

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

In the Matter of Ground Water	)	PRELIMINARY DETERMINATION
Registration Modification Application	)	PROPOSING TO APPROVE
T-10456, Josephine County	)	RECOGNITION OF A MODIFICATION
	)	IN POINT OF APPROPRIATION

**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.

**Applicants**

PAULA J. AND ANTHONY J. SEPOLPO  
P.O. BOX 284  
WILLIAMS, OREGON 97544

**Receiving Landowner**

DALE RICE  
RICE FAMILY TRUST  
1666 POWELL CREEK ROAD  
WILLIAMS, OREGON 97544

**Findings of Fact**

***Background***

1. On September 11, 2007, Paula J. and Anthony J. Sepolpo filed a ground water registration modification application to modify the point of appropriation for a portion of land under Registration Application GR-200 (Certificate of Registration GR-186). The Department assigned the application number T-10456.
2. Also on September 11, 2007, Registration Application GR-200 (Certificate of Registration GR-186) was partially assigned from Roy F. and Maude J. Lofland to Paula J. and Anthony J. Sepolpo.

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 transfer application and preliminary determination.
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3. The portion of the ground water registration to be modified is as follows:

**Registration:** Application GR-200 (Certificate of Registration GR-186), in the name of ROY F. AND MAUDE J. LOFLAND (*partially assigned to Paula J. and Anthony J. Sepolpo*)

**Use:** IRRIGATION OF 1.5 ACRES

**Tentative Priority Date:** NOVEMBER 2, 1950

**Quantity:** 6.9 GALLONS PER MINUTE (gpm)

**Source:** INFILTRATION TRENCH No. 1, in the WILLIAMS CREEK BASIN

**Original Point of Appropriation:**

Twp	Rng	Mer	Sec	¼ ¼	Survey Coordinates
38 S	5 W	WM	14	SE SE	Infiltration Trench No. 1 – 498 feet West and 498 feet North of the SE corner of Section 14

**Original Place of Use:**

IRRIGATION					
Twp	Rng	Mer	Sec	¼ ¼	Acres
38 S	5 W	WM	23	NE NE	1.5

4. Registration Application GR-200 (Certificate of Registration GR-186) also claimed the use of water from a second infiltration trench (Infiltration Trench No. 2) for the irrigation of lands other than those supplied by Infiltration Trench No. 1. Construction work on Infiltration Trench No. 2 began on November 2, 1950. The ground water registration described the point of appropriation from the second infiltration trench as being 744 feet West and 198 feet South from the SE corner of the NE¼ NE¼ of Section 23 and located within the SE¼ NE¼ of Section 23, Township 38 South, Range 5 West, W.M. The approximate dimensions of Infiltration Trench No. 2 were as follows: 13 feet by 10 feet by 13 feet deep.
5. Some time prior to 1968, the dimensions of Infiltration Trench #2 were altered. The Current Infiltration Trench No. 2 is 270 feet by 50 feet by 10 feet deep and the point of appropriation is described as being 110 feet South and 670 feet West from the NE corner of the SE¼ NE¼ of Section 23, Township 38 South, Range 5 West, W.M.
6. Application T-10456 proposes to modify the point of appropriation under the ground water registration. The proposed new point of appropriation, being Current Infiltration Trench No. 2, is located approximately 0.4 mile south from the original point of appropriation and is described as follows:

Twp	Rng	Mer	Sec	¼ ¼	Tax Lot	Survey Coordinates
38 S	5 W	WM	23	SE NE	104	Current Infiltration Trench No. 2 – 110 feet South and 670 feet West from the NE corner of the SE ¼ NE ¼ of Section 23

7. Notice of the application for ground water registration modification was published on September 18, 2007, pursuant to OAR 690-382-0600. No comments were filed in response to the notice.
8. On October 24, 2007, the Department mailed a copy of the draft Preliminary Determination proposing to approve recognition of Ground Water Registration Modification Application T-10456 to the applicants. The draft Preliminary Determination set forth a deadline of November 23, 2007, for the applicants to respond. The applicants requested that the Department proceed with issuance of a Preliminary Determination and provided the necessary information to demonstrate that the applicants are authorized to pursue the transfer, as described in Finding of Fact No. 9 below.
9. Additional information was received on November 20, 2007, indicating that the subject property was purchased from Paula J. and Anthony J. Sepolpo on August 29, 2007, by Dale and Theora M. Rice; trustees of the Rice Family Trust. The Department also received an affidavit signed by Dale Rice consenting to the proposed ground water registration modification application (T-10456) and evidence documenting that Theora M. Rice passed away on October 15, 2007.

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

10. The proposed modification would not result in enlargement of the ground water registration.
11. 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.
12. The proposed point of appropriation modification could reduce the amount of ground water available to an existing junior water right (Certificate 51526, priority date August 13, 1963) located at the same point as the proposed point of appropriation from Current Infiltration Trench No. 2, resulting in injury to that junior water right, if additional conditions are not placed upon the use. However, as conditioned below, the proposed modification would not result in injury to any water rights.

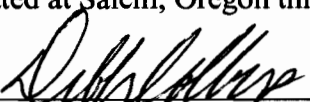
**Determination and Proposed Action**

The modification in point of appropriation proposed in Application T-10456 appears 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 Application T-10456 is recognized, the final order will include the following:*

- 1. The modification in point of appropriation under Registration Application GR-200 (Certificate of Registration GR-186) proposed in Application T-10456 is recognized. Recognition of the modification shall not be construed as a final determination of the right to appropriate ground water 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-200 (Certificate of Registration GR-186) and any related decree.*
- 3. Water shall be acquired from the same aquifer (water source) as the original point of appropriation.*
- 4. Water shall no longer be appropriated from the original point of appropriation as part of this ground water certificate of registration for the portion of land described herein.*
- 5. The quantity of water diverted at the new point of appropriation shall not exceed the quantity of water lawfully available at the original point of appropriation.*
- 6. The modified ground water registration (Registration Application GR-200/Certificate of Registration GR-186) shall be subordinate to a junior water right certificate (Certificate 51526) located at the same point of appropriation from Current Infiltration Trench No. 2.*
- 7. When required by the Department, the water user shall install and maintain an in-line flow meter or other suitable device for measuring and recording the quantity of water appropriated. 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 30<sup>th</sup> day of November 2007.

  
Phillip C. Ward, Director

This Preliminary Determination was prepared by Lisa Jaramillo. If you have any questions about the information in this 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.*