BEFORE THE WATER RESOURCES DEPARTMENT
OF THE
STATE OF OREGON

In the Matter of Groundwater Registration Modification Application T-13145, Clackamas County	))))	FINAL ORDER APPROVING RECOGNITION OF ADDITIONAL POINTS OF APPROPRIATION AND A MODIFICATION IN PLACE OF USE

Authority

Oregon Revised Statutes (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 groundwater certificate of registration.

Oregon Administrative Rules (OAR) Chapter 690, Divisions 382 and 380 implement the statutes and provide the Department's procedures and criteria for evaluating groundwater registration modification applications.

Applicant

CITY OF MILWAUKIE
10722 SE MAIN STREET
MILWAUKIE, OR 97222

Findings of Fact

1. On March 11, 2019, CITY OF MILWAUKIE filed a groundwater registration modification application for additional points of appropriation and to modify the place of use under Registration Application GR-1480 (Certificate of Registration GR-1429). The Department assigned the application number T-13145.

2. Notice of the application for groundwater registration modification was published on March 19, 2019, pursuant to OAR 690-382-0600. No comments were filed in response to the notice.

This final order is subject to judicial review by the Court of Appeals under ORS 183.482. Any petition for judicial review must be filed within the 60-day time period specified by ORS 183.482(1). Pursuant to ORS 536.075 and OAR 137-003-0675, you may petition for judicial review or petition the Director for reconsideration of this order. A petition for reconsideration may be granted or denied by the Director, and if no action is taken within 60 days following the date the petition was filed, the petition shall be deemed denied.

3. On January 23, 2020, the Department mailed a copy of the draft Preliminary Determination proposing to approve Transfer Application T-13145 to the applicant. The draft Preliminary Determination cover letter set forth a deadline of February 24, 2020, for the applicant to respond. The applicant requested that the Department proceed with issuance of a Preliminary Determination.

4. On March 12, 2020, the Department issued a Preliminary Determination proposing to approve Transfer T-13145 and mailed a copy to the applicant. Additionally, notice of the Preliminary Determination for the transfer application was published on the Department's weekly notice on March 17, 2020, pursuant to ORS 540.520 and OAR 690-380-4020. No protests were filed in response to the notice.

5. The groundwater registration to be modified is as follows:

Registration: Application GR-1480 (Certificate of Registration GR-1429), in the name of CITY OF MILWAUKIE
Use: DOMESTIC, MUNICIPAL, INDUSTRIAL
Tentative Priority Date: 1946
Quantity: 380 GALLONS PER MINUTE and 606 ACRE FEET PER YEAR
Source: PUMP WELL #3

Original Point of Appropriation:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
1 S	1 E	WM	25	NE SE	PUMP WELL #3 - 1630 FEET NORTH AND 600 FEET WEST FROM THE SE CORNER OF SECTION 25

Original Place of Use:

DOMESTIC, MUNICIPAL, INDUSTRIAL				
Twp	Rng	Mer	Sec	Q-Q
1 S	1 E	WM	25	SW NW
1 S	1 E	WM	25	NE SW
1 S	1 E	WM	25	NW SW
1 S	1 E	WM	25	SW SW
1 S	1 E	WM	25	SE SW
1 S	1 E	WM	25	NE SE
1 S	1 E	WM	25	NW SE
1 S	1 E	WM	25	SW SE
1 S	1 E	WM	25	SE SE
1 S	1 E	WM	26	SE NE
1 S	1 E	WM	30	SW SW
1 S	1 E	WM	31	NE NW
1 S	1 E	WM	31	NW NW
1 S	1 E	WM	31	SW NW
1 S	1 E	WM	31	SE NW
1 S	1 E	WM	35	NE NE
1 S	1 E	WM	35	NW NE

Conclusions of Law

The additional points of appropriation and modification in place of use proposed in Groundwater Registration Modification T-13145 are consistent with the requirements of ORS 537.610, 537.705, 540.505 to 540.580 and OAR 690-382-1000.

Now, therefore, it is ORDERED:

1. The modifications to Registration Application GR-1480 (Certificate of Registration GR-1429) proposed in Groundwater Registration Modification Application T-13145 are recognized. Recognition of the modifications shall not be construed as a final determination of the right to appropriate groundwater 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-1480 (Certificate of Registration GR-1429) and any related decree.

3. Water shall be acquired from the same aquifer (water source) as the original point of appropriation.

4. The quantity of water diverted at the new additional points of appropriation (Well 1 and New Well 2), together with that diverted at the original point of appropriation (Well 3), shall not exceed the quantity of water lawfully available at the original point of appropriation (Well 3).

5. 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 (new and existing).

   b. The water user shall maintain the meters or measuring devices in good working order.

   c. The water user shall allow the Watermaster access to the meters or measuring devices; provided however, where the meters or measuring devices are located within a private structure, the Watermaster shall request access upon reasonable notice.

Dated in Salem, Oregon on MAY 14 2020

Lisa J. Jaramillo, Transfer and Conservation Section Manager, for
THOMAS M BYLER, DIRECTOR
Oregon Water Resources Department

Mailing date: MAY 15 2020

DOMESTIC, MUNICIPAL, INDUSTRIAL				
Twp	Rng	Mer	Sec	Q-Q
1 S	1 E	WM	35	SW NE
1 S	1 E	WM	35	SE NE
1 S	1 E	WM	35	SE SE
1 S	1 E	WM	36	NE NE
1 S	1 E	WM	36	NW NE
1 S	1 E	WM	36	SW NE
1 S	1 E	WM	36	SE NE
1 S	1 E	WM	36	NE NW
1 S	1 E	WM	36	NW NW
1 S	1 E	WM	36	SW NW
1 S	1 E	WM	36	SE NW
1 S	1 E	WM	36	SW SW
1 S	1 E	WM	36	NE SE
1 S	1 E	WM	36	NW SE
1 S	1 E	WM	36	SW SE
1 S	1 E	WM	36	SE SE

6. Groundwater Registration Modification Application T-13145 proposes additional points of appropriation as follows:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances	Approximate distance from original point of appropriation in feet (ft.)
1 S	1 E	WM	25	NE SE	WELL 1 - 1670 FEET NORTH AND 470 FEET WEST FROM THE SE CORNER OF SECTION 25	135.7 ft.
1 S	1 E	WM	25	NE SE	NEW WELL 2 - 1420 FEET NORTH AND 665 FEET WEST FROM THE SE CORNER OF SECTION 25	220.3 ft.

7. Groundwater Registration Modification Application T-131455 also proposes to modify the place of use under the groundwater registration to:

DOMESTIC, MUNICIPAL, INDUSTRIAL
CITY OF MILWAUKIE WATER SERVICE AREA

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

8. The proposed modifications would not result in enlargement of the groundwater 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.