



Oregon

John A. Kitzhaber, MD, Governor

Water Resources Department

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September 14, 2012

Applicant

RENDA INDUSTRIAL PARK
700 MERLIN ROAD
GRANTS PASS, OR 97526

SUBJECT: Water Right Transfer Applications T-11294

Please find enclosed the Preliminary Determination indicating that, based on the information available, the Department intends to approve application T-11294. This document is an intermediate step in the approval process; water may not be used legally as proposed in the transfer application until a Final Order has been issued by the Department. Please read this entire letter carefully to determine your responsibility for additional action.

A public notice is being published in the Department's weekly publication and in the Daily Courier newspaper, simultaneously with issuance of the Preliminary Determination. The notice initiates a period in which any person may file either a protest opposing the decision proposed by the Department in the Preliminary Determination or a standing statement supporting the Department's decision. The protest period will 30 days after the last date of newspaper publication.

If no protest is filed, the Department will issue a Final Order consistent with the Preliminary Determination. You should receive a copy of the Final Order about 30 days after the close of the protest period.

If a protest is filed, the application may be referred to a contested case proceeding. A contested case provides an opportunity for the proponents and opponents of the decision proposed in the Preliminary Determination to present information and arguments supporting their position in a quasi-judicial proceeding.

Please do not hesitate to contact me at 503-986-0881 or teri.k.hranac@wrд.state.or.us, if I may be of assistance.

Sincerely,

Teri Hranac
Transfer Specialist
Transfer and Conservation Section

Enclosure

cc: T-11294
Kathy A. Smith, District 14 Watermaster (*via e-mail*)
James S. De Smet, Agent for the applicant (*via e-mail at quantumeng@cda.twcbc.com*)



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

In the Matter of Ground Water)	PRELIMINARY DETERMINATION
Registration Modification Application)	PROPOSING APPROVAL OF
T-11294, Josephine County)	RECOGNITION OF ADDITIONAL
)	POINTS OF APPROPRIATION AND
)	MODIFICATION IN PLACE OF USE
)	AND CHARACTER 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

RENDA DATA INDUSTRIAL PARK LLC
700 MERLIN ROAD
GRANTS PASS, OR 97526

Findings of Fact

Background

1. On September 7, 2011, RENDA DATA INDUSTRIAL PARK LLC filed a ground water registration modification application for additional points of appropriation and change in place of use under Registration Application GR-3520 (Certificate of Registration GR-3237). The Department assigned the application number T-11294.
2. On September 19, 2011, Registration Application GR-3520 (Certificate of Registration GR-3237) was assigned from BATE LUMBER COMPANY to RENDA DATA INDUSTRIAL PARK LLC.
3. On August 8, 2012, the applicant amended the ground water registration modification application to change the character of use from industrial to commercial.

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.

4. The ground water registration to be modified is as follows:

Registration: Application GR-3520 (Certificate of Registration GR-3237), in the name of BATE LUMBER COMPANY (*assigned to RENDATA INDUSTRIAL PARK LLC*)

Use: INDUSTRIAL

Tentative

Priority Date: PRIOR TO 1952

Quantity: 30 GALLONS PER MINUTE

Source: WELL 3 within the LOUSE CREEK BASIN

Original Point of Appropriation:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
35 S	6 W	WM	21	SW NE	EAST 2° NORTH 325 FEET FROM CENTER OF SECTION 21

Original Place of Use:

INDUSTRIAL				
Twp	Rng	Mer	Sec	Q-Q
35 S	6 W	WM	21	SW NE
35 S	6 W	WM	21	SE NW

5. The applicant provided further information indicating the location of the authorized point of appropriation is also described as follows:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
35 S	6 W	WM	21	SW NE	JOSE 18106 (WELL LOG NUMBER) - 38 FEET NORTH AND 301 FEET EAST FROM THE CENTER OF SECTION 21

6. Ground Water Registration Modification Application T-11294 proposes additional points of appropriation approximately 1175 feet to the well known as JOSE 18105, 250 feet to the well known as JOSE 18107, 1000 feet to the well known as JOSE 3079, 1400 feet to the well known as JOSE 50369, and 1300 feet to the well known as JOSE 9938, all distances measured from the original well. The proposed additional points of appropriation are located as follows:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
35 S	6 W	WM	21	SW NE	JOSE 18105 - 855 FEET NORTH AND 1070 FEET EAST FROM THE CENTER OF SECTION 21
35 S	6 W	WM	21	SW NE	JOSE 18107 - 234 FEET NORTH AND 176 FEET EAST FROM THE CENTER OF SECTION 21
35 S	6 W	WM	21	SW NE	JOSE 3079 - 736 FEET NORTH AND 980 FEET EAST FROM THE CENTER OF SECTION 21
35 S	6 W	WM	21	SW NE	JOSE 50369 - 1128 FEET NORTH AND 1139 FEET EAST FROM THE CENTER OF SECTION 21
35 S	6 W	WM	21	SE NE	JOSE 9938 - 7 FEET NORTH AND 1589 FEET EAST FROM THE CENTER OF SECTION 21

