

**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-10988, Clackamas County	)	RECOGNITION OF 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**

J. FRANK SCHMIDT AND SON CO.  
ATTN: KEITH WARREN  
PO BOX 189  
BORING, OR 97009

**Findings of Fact**

**Background**

1. On December 14, 2009, J. FRANK SCHMIDT AND SON CO. filed a ground water registration modification application to modify the place of use under Registration Application GR-1490 (Certificate of Registration GR-1440). The Department assigned the application number T-10988.
2. On April 8, 2010, Registration Application GR-1490 (Certificate of Registration GR-1440) was assigned from H. C. Compton to John Sikking. Mr. Sikking also submitted an affidavit consenting to Transfer Application T-10988.
3. The portion of the ground water registration to be modified is as follows:  
**Registration:** Application GR-1490 (Certificate of Registration GR-1440), in the name of H. C. COMPTON (*assigned to John Sikking.*)  
**Use:** IRRIGATION of 2.7 ACRES  
**Tentative  
Priority Date:** APRIL 1939  
**Quantity:** 20 GALLONS PER MINUTE  
**Source:** A WELL within the NORTH FORK DEEP CREEK BASIN

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.
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**Original Point of Appropriation:**

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
2 S	4 E	WM	4	NW NW	300 FEET SOUTH AND 400 FEET EAST FROM THE NW CORNER OF SECTION 4

**Original Place of Use:**

IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
2 S	4 E	WM	4	SW NW	2.7

4. Ground Water Registration Modification Application T-10988 proposes to modify the place of use under the ground water registration to:

IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
2 S	4 E	WM	4	SW NW	2.7

5. Transfer Application T-10988 is being processed concurrently with Transfer Application T-9940, which proposes to move a portion of Certificate 83664 that is layered on the same lands.
6. Notice of the application for ground water registration modification was published on December 29, 2009, pursuant to OAR 690-382-0600. No comments were filed in response to the notice.
7. On April 28, 2010, the Department mailed a copy of the draft Preliminary Determination proposing to approve Transfer Application T-10988 to the applicant. The draft Preliminary Determination set forth a deadline of May 28, 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 transfer.

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

8. The proposed modification would not result in enlargement of the ground water registration.
9. 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.
10. The proposed modification would not result in injury to other water rights.

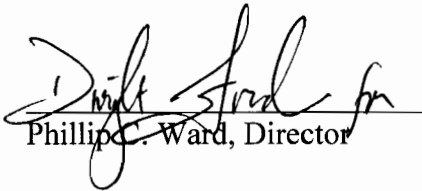
**Determination and Proposed Action**

The modification in character of use proposed in Ground Water Registration Modification T-10988 appears 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, provided T-9940 is approved.

*If Ground Water Registration Modification Application T-10988 is recognized, the final order will include the following:*

- 1. The modification to Registration Application GR-1490 (Certificate of Registration GR-1440) proposed in Ground Water Registration Modification Application T-10988 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-1490 (Certificate of Registration GR-1440) and any related decree.*
- 3. 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.*
- 4. 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 10 day of June 2010.

  
Phillip C. Ward, Director

This Preliminary Determination was prepared by Kara Morris. If you have questions about the information in this document, you may reach me at 503-986-0898 or Kara.B.Morris@wrdd.state.or.us.

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