



Oregon

John A. Kitzhaber, MD, Governor

Water Resources Department

North Mall Office Building
725 Summer St. NE, Suite A
Salem, OR 97301
Phone 503-986-0900
FAX 503-986-0904
www.wrd.state.or.us

December 27, 2012

VIA E-MAIL

Applicant

PORT OF PORTLAND
PO BOX 3529
PORTLAND, OR 97208

SUBJECT: Ground Water Registration Modification T-11395

Please find enclosed the Preliminary Determination indicating that, based on the information available, the Department intends to approve application T-11395. This document is an intermediate step in the approval process; water may not be used legally as proposed in the ground water registration modification 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 Gresham Outlook 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 end 30 days after the Department's notice or 30 days after the last date of newspaper publication, whichever is later.

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) 986-0890 or Dorothy.I.Pedersen@wrdd.state.or.us if I may be of assistance.

Sincerely,

Dorothy Pedersen
Transfer Program Advisor

cc: GR Modification T-11395
Jon J. Unger, District 20 Watermaster *(via e-mail)*
Ted Ressler, agent for the applicant *(via e-mail)*

enc



**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-11395, Multnomah County	)	RECOGNITION OF MODIFICATIONS
	)	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

PORT OF PORTLAND
PO BOX 3529
PORTLAND, OR 97208

Findings of Fact

Background

1. On April 9, 2012, the Port of Portland filed a ground water registration modification application to modify the place of use and character of use under Registration Application GR-462 (Certificate of Registration GR-445). The Department assigned the application number T-11395.
2. On October 26, 2012, the applicant submitted evidence of Land Use Planning approval.
3. On November 1, 2012, the applicant submitted a revised map and description of the points of appropriation.
4. The ground water registration to be modified is as follows:

Registration: Application GR-462 (Certificate of Registration GR-445), in the name of Reynolds Metals Company (*assigned to PORT OF PORTLAND*)

Use: Industrial and manufacturing uses

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.
--

Tentative**Priority Date:** See below, listed for each well separately**Quantity:** 14,240 gallons per minute (31.73 cubic feet per second)**Source:** WELLS 1-15 within the SALMON CREEK BASIN**Original Points of Appropriation:**

Twp	Rng	Mer	Sec	Q-Q	Tentative Priority Date	Measured Distances
1 N	3 E	WM	23	SE NW	FEB. 1942	WELL 1 - NORTH 3709 FEET, WEST 2732 FEET FROM THE COMMON CORNER OF SECTIONS 23, 24, 25 AND 26
1 N	3 E	WM	23	SW NE	JAN 1942	WELL 2 - NORTH 3749 FEET, WEST 1950 FEET FROM THE COMMON CORNER OF SECTIONS 23, 24, 25 AND 26
1 N	3 E	WM	23	SW NE	FEB 1942	WELL 3 - NORTH 3674 FEET, WEST 1534 FEET FROM THE COMMON CORNER OF SECTIONS 23, 24, 25 AND 26
1 N	3 E	WM	23	SE NE	JUN 1942	WELL 4 - NORTH 3540 FEET, WEST 967 FEET FROM THE COMMON CORNER OF SECTIONS 23, 24, 25 AND 26
1 N	3 E	WM	23	SE NE	FEB 1943	WELL 5 - NORTH 3740 FEET, WEST 1015 FEET FROM THE COMMON CORNER OF SECTIONS 23, 24, 25 AND 26
1 N	3 E	WM	23	SE NE	DEC 1947	WELL 6 - NORTH 3559 FEET, WEST 1157 FEET FROM THE COMMON CORNER OF SECTIONS 23, 24, 25 AND 26
1 N	3 E	WM	23	SE NE	FEB 1948	WELL 7 - NORTH 3404 FEET, WEST 947 FEET FROM THE COMMON CORNER OF SECTIONS 23, 24, 25 AND 26
1 N	3 E	WM	23	SE NE	MAY 1948	WELL 8 - NORTH 3581 FEET, WEST 804 FEET FROM THE COMMON CORNER OF SECTIONS 23, 24, 25 AND 26
1 N	3 E	WM	23	SW NE	MAY 1949	WELL 9 - NORTH 3459 FEET, WEST 1744 FEET FROM THE COMMON CORNER OF SECTIONS 23, 24, 25 AND 26
1 N	3 E	WM	23	SW NE	JUL 1949	WELL 10 - NORTH 3198 FEET, WEST 1754 FEET FROM THE COMMON CORNER OF SECTIONS 23, 24, 25 AND 26
1 N	3 E	WM	23	SW NE	JUL 1949	WELL 11 - NORTH 3246 FEET, WEST 1474 FEET FROM THE COMMON CORNER OF SECTIONS 23, 24, 25 AND 26
1 N	3 E	WM	23	SW NE	JUL 1949	WELL 12 - NORTH 2944 FEET, WEST 1719 FEET FROM THE COMMON CORNER OF SECTIONS 23, 24, 25 AND 26
1 N	3 E	WM	23	SW NE	AUG 1949	WELL 13 - NORTH 2839 FEET, WEST 1534 FEET FROM THE COMMON CORNER OF SECTIONS 23, 24, 25 AND 26
1 N	3 E	WM	23	SW NE	AUG 1949	WELL 14 - NORTH 2839 FEET, WEST 1334 FEET FROM THE COMMON CORNER OF SECTIONS 23, 24, 25 AND 26
1 N	3 E	WM	23	SE NE	JAN 15 1953	WELL 15 - NORTH 2964 FEET, WEST 654 FEET FROM THE COMMON CORNER OF SECTIONS 23, 24, 25 AND 26