7. Ground Water Registration Modification Application T-11293 proposes to change the character of use from industrial to commercial.
8. Ground Water Registration Modification Application T-11294 proposes to modify the place of use under the ground water registration to:

COMMERCIAL				
Twp	Rng	Mer	Sec	Q-Q
35 S	6 W	WM	21	NE NE
35 S	6 W	WM	21	NW NE
35 S	6 W	WM	21	SW NE
35 S	6 W	WM	21	SE NE
35 S	6 W	WM	21	NE NW
35 S	6 W	WM	21	SE NW
35 S	6 W	WM	21	NE SE
35 S	6 W	WM	21	NW SE
35 S	6 W	WM	21	NW SE
35 S	6 W	WM	22	SW NW
35 S	6 W	WM	22	NW SW

9. Notice of the application for ground water registration modification was published on September 13, 2011, pursuant to OAR 690-382-0600. No comments were filed in response to the notice.
10. Notice of the amendment for ground water registration modification was published on August 14, 2012, pursuant to OAR 690-382-0600. No comments were filed in response to the notice.
11. On July 18, 2012, the Department mailed a copy of the draft Preliminary Determination proposing to approve Ground Water Registration Modification Application T-11293 to the applicant. The draft Preliminary Determination cover letter set forth a deadline of August 20, 2012, for the applicant to respond. The applicants amended the application to change the character of use, and provided the necessary information to demonstrate that the applicant is authorized to pursue the Groundwater Registration Modification.
12. On August 9, 2012, the Department issued a revised draft Preliminary Determination and sent a copy to the applicant. The applicant requested the Department proceed forward with issuance of the Preliminary Determination.

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

13. The proposed modifications 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 interfere substantially with a hydraulically connected surface water source upon which other water rights rely, resulting in injury to those rights.
16. On February 9, 2012, the applicant submitted an application for an instream transfer (T-11353) to provide mitigation for the increased interference. The applicant amended the instream transfer application on July 16, 2012. The applicant requested the following quantities be permanently transferred instream:

Certificate	Priority	Rate	Season of Use	Use
31332	6/25/1893	0.06 cfs	1/1 to 12/31	Manufacturing
27802	1/7/1957	0.10 cfs	1/1 to 12/31	Maintenance of mill pond

17. The requested instream quantities provide adequate mitigation for the expected interference.
18. Approval of this Ground Water Registration Modification Application is contingent upon approval of Instream Transfer Application T-11353.

Determination and Proposed Action

Contingent upon approval of T-11353, the additional points of appropriation, and modification in place of use and character of use, proposed in Ground Water Registration Modification T-11294 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, and instream transfer T-11353 is approved, the application will be recognized.

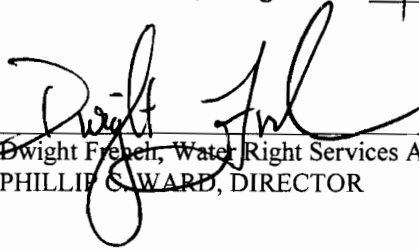
If Ground Water Registration Modification Application T-11294 is recognized, the final order will include the following:

1. *The modifications to Registration Application GR-3520 (Certificate of Registration GR-3237) proposed in Ground Water Registration Modification Application T-11294 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-3520 (Certificate of Registration GR-3537) 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 additional points of appropriation, together with that diverted at the original point of appropriation, shall not exceed the quantity of water lawfully available at the original point of appropriation.*
5. *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.

6. *Approval of this Ground Water Registration Modification Application is contingent upon approval of Instream Transfer Application T-11353.*

Dated at Salem, Oregon this 14 day of September, 2012.


Dwight French, Water Right Services Administrator, for
PHILLIP S. WARD, DIRECTOR

This Preliminary Determination was prepared by Teri Hranac. If you have questions about the information in this document, you may reach me at 503-986-0881 or Teri.K.Hranac@wrд.state.or.us.

Protests should be addressed to the attention of Transfer and Conservation Section, Water Resources Department, 725 Summer St. NE, Suite A, Salem, OR 97301-1266.