which are accounted for in this modification application. The total irrigated acreage is listed as 30 acres, which is considered the actual acreage for the purposes of this application. However, the Groundwater Registration (GR) describes 2 acres as being within the NE-SE quarter-quarter of Section 6. The original POU map also depicts the county line between Polk and Yamhill counties as being the northern boundary of the POU, but draws this line through the NE-SE, NW-SE, NE-SW, and NW-SW quarter-quarters of Section 6. This is a scrivener’s error, as the county line passes through the northern portion of the SE-SE, SW-SE, SE-SW, and SW-SW quarter-quarters of Section 6. This mistake in the placement of the county line resulted in the false description of acreage within the NE-SE quarter-quarter.”
17. Additionally, the application states, “As understood by the Applicant, the northern boundary of GR-139’s POU is accurately defined as the property boundary, which is north of the County line. The application map corrects this scrivener’s error and displays the current place of use as the water has been historically developed.”
18. The applicant asserts there is a “discrepancy between the hand drawn place of use map on the original GR document and the shapefile depicting the place of use in OWRD’s database. Both appear to show a place of use larger than 30 acres (31-32 acres). For this reason, the “from” and “to” lands in the table are not equivalent areas. The proposed place of use is exactly 30 acres.”
19. The Department’s Interactive Mapping Tool does not accurately reflect what is happening on the ground and should not be relied upon for evidence or accurate mapping. The Department’s Water Rights Mapping Tool contains a disclaimer that describes, “Water rights shown on this map are approximate. The information reflected on these pages is derived by interpretations of paper records. Please refer to the actual water rights records for the details of any water right. The Water Resources Department cannot accept any responsibility for errors, omissions, or accuracy of the information.”

20. Additional information received on April 7, 2026, indicates that “when shifted southward slightly to fit completely within the SESE quarter-quarter of Section 6, the POU meets all of the following characteristics of the GR:

- It is 30-acres in area (as described in the GR),
- A small portion (roughly 2 acres) falls north of the county line (as drawn in the GR map),
- The southern end of the POU lines up with the south border of Section 6.

Making this southward shift in the POU also results in the entire POU being within tax lots 0100, 0101, and 0102, with the northern boundary of the POU matching the Applicant’s property boundary. These boundaries also align with field edges of the property in 1956, the year the original claim was made. The Applicant believes that this is the most accurate representation of the POU as intended by the original GR-139.”

21. The Registration Statement for Registration Application GR-139 (Certificate of Registration

GR-129) is the claim of record, not the map. The Department believes the acres as described in the POU table accurately reflects what the original registrant intended to claim for the beneficial use of water, being 2.0 acres in NE SE and 28.0 acres in SE SE of Section 6, Township 6 South, Range 3 West, Willamette Meridian. Based on what is described in the POU table of the Registration Statement, the Department also believes that the hand drawn county line separating Polk and Yamhill counties was improperly located by the registrant, and not the defining boundary of the property.

Review Criteria for Groundwater Registration Modification Applications

[OAR 690-382-0100(10), 690-382-0700(2), 690-382-1000(1), 690-380-2110(2), and 690-380-2200]

22. 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.

23. The proposed point of appropriation develops groundwater from the same aquifer as the authorized point of appropriation, as required by OAR 690-380-2110(2).

24. The proposed modifications would not result in enlargement of the registration.

25. The proposed modifications would not result in injury to other water rights.

26. All other application requirements are met.

Partial Cancellation of a Water Right

27. On June 15, 2026, the Department received an Affidavit of Voluntary for Cancellation of a Water Right Certificate signed by Jon Estes, PCWDIC. The portion of the water right to be cancelled is as follows:

Certificate: 94880 in the name of PALMER CREEK WATER DISTRICT
IMPROVEMENT COMPANY (perfected under Permit S-32243)
Use: PRIMARY IRRIGATION OF 12.7 ACRES AND SUPPLEMENTAL
IRRIGATION OF 26.7 ACRES
Priority Date: APRIL 14, 1967
Rate: 0.49 CUBIC FOOT PER SECOND
Limit/Duty: The amount of water used for irrigation, together with the amount
secured under any other right existing for the same lands, is limited to
a diversion of ONE-EIGHTIETH of one cubic foot per second (or its
equivalent) and 2.5 acre-feet for each acre irrigated during the
irrigation season of each year. The right allowed herein is limited to
any deficiency in the available supply of any prior right existing for the
same land and shall not exceed the limitation allowed herein.
Source: WILLAMETTE RIVER, a tributary of the COLUMBIA RIVER

Authorized Point of Diversion:

Twp	Rng	Mer	Sec	Q-Q	DLC	Measured Distances
6 S	3 W	WM	4	NW SW	58	4700 FEET NORTH AND 1290 FEET EAST FROM SE CORNER, DLC 58

