

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

In the Matter of Ground Water)	FINAL ORDER APPROVING
Registration Modification Application)	RECOGNITION OF MODIFICATIONS
T-10592, Marion County)	IN POINT OF APPROPRIATION AND
)	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

CITY OF KEIZER
PO BOX 21000
KEIZER, OR 97307

Agent

4B ENGINEERING & CONSULTING, LLC
3000 MARKET ST., SUITE 527
SALEM, OR 97301

Findings of Fact

Background

1. On April 8, 2008, the City of Keizer filed a ground water registration modification application to modify the points of appropriation under Registration Application GR-24 (Certificate of Registration GR-20). The Department assigned the application number T-10592.
2. On April 10, 2008, Registration Application GR-24 (Certificate of Registration GR-20) was assigned from Manbrin Gardens, Inc. to the City of Keizer.
3. Notice of the application for ground water registration modification was published on April 29, 2008, 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.

4. On May 28, 2008, the applicant's agent submitted an amended application to also request modification of the place of use under Registration Application GR-24 (Certificate of Registration GR-20).
5. Notice of the *revised* application for ground water registration modification was published on June 3, 2008, pursuant to OAR 690-382-0600. No comments were filed in response to the revised notice.
6. On July 30 and 31, 2008, the applicant's agent revised the proposed place of use listing under Application T-10592 to make it consistent with the application map.
7. The ground water registration to be modified is as follows:

Registration: Application GR-24 (Certificate of Registration GR-20), in the name of Manbrin Gardens, Inc. (*assigned to the City of Keizer*)

Use: Municipal

Tentative Priority Dates: January 23, 1947 and April 1953

Quantity: 775.0 gallons per minute (gpm); being 390.0 gpm from the well in Sec. 2, Twp. 7 South, Rng. 3 West, WM, and 385.0 gpm from the well in Sec. 3, Twp. 7 South, R. 3 West, W.M.

Source: Two Pump Wells, in the Willamette River Basin

Original Points of Appropriation:

Twp	Rng	Mer	Sec	¼ ¼
7 S	3 W	WM	2	SW SW
7 S	3 W	WM	3	SW SE

Original Place of Use:

MUNICIPAL USE				
Twp	Rng	Mer	Sec	¼ ¼
7 S	3 W	WM	2	SW SW
7 S	3 W	WM	3	NE SE
7 S	3 W	WM	3	NW SE
7 S	3 W	WM	3	SW SE
7 S	3 W	WM	3	SE SE
7 S	3 W	WM	10	NE NE
7 S	3 W	WM	10	NW NE
7 S	3 W	WM	11	NW NW

8. The Department received information that better describes the location of the original points of appropriation for Registration Application GR-24 (Certificate of Registration GR-20) as follows:

Twp	Rng	Mer	Sec	¼ ¼	Survey Coordinates
7 S	3 W	WM	2	SW SW	Toni Well – 500 feet North and 130 feet East from the SE corner of Section 3, Twp. 7 South, Rng. 3 West, W.M.
7 S	3 W	WM	3	SW SE	Shoreline Well – 1040 feet North and 1770 feet West from the SE corner of Section 3, Twp. 7 South, Rng. 3 West, W.M.

9. Application T-10592 proposes to modify the points of appropriation under the ground water registration. The proposed new point of appropriation, located between approximately 4400 and 5400 feet northeast from the original wells, is located as follows:

Twp	Rng	Mer	Sec	¼ ¼	Survey Coordinates
7 S	3 W	WM	2	NW NW	City Hall Well – 1268 feet South and 2500 feet West from the NE corner of Section 2, Twp. 7 South, Rng. 3 West, W.M.