Original Place of Use:

INDUSTRIAL AND MANUFACTURING USES				
Twp	Rng	Mer	Sec	Q-Q
1 N	3 E	WM	23	SW NE
1 N	3 E	WM	23	SE NE
1 N	3 E	WM	23	SE NW

5. Ground Water Registration Modification Application T-11395 proposes to modify the character of use of the ground water registration to municipal use.
6. Ground Water Registration Modification Application T-11395 proposes to modify the place of use of the ground water registration to the Port of Portland Service Area for the Troutdale Reynolds Industrial Park, being within the following quarter-quarters:

MUNICIPAL USE				
Twp	Rng	Mer	Sec	Q-Q
1 N	3 E	WM	14	SE SW
1 N	3 E	WM	14	SW SE
1 N	3 E	WM	14	SE SE
1 N	3 E	WM	22	NE NE
1 N	3 E	WM	22	NW NE
1 N	3 E	WM	22	SW NE
1 N	3 E	WM	22	SE NE
1 N	3 E	WM	22	NE NW
1 N	3 E	WM	22	NW NW
1 N	3 E	WM	22	SW NW
1 N	3 E	WM	22	SE NW
1 N	3 E	WM	22	NE SW
1 N	3 E	WM	22	NW SW
1 N	3 E	WM	22	NE SE
1 N	3 E	WM	22	NW SE
1 N	3 E	WM	22	SW SE
1 N	3 E	WM	22	SE SE
1 N	3 E	WM	23	NE NE
1 N	3 E	WM	23	NW NE
1 N	3 E	WM	23	SW NE
1 N	3 E	WM	23	SE NE
1 N	3 E	WM	23	NE NW
1 N	3 E	WM	23	NW NW
1 N	3 E	WM	23	SW NW
1 N	3 E	WM	23	SE NW
1 N	3 E	WM	23	NE SW
1 N	3 E	WM	23	NW SW
1 N	3 E	WM	23	SW SW
1 N	3 E	WM	23	SE SW
1 N	3 E	WM	23	NE SE
1 N	3 E	WM	23	NW SE
1 N	3 E	WM	23	SW SE
1 N	3 E	WM	23	SE SE
1 N	3 E	WM	24	SW NE
1 N	3 E	WM	24	NW NW

