

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

In the Matter of Ground Water)	PRELIMINARY DETERMINATION
Registration Modification Applications)	PROPOSING TO APPROVE
T-10367 and T-10368, Marion County)	RECOGNITION OF MODIFICATIONS
)	IN PLACE OF USE

Authority

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 ground water certificate of registration.

OAR Chapter 690, Divisions 382 and 380 implement the statutes and provide the Department's procedures and criteria for evaluating ground water registration modification applications.

Applicant

Melvin Kaufman
11155 Kaufman Road NE
Silverton, OR 97381

Landowners / Receiving Landowners

Alfred & Elaine Kuenzi	Arlene M. Harris Trust
10232 Howell Prairie Road NE	PO Box 391
Salem, OR 97305	Silverton, OR 97381

Findings of Fact

Background

1. On April 11, 2007, Melvin Kaufman filed a ground water registration modification application to modify the place of use under Registration Application GR-638 (Certificate of Registration GR-603) for the 2007 irrigation season. The Department assigned the application number T-10367. The application fee for T-10367 was received by the Department on April 13, 2007.
2. Also on April 11, 2007, Melvin Kaufman filed a second ground water registration modification application to modify the place of use under Registration Application GR-638 (Certificate of Registration GR-603) at the end of the 2007 irrigation season to move back to the original place of use under Registration Application GR-638 (Certificate of Registration GR-603). The Department assigned the application number T-10368. The application fee for T-10368 was received by the Department on April 13, 2007.

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.

3. The ground water registration to be modified is as follows:

Registration: APPLICATION GR-638 (CERTIFICATE of REGISTRATION GR-603), in the name of J. N. ADAMS

Use: IRRIGATION of 37.0 ACRES

Tentative Priority Date: APRIL 1948

Quantity: 265.0 GALLONS PER MINUTE (GPM)

Source: A WELL, in the Pudding River Basin

Original Point of Appropriation:

Twp	Rng	Mer	Sec	¼ ¼	Location
6 S	1 W	WM	7	SE NE	1500 feet South and 1000 feet West from the NE corner of Section 7

Original Place of Use:

IRRIGATION					
Twp	Rng	Mer	Sec	¼ ¼	Acres
6 S	1 W	WM	7	NE NE	6.0
6 S	1 W	WM	7	NW NE	3.0
6 S	1 W	WM	7	SW NE	12.0
6 S	1 W	WM	7	SE NE	16.0
TOTAL:					37.0

4. Application T-10367 proposes to modify the place of use under the ground water registration for the 2007 irrigation season to:

IRRIGATION					
Twp	Rng	Mer	Sec	¼ ¼	Acres
6 S	1 W	WM	7	SW NE	0.6
6 S	1 W	WM	7	NE SE	2.0
6 S	1 W	WM	7	NW SE	21.4
6 S	1 W	WM	7	SW SE	12.5
6 S	1 W	WM	7	SE SE	0.5
TOTAL:					37.0

5. At the end of the 2007 irrigation season, Application T-10368 proposes to modify the place of use under the ground water registration back to:

IRRIGATION					
Twp	Rng	Mer	Sec	¼ ¼	Acres
6 S	1 W	WM	7	NE NE	6.0
6 S	1 W	WM	7	NW NE	3.0
6 S	1 W	WM	7	SW NE	12.0
6 S	1 W	WM	7	SE NE	16.0
TOTAL:					37.0

6. Notice of the applications for ground water registration modification (T-10367 and T-10368) was published on April 17, 2007, pursuant to OAR 690-382-0600. No comments were filed in response to the notice.
7. On May 18, 2007, the Department mailed and faxed a copy of the draft preliminary determination proposing to approve recognition of Ground Water Registration Modification Applications T-10367 and T-10368 to the applicant. The draft preliminary determination set forth a deadline in which the applicant could respond.
8. The applicant verbally responded to the draft preliminary determination for T-10367 and T-10368 on May 18, 2007, and raised issue with a proposed condition requiring installation of an in-line flow meter or other suitable measuring device *prior to* the diversion of any water at the proposed place of use under T-10367.
9. After considering the applicant's comments to the draft preliminary determination, the watermaster agreed that the condition described in Finding #8 should be modified to indicate that the applicant *may be* required in the future to install a flow meter or other suitable measuring device.
10. The applicant indicated that he agreed with the draft preliminary determination, if modified as described in Finding #9 above, and asked the Department to proceed with issuance of the preliminary determination for T-10367 and T-10368.

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

11. The proposed modifications under T-10367 and T-10368, as conditioned, would not result in enlargement of the right.
12. The proposed modifications under T-10367 and T-10368 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.
13. The proposed modifications under T-10367 and T-10368 would not result in injury to other water rights.

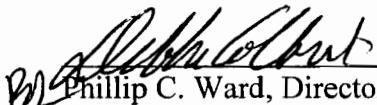
Determination and Proposed Action

The Department's preliminary determination, in accordance with OAR 690-382-0700(2), indicates the modifications in place of use proposed in Applications T-10367 and T-10368, as conditioned, appear to be consistent with the requirements of ORS 537.610, 537.705, 540.505 to 540.580 and OAR 690-382-1000, and will be recognized provided that protests are not filed pursuant to OAR 690-382-0900.

If Ground Water Registration Modification Applications T-10367 and T-10368 are recognized, the final order will include the following:

1. *The modifications to Registration Application GR-638 (Certificate of Registration GR-603) proposed in Applications T-10367 and T-10368 are recognized. Recognition of the modifications shall not be construed as a final determination of the right to appropriate ground water under the registration or modification. Such a determination will occur in an adjudication proceeding under ORS 537.670 to 537.695.*
2. *The right to 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-638 (Certificate of Registration GR-603) and any related decree.*
3. *The original place of use **shall not** be irrigated as part of this ground water certificate of registration during the 2007 irrigation season.*
4. *Any portion of supplemental water right certificate(s) 80481 and 64080 located at the same location as that of the original place of use under Registration Application GR-638 (Certificate of Registration GR-603) **shall not** be exercised during the 2007 irrigation season.*
5. *At the end of the 2007 irrigation season, the modified place of use shall move back to the original place of use under Registration Application GR-638 (Certificate of Registration GR-603).*
6. *When required by the Department, the water user shall install, maintain and operate an in-line flow meter, weir, or other suitable device for measuring and recording the quantity of water diverted. The type and plans of the measuring device must be approved by the Department prior to beginning construction and shall be installed under the general supervision of the Department.*

Dated at Salem, Oregon this 24th day of May 2007.


Phillip C. Ward, Director

This draft Preliminary Determination was prepared by Lisa Jaramillo. If you have any questions about the information in this draft preliminary determination, you may reach me at (503) 986-0880 or Lisa.J.Jaramillo@wrd.state.or.us

Protests should be addressed to the attention of Field Services Division, Water Resources Department, 725 Summer Street NE, Suite A, Salem, OR 97301-1266.