

BEFORE THE WATER RESOURCES DIRECTOR OF OREGON

Crook County

IN THE MATTER OF GROUND)	
WATER APPLICATION NO.)	Statement, Findings
G-6313 IN THE NAME)	Conclusions
OF PACIFIC POWER AND)	and Order
LIGHT COMPANY)	

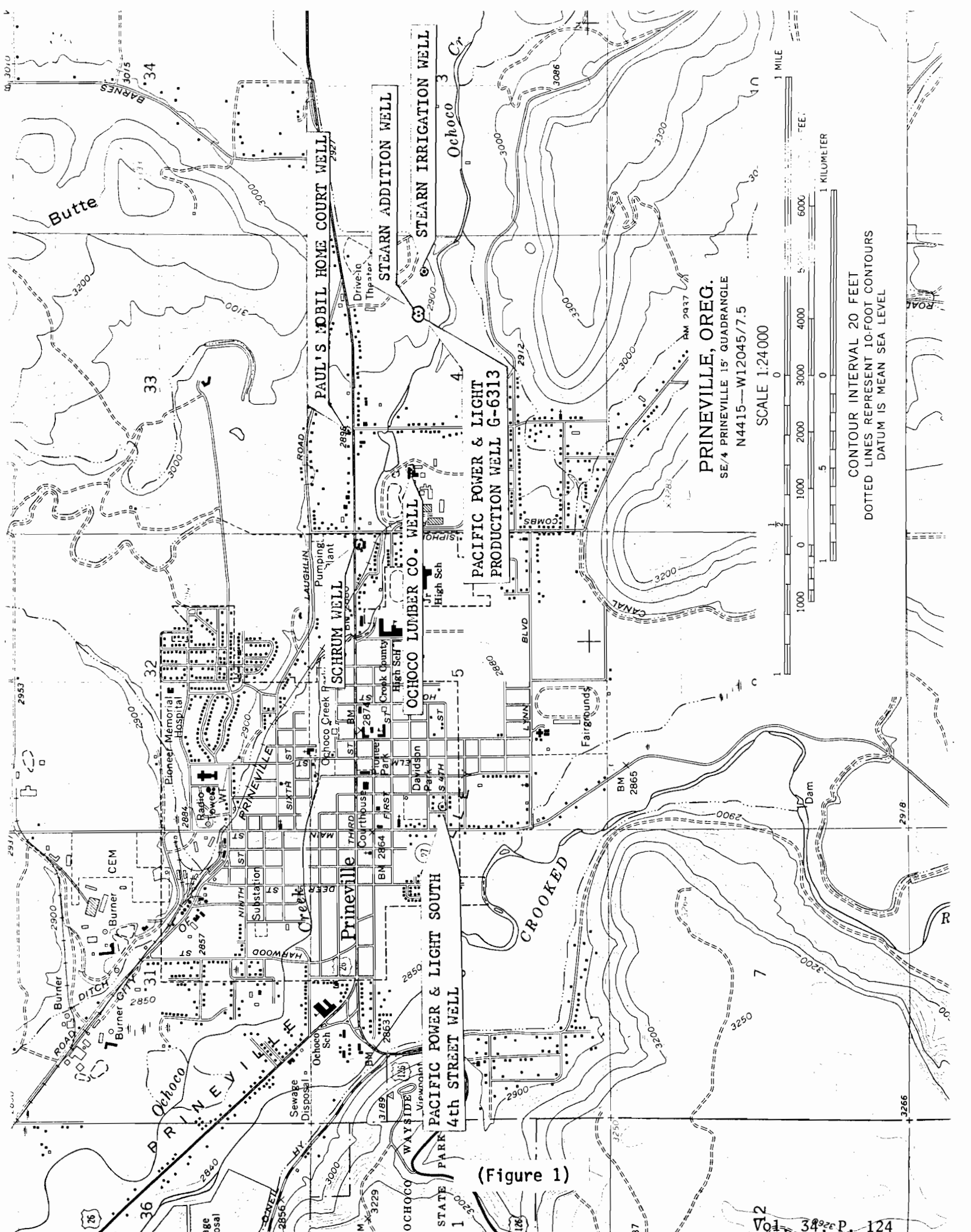
STATEMENT

On October 5, 1973, an application in the name of Pacific Power and Light Company for a permit to appropriate 700 gallons per minute of water from an existing 246 foot deep well "to supply applicant's customers in and near the City of Prineville, Oregon with water for purposes generally referred to as 'municipal uses'" within Sections 31 and 32 of Township 14 South, Range 16 East, W.M.; and Sections 4, 5 and 6 of Township 15 South, Range 16 East, W.M., was filed in the office of the State Engineer (predecessor to the Water Resources Director) and designated as application numbered G-6313.