MUNICIPAL USE				
Twp	Rng	Mer	Sec	Q-Q
1 N	3 E	WM	24	SW NW
1 N	3 E	WM	24	SE NW
1 N	3 E	WM	24	NE SW
1 N	3 E	WM	24	NW SW
1 N	3 E	WM	24	SW SW
1 N	3 E	WM	24	SE SW
1 N	3 E	WM	24	NW SE
1 N	3 E	WM	25	NW NW
1 N	3 E	WM	26	NE NE
1 N	3 E	WM	26	NW NE
1 N	3 E	WM	27	NE NE
1 N	3 E	WM	27	NW NE

7. Notice of the application for ground water registration modification was published on April 17, 2012, pursuant to OAR 690-382-0600. No comments were filed in response to the notice.
8. On November 5, 2012, the Department sent a copy of a draft Preliminary Determination proposing to approve Groundwater Registration Modification Application T-11395 to the applicant via e-mail. The draft Preliminary Determination cover letter set forth a deadline of December 6, 2012, for the applicant to respond. On November 13, 2012, the applicant's agent requested that the Department simplify the listing of the proposed place of use to eliminate reference to DLCs and Government Lots within quarter-quarter sections.
9. On November 15, 2012, the Department granted the agent's request and revised the listing of the proposed place of use as stated in this document.
10. On November 15, 2012, the Department sent a copy of the revised draft Preliminary Determination proposing to approve Groundwater Registration Modification Application T-11395 to the applicant. The revised draft Preliminary Determination cover letter set forth a deadline of December 15, 2012, for the applicant to respond. On December 3, 2012, the applicant requested that the Department proceed with issuance of a Preliminary Determination and provided the necessary information to pursue the Groundwater Registration Modification.

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

11. The proposed modifications would not result in enlargement of the ground water registration.
12. The proposed modifications would not result in a state Scenic Waterway not receiving previously available water during periods in which stream flows are less than the quantities determined by the Department to be necessary to meet the requirements of ORS 390.835.
13. The proposed modifications would not result in injury to other water rights.

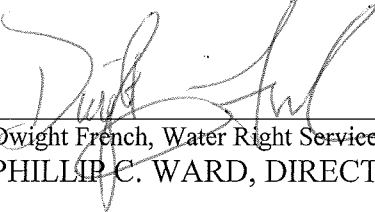
Determination and Proposed Action

The modifications in place of use and character of use proposed in Ground Water Registration Modification T-11395 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 690-380-4030, the modifications will be approved.

If Ground Water Registration Modification T-11395 is approved, the final order will include the following:

- 1. The modifications to Registration Application GR-462 (Certificate of Registration GR-445) proposed in Ground Water Registration Modification Application T-11395 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-462 (Certificate of Registration GR-445) and any related decree.*
- 3. 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.*
 - 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 at Salem, Oregon this 22 day of December, 2012.


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

This Preliminary Determination was prepared by Dorothy Pedersen. If you have questions about the information in this document, you may reach me at 503-986-0890 or Dorothy.I.Pedersen@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.

**Notice of Preliminary Determination for
Groundwater Registration Modification T-11395**

T-11395 filed by the Port of Portland, PO Box 3529, Portland, OR 97208, proposes changes in place of use and use under Registration Application GR-462 (Certificate of Registration GR-445). The registration allows the use of 31.73 cubic feet per second from the Wells 1-15 in Sec. 23, T 1 N, R 3 E, W.M., for industrial and manufacturing uses in Sec. 23. The applicant proposes to change the character of use to municipal, and to change the place of use to the Troutdale Reynolds Industrial Park in Sec. 14, 22, 23 and 24. The Water Resources Department proposes to approve the modification, based on the requirements of ORS Chapter 540 and OAR 690-382-1000.

Any person may file, jointly or severally, a protest or standing statement within 30 days after the last date of newspaper publication of this notice, [DATE OF LAST PUBLICATION]. Call (503) 986-0883 to obtain additional information or a protest form. If no protests are filed, the Department will issue a final order consistent with the preliminary determination.