10. Application T-10592 proposes to modify the place of use under the ground water registration to:

MUNICIPAL USE				
Twp	Rng	Mer	Sec	¼ ¼
6 S	3 W	WM	23	SW NE
6 S	3 W	WM	23	SE NE
6 S	3 W	WM	23	SE NW
6 S	3 W	WM	23	NE SW
6 S	3 W	WM	23	SW SW
6 S	3 W	WM	23	SE SW
6 S	3 W	WM	23	NE SE
6 S	3 W	WM	23	NW SE
6 S	3 W	WM	23	SW SE
6 S	3 W	WM	23	SE SE
6 S	3 W	WM	24	SW NW
6 S	3 W	WM	24	NW SW
6 S	3 W	WM	24	SW SW
6 S	3 W	WM	25	NW NW
6 S	3 W	WM	25	NW SW
6 S	3 W	WM	25	SW SW
6 S	3 W	WM	25	SE SW
6 S	3 W	WM	25	SW SE
6 S	3 W	WM	25	SE SE
6 S	3 W	WM	26	NE NE
6 S	3 W	WM	26	NW NE
6 S	3 W	WM	26	SW NE

MUNICIPAL USE				
Twp	Rng	Mer	Sec	¼ ¼
6 S	3 W	WM	26	SE NE
6 S	3 W	WM	26	NE NW
6 S	3 W	WM	26	NW NW
6 S	3 W	WM	26	SW NW
6 S	3 W	WM	26	SE NW
6 S	3 W	WM	26	NE SW
6 S	3 W	WM	26	NW SW
6 S	3 W	WM	26	SW SW
6 S	3 W	WM	26	SE SW
6 S	3 W	WM	26	NE SE
6 S	3 W	WM	26	NW SE
6 S	3 W	WM	26	SW SE
6 S	3 W	WM	26	SE SE
6 S	3 W	WM	27	SW SW
6 S	3 W	WM	27	SE SW
6 S	3 W	WM	27	SW SE
6 S	3 W	WM	27	SE SE
6 S	3 W	WM	28	SE SE
6 S	3 W	WM	33	NE NE
6 S	3 W	WM	33	SE NE
6 S	3 W	WM	33	NE SE
6 S	3 W	WM	33	SE SE
6 S	3 W	WM	34	NE NE
6 S	3 W	WM	34	NW NE
6 S	3 W	WM	34	SW NE
6 S	3 W	WM	34	SE NE
6 S	3 W	WM	34	NE NW
6 S	3 W	WM	34	NW NW
6 S	3 W	WM	34	SW NW
6 S	3 W	WM	34	SE NW
6 S	3 W	WM	34	NE SW
6 S	3 W	WM	34	NW SW
6 S	3 W	WM	34	SW SW
6 S	3 W	WM	34	SE SW
6 S	3 W	WM	34	NE SE
6 S	3 W	WM	34	NW SE
6 S	3 W	WM	34	SW SE
6 S	3 W	WM	34	SE SE
6 S	3 W	WM	35	NE NE
6 S	3 W	WM	35	NW NE
6 S	3 W	WM	35	SW NE
6 S	3 W	WM	35	SE NE
6 S	3 W	WM	35	NE NW

MUNICIPAL USE				
Twp	Rng	Mer	Sec	¼ ¼
6 S	3 W	WM	35	NW NW
6 S	3 W	WM	35	SW NW
6 S	3 W	WM	35	SE NW
6 S	3 W	WM	35	NE SW
6 S	3 W	WM	35	NW SW
6 S	3 W	WM	35	SW SW
6 S	3 W	WM	35	SE SW
6 S	3 W	WM	35	NE SE
6 S	3 W	WM	35	NW SE
6 S	3 W	WM	35	SW SE
6 S	3 W	WM	35	SE SE
6 S	3 W	WM	36	NE NE
6 S	3 W	WM	36	NW NE
6 S	3 W	WM	36	SW NE
6 S	3 W	WM	36	NE NW
6 S	3 W	WM	36	NW NW
6 S	3 W	WM	36	SW NW
6 S	3 W	WM	36	SE NW
6 S	3 W	WM	36	NE SW
6 S	3 W	WM	36	NW SW
6 S	3 W	WM	36	SW SW
6 S	3 W	WM	36	SE SW
6 S	3 W	WM	36	NW SE
7 S	3 W	WM	1	NE NW
7 S	3 W	WM	1	NW NW
7 S	3 W	WM	1	SW NW
7 S	3 W	WM	1	NW SW
7 S	3 W	WM	1	SW SW
7 S	3 W	WM	2	NE NE
7 S	3 W	WM	2	NW NE
7 S	3 W	WM	2	SW NE
7 S	3 W	WM	2	SE NE
7 S	3 W	WM	2	NE NW
7 S	3 W	WM	2	NW NW
7 S	3 W	WM	2	SW NW
7 S	3 W	WM	2	SE NW
7 S	3 W	WM	2	NE SW
7 S	3 W	WM	2	NW SW
7 S	3 W	WM	2	SW SW
7 S	3 W	WM	2	SE SW
7 S	3 W	WM	2	NE SE
7 S	3 W	WM	2	NW SE
7 S	3 W	WM	2	SW SE