Place of Use to be Cancelled:

PRIMARY IRRIGATION						
Twp	Rng	Mer	Sec	Q-Q	DLC	Acres
6 S	3 W	WM	6	SW SE		9.9
6 S	3 W	WM	6	SE SE	58	2.8
Total						12.7

SUPPLEMENTAL IRRIGATION						
Twp	Rng	Mer	Sec	Q-Q	GLot	Acres
6 S	3 W	WM	6	SE SE	4	26.7

Determination and Proposed Action

The additional point of appropriation and modification in place of use proposed in Groundwater Registration Modification T-14491 appear to be consistent with the requirements of ORS 537.610, 537.705, 540.505 to 540.580 and OAR 690-382-1000 and the abandoned right will be cancelled. If protests are not filed pursuant to OAR 690-382-0900, the modification will be approved and the abandoned right will be cancelled.

If Groundwater Registration Modification Application T-14491 is approved, the final order will include the following:

1. The modifications to Registration Application GR-139 (Certificate of Registration

GR-129) proposed in Groundwater Registration Modification Application T-14491 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. The portion of the right that has been abandoned is cancelled.

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-139 (Certificate of Registration GR-129) 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 point of appropriation or the new place of use.

4. Water right Certificate 94880 is cancelled. A new certificate will be issued describing those portions of the right not affected by this modification and cancellation.

5. Water shall be acquired from the same aquifer (water source) as the original point of appropriation.

6. The combined quantity of water diverted at the proposed additional point of appropriation (POA-2), together with that diverted at the original point of appropriation (Pump Well, aka POA-1), shall not exceed the quantity of water lawfully available at the original point of appropriation (Pump Well, aka POA-1).

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 8/27/2026



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

This Proposed Final Order 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.

Pursuant to ORS 536.077(4) and (5), if no protest of this Proposed Final Order is received by October 16, 2026, and the Department does not withdraw this Proposed Final Order on or before November 18, 2026, this Proposed Final Order is a final order without any further action by the Department on November 18, 2026.

Protests and Requests for Party Status

The following sections explain how to: (1) file a protest in opposition to this Proposed Final Order to request a contested case hearing on this Proposed Final Order; and (2) file a request for party status to request to participate in any contested case proceeding in support of this Proposed Final Order.

Protests: Under the provisions of OAR 690-382-0900 and ORS 536.077(1), any person may protest this Proposed Final Order. Protests may be mailed or hand delivered to the Oregon Water Resources Department at 725 Summer Street NE, Suite A, Salem, OR 97301. If you submit a protest by U.S. mail, please consider mailing early to ensure the Department receives the protest by the deadline. Protests may be emailed to will.d.davidson@water.oregon.gov, but payment of Protest fees cannot be accepted electronically and must be received by the Department by mail or hand delivery prior to the deadline. Protests and protest fees must be received by the Water Resources Department no later than **October 16, 2026**.

Protests must meet the following requirements:

- Be in writing;
- Include the protestant's name, address, telephone number, and email address, if the protestant has an email address;
- Include the name, address, telephone number, and email address of the protestant's attorney, if the protestant is represented by an attorney;
- Include a description of the protestant's interest in the Proposed Final Order, and, if the protestant claims to represent the public interest, a precise statement of the public interest represented;
- Include a detailed description of how the action proposed in the Proposed Final Order would impair or be detrimental to the protestant's interest and/or the claimed public interest;
- Identify which of the Proposed Final Order's recommended findings of fact, conclusions of law or conditions of approval the protestant objects to;
- Raise all reasonably ascertainable issues and include all reasonably available arguments that support the protestant's position;
- Include any citation of legal authority to support the protest, if known;

- Explain how the issues raised in the protest are within the Department's jurisdiction;
- If the protestant is the applicant, include a protest fee of \$720 required by ORS 536.050; and
- If the protestant is not the applicant, include a protest fee of \$1,425 required by ORS 536.050.

Requests for Party Status: Under the provisions of OAR 690-382-0900 and ORS 536.077(2), if this Proposed Final Order is protested, any person who supports this Proposed Final Order may file a request for party status to request to participate in any contested case proceeding on the Proposed Final Order or for judicial review of a final order resulting from the Proposed Final Order. There is no need for the applicant to file a request for party status. The applicant will automatically be a party to any contested case proceeding on this Proposed Final Order. Requests for party status may be mailed or hand delivered to the Oregon Water Resources Department at 725 Summer Street NE, Suite A, Salem, OR 97301. If you submit a request for party status by U.S. mail, please consider mailing early to ensure the Department receives the request by the deadline. Requests for party status may be emailed to will.d.davidson@water.oregon.gov, but payment of request for party status fees cannot be accepted electronically and must be received by the Department by mail or hand delivery prior to the deadline. Requests for party status and request for party status fees must be received by the Water Resources Department no later than **November 16, 2026**.