The said well is located 1810.2 feet south and 1151.5 feet east from the north quarter corner of Section 4, being within the SW $\frac{1}{4}$ NE $\frac{1}{4}$ of Section 4, Township 15 South, Range 16 East, W.M.

On August 22, 1974 a protest was filed in the names of Milton F. Shrum and Wilbur K. Shrum, dba Shrum Brothers Ford-Mercury, against approval of the said application. In the protest it is alleged that the proposed appropriation would cause undue interference with the protestants' well and the wells of other persons using water from the same ground water body which would be the source of supply for the applicant's proposed appropriation.

On August 26, 1974 a protest was filed in the name of Ochoco Lumber Company against approval of the said application. In the protest it is alleged that the proposed appropriation would conflict with the rights of the protestant and cause undue interference with the protestant's well.



(Figure 1)

Pursuant to notice to the parties, dated April 23, 1979, the matter of application numbered G-6313 and the protests against approval of the application was brought to hearing at Prineville, Oregon on May 10, 1979 before James W. Carver, Jr., an employee of the Water Resources Department, authorized to preside in behalf of the Water Resources Director.

The applicant, Pacific Power and Light Company, was represented in the hearing by Richard D. Bach, Attorney at Law, Portland, Oregon. The protestant, Ochoco Lumber Company, was represented in the hearing by Carl M. Dutli, Attorney at Law, Prineville, Oregon. The protestants, formerly Milton F. Shrum and Wilbur K. Shrum, dba Shrum Brothers Ford-Mercury, (now Shrum Ford Sales, Inc.,) was represented in the hearing by J. C. Van Voorhees, Attorney at Law, Prineville, Oregon.

The relative locations of the applicant's and the protestants' wells, and certain other wells in the area, are shown on Figure 1, herein.

FINDINGS OF FACT

The certificate issued to Ochoco Lumber Company and recorded at page 45481, Volume 37, State Record of Water Right Certificates, describes a right, established under the provisions of ground water permit No. G-4986, to appropriate not to exceed 0.45 cubic foot per second of water from the Ochoco Lumber Company's well shown on Figure 1, under a priority date of May 12, 1972, for the purpose of "steam (boiler make up water)" for use in their lumber mill located within the SW $\frac{1}{4}$ NW $\frac{1}{4}$ of Section 4, Township 15 South, Range 16 East, W.M.

The said well was constructed for Ochoco Lumber Company in August 1972, with a borehole diameter of 9 inches to a depth of 185 feet below land surface, and a borehole diameter of 6 inches to the bottom depth of 230 feet below land surface. The well was cased with a 6 inch diameter steel casing from land surface to the bottom. At the time of completion, the well was reported to yield an artesian flow of water at land surface, and had a shut-in artesian pressure of approximately 10 pounds per square inch.

The Shrum Ford Sales, Inc., well, shown on Figure 1, is used to supply the water needs for an automobile sales and repair facility. No water right of record exists for this use. However, pursuant to the provisions of ORS 537.545, such use of ground water in an amount not exceeding 5000 gallons per day is exempt from the provisions of the Ground Water Law pertaining to the filing of an application for, or the issuance of a permit to appropriate the water. ORS 537.545, provides, in part:

"The use of ground water for any such purpose, to the extent that it is beneficial, constitutes a right to appropriate ground water equal to that established by a ground water right certificate issued under ORS 537.700."

The said Shrum Ford Sales, Inc., well was constructed in September and October 1966, with a borehole diameter of 10 inches to a depth of 23 feet below land surface, and a borehole diameter of 6 inches to the bottom depth of 227 feet below land surface. The well was cased with 6 inch diameter steel casing from 3 feet above land surface to the bottom. At the time of completion, the well was reported to yield an artesian flow of water at land surface, and had a shut-in artesian pressure of approximately 10 pounds per square inch.

It is noted that Milton Shrum testified that, although the water well report for the said Shrum well stated an artesian shut-in pressure of 10 p.s.i. when the well was completed in 1966, the pressure gage that was installed when the well was put into service for use by the automobile agency showed a pressure of 18 to 21 p.s.i. Mr. Shrum said, "We could wash cars, flush toilets; we had plenty of water."

