

**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-10959, Marion County)	RECOGNITION OF A MODIFICATION
)	IN POINT OF APPROPRIATION AND
)	A MODIFICATION 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

KRAEMER FARMS
13318 DOMINIC RD NE
MT ANGEL OR 97362

Findings of Fact

Background

1. On October 1, 2009, KRAEMER FARMS filed a ground water registration modification application to modify the point of appropriation *and* place of use under Registration Application GR-243 (Certificate of Registration GR-219). The Department assigned the application number T-10959.
2. On October 1, 2010, Registration Application GR-219 (Certificate of Registration GR-243) was assigned from ERNEST WESTENDORF to GLENN GOSCHIE.
3. The portion of the ground water registration to be modified is as follows:

Registration: Application GR-243 (Certificate of Registration GR-219), in the name of ERNEST WESTENDORF (*assigned to GLENN GOSCHIE*)

Use: IRRIGATION OF 35.0 ACRES

Tentative

Priority Date: FEBRUARY 1950

Quantity: 100 GALLONS PER MINUTE

Duty: ±50 ACRE FEET/ACRE

Source: A WELL within the BOCHSLER CREEK BASIN

Pursuant to OAR 690-382-0900, any person may file a protest or standing statement within 30 days after the last date of publication of notice of this preliminary determination.

Original Point of Appropriation:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
6 S	1 E	WM	6	SW SW	790 FEET NORTH AND 420 FEET EAST FROM THE SW CORNER OF SECTION 6

Original Place of Use:

IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
6 S	1 E	WM	6	SW SW	35.0

4. Ground Water Registration Modification Application T-10959 proposes to modify the location of the original point of appropriation approximately 1.25 miles southeast from the original well to:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
6 S	1 E	WM	7	NE SE	WELL (MARI 5572) - 1540 FEET NORTH AND 110 FEET WEST FROM THE SW CORNER OF SECTION 6

5. Ground Water Registration Modification Application T-10959 proposes to modify the place of use under the ground water registration to:

IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
6 S	1 E	WM	17	SW NE	24.7
6 S	1 E	WM	17	SE NE	9.4
6 S	1 E	WM	17	NE SE	0.6
6 S	1 E	WM	17	NW SE	0.3

6. Notice of the application for ground water registration modification was published on October 20, 2009, pursuant to OAR 690-382-0600. No comments were filed in response to the notice.
7. On March 31, 2010, the Department e-mailed a copy of the draft Preliminary Determination proposing to approve Groundwater Registration Modification Application T-10959 to the applicant’s agent. The draft Preliminary Determination cover letter set forth a deadline of May 3, 2010, for the applicant to respond. The applicant requested that the Department proceed with issuance of a Preliminary Determination and provided the necessary information to demonstrate that the applicant is authorized to pursue the Groundwater Registration Modification.

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

8. There were other water rights existing upon the “from” land, Certificates 83084, 83085, and 76326. Transfer Application 6948 was filed April 6, 1993 to remove all existing rights (Cert. 83084, 83085, and GR-219) off the land. However, at that time there was no legal process to change the place of use of Ground Water Registrations. Transfer Application T-6948 has been delayed until the Ground Water Registration Modification process was initiated. Certificate 76326 confirms a primary irrigation right that was applied for on the

land after T-6948 was filed. Because of the delay in processing of the transfer, Certificate 76326 was not intended to be layered with any existing water right on the “from” land. The Department finds that the proposed modifications would not result in enlargement of the ground water registration.

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

Determination and Proposed Action

The modification in point of appropriation and modification in place of use proposed in Ground Water Registration Modification T-10959 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 application will be recognized.

If Ground Water Registration Modification Application T-10959 is recognized, the final order will include the following:

1. *The modifications to Registration Application GR-243 (Certificate of Registration GR-219) proposed in Ground Water Registration Modification Application T-10959 are recognized. Recognition of the modifications 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-243 (Certificate of Registration GR-219) and any related decree.*
3. *Water shall be acquired from the same aquifer (alluvial) 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.*
5. *The quantity of water diverted at the new shall not exceed the quantity of water lawfully available at the original point of appropriation.*
6. *The former place of use of the modified ground water registration shall no longer receive water as part of the ground water certificate of registration.*
7. *Water use measurement conditions:*
 - a. *Before water use may begin under this order, the water user shall install a totalizing flow meter, or, with prior approval of the Director, another suitable measuring device, at each point of appropriation.*

- b. The water user shall maintain the meter or measuring device in good working order.*
- c. The water user shall allow the Watermaster access to the meter or measuring device; provided however, where the meter or measuring device are located within a private structure, the Watermaster shall request access upon reasonable notice.*

Dated at Salem, Oregon this 21 day of MAY 2010.


Phillip C. Ward, Director

This Preliminary Determination was prepared by Kelly Starnes. If you have questions about the information in this document, you may reach me at 503-986-0886 or Patrick.K.Starnes@wrdd.state.or.us.