Requests for party status must be in writing and include the following:

- Names, addresses, and email addresses (if any) of the requestor and any organization the requestor represents;
- Name, address, and email address of the requestor's attorney, if any;
- A statement of whether the request is for participation as a party or a limited party, and, if as a limited party, the precise area or areas in which participation is sought;
- If the requestor seeks to protect a personal interest in the outcome of any contested case hearing on the Proposed Final Order, a detailed statement of the requestor's interest, economic or otherwise, and how such interest may be affected by the results of the hearing;
- If the requestor seeks to represent a public interest in the results of any contested case hearing on the Proposed Final Order, a detailed statement of such public interest, the manner in which such public interest will be affected by the results of the hearing, and the requestor's qualifications to represent such public interest;
- A statement of the reasons why existing parties to the proceeding cannot adequately represent the private and/or public interest(s) the requestor seeks to represent; and

- The request for party status fee of \$1,425 required by ORS 536.077(2)(b)(C) and ORS 536.050.

After the deadline for requests for party status, the Department will provide copies of any timely requests for party status, accept responses to requests for party status, and consider and rule on timely requests for party status as provided in OAR 690-002-0225.

Additional Notices

Notice of requirement to provide updated contact information: Parties must timely provide the Department with updated contact information, including any change of address or primary means of electronic communication. The contact information provided in the protest or request for party status, as applicable, is presumed to be valid for the purposes of service and notification of upcoming referral to the Office of Administrative Hearings unless timely updated by the party. OAR 690-002-0081.

Notice of the circumstances under which this Proposed Final Order will become a final order: If no protest of this Proposed Final Order is timely received and the Department does not withdraw this Proposed Final Order for reconsideration within 33 days after the close of the period for submitting a protest, this Proposed Final Order will become a final order on the date that is 33 days after the close of the period for submitting a protest, with no further action required by the Department. If a protest or protests are timely received, but later: (1) all timely-filed protests are withdrawn and the withdrawals are not based on a settlement agreement requiring changes to this Proposed Final Order; (2) all protestants fail to appear at a scheduled hearing; or (3) all protestants notify the Department or the administrative law judge that the protestants will not appear at a scheduled hearing, the protestants will have waived any right to a hearing, and the Department or the administrative law judge will issue an order dismissing the protests and notifying the parties that this Proposed Final Order has become a final order. OAR 690-002-0235; OAR 137-003-0672. The Department designates the relevant portions of its file on this matter, including all materials that you have submitted relating to this matter, as the record for the purpose of proving a prima facie case upon default. OAR 137-003-0672.

Notice of right to be represented by an attorney: You may be represented by an attorney at any contested case hearing on this Proposed Final Order. 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 137-003-0555, an “authorized representative” as defined at OAR 137-003-0555(1)(b) may represent a partnership, corporation, association, governmental subdivision or public or private organization 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 to active duty servicemembers: 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. For more information contact the Oregon State Bar at 800-452-8260, the Oregon Military Department at 971-355-1427, 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 a request for party status, or if you have previously filed a protest or a request for party status 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

North Mall Office Building

725 Summer St NE, Suite A

Salem, OR 97301

Phone 503 986-0900

Fax 503 986-0904

www.oregon.gov/owrd

August 27, 2026

VIA CERTIFIED MAIL AND E-MAIL

TPWC, INC.
C/O PAUL SCHERBAK
207 HIGH POINT DR., BLDG 100
VICTOR, NY 14564

SUBJECT: Water Right Transfer Application T-14491

Please find enclosed the Proposed Final Order indicating that, based on the information available, the Department intends to approve application T-14491. 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 Proposed Final Order. The notice initiates a period in which any person may file either a protest opposing the decision proposed by the Department in the Proposed Final Order or a request for party status supporting the Department's decision. The protest period will end 30 days after the Department's notice.

The Proposed Final Order will become a Final Order 33 days after the protest period ends without any further action by the Department, as a matter of law, if no protest is filed.

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 Proposed Final Order to present information and arguments supporting their position in a quasi-judicial proceeding.

Please don't hesitate to contact me at , if I may be of assistance.

Sincerely,

Corey Courchane
Allocation of Conserved Water
Transfer and Conservation Section

cc: GR Modification application file T-14491
Joel M. Plahn, District 22 Watermaster (*via e-mail*)
Lynn D. Green, agent for the applicant (*via e-mail*)
Ian Godwin, CWRE CwM-H2O, LLC (*via e-mail*)
Jon Estes, Palmer Creek WDIC, PO Box 152, Dayton, OR 97114

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