The well intended to serve as the means of appropriation of ground water as proposed by the subject pending application numbered G-6313, shown on Figure 1 as "Pacific Power & Light Production Well G-6313", was constructed within the time period beginning on November 6, 1972 and ending on January 23, 1973. The well was constructed with a borehole diameter of 30 inches to a depth of 75 feet below land surface, and a borehole diameter of 24 inches to the bottom depth of 246 feet below

land surface. The well was cased from one foot above land surface to the bottom with 24 inch diameter steel casing, and was equipped with a 12 inch liner for the full depth of the well, providing for the installation of a well screen and gravel pack extending from the depth of 226 feet to 246 feet below land surface. At the time of completion, the well was reported as having a shut-in artesian pressure of 3.5 pounds per square inch. The said well was referred to in the hearing as the applicant's "Stearns No. 2 well".

The source of water developed by the aforesaid wells of the parties and certain other wells in the Prineville area, is contained within an alluvial deposit of silt, sand and gravel materials which underlies the Prineville area at depths of 200 to 230 feet below land surface and varies in thickness, being approximately 22 feet thick at the site of the applicant's Stearns No. 2 well. The water filled strata, or aquifer, receives water from alluvial materials exposed at land surface north and east of Prineville, and slopes downward to greater depths below land surface as it extends toward the south and west, under the City of Prineville.

Up until the time the said Stearns No. 2 well was completed and ready for use, the Ochoco Lumber Company was able to obtain adequate quantities of water from their well for use under their water right by means of a shallow well pump, and the Shrums' automobile sales and service facility was able to obtain adequate quantities of water from their well by means of the natural artesian flow.

In April of 1974, when the said Stearns No. 2 well was being tested for yield, the Shrum well ceased to flow at land surface and the water level in the Ochoco Lumber Company well dropped to a point where the shallow well pump could not continue to pump water out of the well. Shortly thereafter, Shrum Ford Sales, Inc., installed a

pump in their well capable of pumping water from a depth of "a hundred and some feet", and Ochoco Lumber Company installed a deep well pump in their well capable of pumping water from a depth of approximately 160 feet. Since installation of their pumps, both have continued to obtain adequate quantities of water from their wells to meet their respective needs.

In August of 1974, employees of the State Engineer carried out a pumping test on the applicant's Stearns No. 2 well and monitored the water levels in all of the wells shown on Figure 1, except for the "Paul's Mobile Home Court Well", during the pumping and recovery cycles of the test. The pumping test confirmed that the aforesaid wells of the parties, and certain other wells, are hydraulically connected, developing water from the same artesian aquifer, and can be expected to interact, one with another, when pumped.

The data obtained by the pumping test, together with periodic water level measurement data, do not establish any trend to a continued dewatering of the subject aquifer. The characteristics of the aquifer, as determined from the test data, indicate that the applicant's proposed appropriation would not be expected to deprive the protestants, or other users from the subject aquifer, of water to which they are entitled.

ORS 537.620(3) provides, in part:

"When an application discloses the probability of ... undue interference with existing wells ..., the director may impose conditions or limitations in the permit to prevent the same or reject the same after hearing, or, in his discretion, initiate a proceeding for the determination of a critical ground water area under ORS 537.730 to 537.740."

ORS 537.620(4) provides, in part:

"... No application shall be approved when the same will deprive those having prior rights of appropriation for a beneficial use of the amount of water to which they are lawfully entitled."

A ground water appropriator, acting under the provisions of ORS Chapter 537, obtains the right to develop the yield of the ground water body, subject to prior rights of others, as necessary to his beneficial use, not exceeding the average annual natural

recharge of the ground water body. The appropriator does not obtain the right to enjoy any specific pumping depth.

A careful evaluation of the evidence adduced does not indicate that the appropriation of ground water from the applicant's Stearns No. 2 well, as proposed by pending application numbered G-6313, would result in undue interference with the protestants' wells or the wells of others.

CONCLUSIONS

Approval of the pending ground water application numbered G-6313, subject to prior rights and subject to possible subsequent reduction of the permissible rate of appropriation should the sustained operation of the applicant's well result in a dewatering of the aquifer to the extent that the protestants are unable to continue to develop adequate quantities of water from their wells to meet their aforesaid respective needs, would not deprive the protestants of the water to which they are lawfully entitled. Therefore, the pending application numbered G-6313 should be approved.

ORDER

NOW, THEREFORE, it hereby is ORDERED that ground water application numbered G-6313 in the name of Pacific Power and Light Company, as described above, be approved.

Dated at Salem, Oregon this 18th day of December 1980.


James E. Sexson
Director

NOTE: You are entitled to judicial review of this Order. Judicial review may be obtained by filing a petition for review within 60 days from the service of this Order. Judicial review is pursuant to the provisions of ORS Chapter 183.