MUNICIPAL USE				
Twp	Rng	Mer	Sec	¼ ¼
7 S	3 W	WM	2	SE SE
7 S	3 W	WM	3	NE NE
7 S	3 W	WM	3	NW NE
7 S	3 W	WM	3	SW NE
7 S	3 W	WM	3	SE NE
7 S	3 W	WM	3	NE NW
7 S	3 W	WM	3	NW NW
7 S	3 W	WM	3	SW NW
7 S	3 W	WM	3	SE NW
7 S	3 W	WM	3	NE SW
7 S	3 W	WM	3	NE SE
7 S	3 W	WM	3	NW SE
7 S	3 W	WM	3	SW SE
7 S	3 W	WM	3	SE SE
7 S	3 W	WM	4	NE NE
7 S	3 W	WM	4	SE NE
7 S	3 W	WM	10	NE NE
7 S	3 W	WM	10	NW NE
7 S	3 W	WM	10	SW NE
7 S	3 W	WM	10	SE NE
7 S	3 W	WM	10	NE SE
7 S	3 W	WM	10	NW SE
7 S	3 W	WM	10	SW SE
7 S	3 W	WM	10	SE SE
7 S	3 W	WM	11	NE NE
7 S	3 W	WM	11	NW NE
7 S	3 W	WM	11	SW NE
7 S	3 W	WM	11	SE NE
7 S	3 W	WM	11	NE NW
7 S	3 W	WM	11	NW NW
7 S	3 W	WM	11	SW NW
7 S	3 W	WM	11	SE NW
7 S	3 W	WM	11	NE SW
7 S	3 W	WM	11	NW SW
7 S	3 W	WM	11	NW SE

11. On August 1, 2008, the Department mailed a copy of the draft Preliminary Determination proposing to approve recognition of Ground Water Registration Modification Application T-10592 to the applicant and their agent. The cover letter that accompanied the draft Preliminary Determination set forth a deadline of September 2, 2008, for the applicant to respond. The applicant requested that the Department proceed with issuance of a Preliminary Determination and has provided the necessary information to demonstrate that the applicant is authorized to pursue the transfer.

12. On August 18, 2008, the Department issued a Preliminary Determination proposing to approve Ground Water Registration Modification Application T-10592 and mailed a copy to the applicant. Additionally, notice of the Preliminary Determination for the application was published on the Department's weekly notice on August 26, 2008, and in the *Keizertimes* newspaper on August 29, September 5 and September 12, 2008, pursuant to ORS 540.520 and OAR 690-380-4020. No protests were filed in response to the notices.

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

13. The proposed modifications, as conditioned, would not result in enlargement of the ground water registration.
14. 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.
15. The proposed modifications would not result in injury to other water rights.

Conclusions of Law

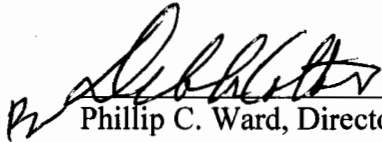
The modifications in point of appropriation and place of use proposed in Application T-10592 are consistent with the requirements of ORS 537.610, 537.705, 540.505 to 540.580 and OAR 690-382-1000.

Now, therefore, it is ORDERED:

1. The modifications to Registration Application GR-24 (Certificate of Registration GR-20) proposed in Application T-10592 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-24 (Certificate of Registration GR-20) and any related decree.
3. Water shall be acquired from the same aquifer (water source) as the original points of appropriation.
4. Water shall no longer be appropriated from the original points of appropriation as part of this ground water certificate of registration.
5. The quantity of water diverted at the new point of appropriation, shall not exceed the quantity of water lawfully available at the original points of appropriation.

6. Prior to diverting water at the new point of appropriation, 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 15th day of October, 2008.


Phillip C. Ward, Director

Mailing date: OCT 20 2008