



Oregon

John A. Kitzhaber, MD, Governor

Water Resources Department

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December 27, 2012

VIA E-MAIL

Applicant

PORT OF PORTLAND
PO BOX 3529
PORTLAND, OR 97208

SUBJECT: Ground Water Registration Modification T-11396

Please find enclosed the Preliminary Determination indicating that, based on the information available, the Department intends to approve application T-11396. 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 if I may be of assistance.

Sincerely,

Dorothy I. Pedersen
Transfer Program Advisor

cc: GR Modification T-11396
Jon J. Unger, District 20 Watermaster (via e-mail)
Ted Ressler, agent for the applicant (via e-mail)

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**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-11396, 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.

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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-1441 (Certificate of Registration GR-1587). The Department assigned the application number T-11396.
2. On November 1, 2012, the applicant submitted a revised map and application Table 2.
3. The portion of the ground water registration to be modified is as follows:

Registration: Application GR-1441 (Certificate of Registration GR-1587), in the name of Fairview Farms, Inc. (*assigned to PORT OF PORTLAND*)

Use: Irrigation of 97.58 acres, domestic and manufacturing uses

Tentative

Priority Date: 1943

Quantity: 384 gallons per minute (0.86 cubic foot per second)

Source: WELL 4 within the SALMON CREEK BASIN

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.

Original Point of Appropriation:

Twp	Rng	Mer	Sec	Q-Q	Well	Tentative Priority Date	Measured Distances
1 N	3 E	WM	23	SW NW	4	1943	2300 FEET NORTH FROM THE COMMON CORNER OF SECTIONS 23, 24, 25 AND 26

Original Place of Use:

IRRIGATION, DOMESTIC AND MANUFACTURING USES						
Twp	Rng	Mer	Sec	Q-Q	Acres	
1 N	3 E	WM	22	NE NE	12.00	
1 N	3 E	WM	22	SE NE	27.00	
1 N	3 E	WM	22	NW SE	0.35	
1 N	3 E	WM	23	NE NW	1.00	
1 N	3 E	WM	23	NW NW	13.80	
1 N	3 E	WM	23	SW NW	37.80	
1 N	3 E	WM	23	SE NW	5.20	
1 N	3 E	WM	23	NE SW	0.43	

4. Application GR-1441 (Certificate of Registration GR-1587) does not contain a complete description of the well location, however information is available from the map prepared by the CWRE for GR Modification Application T-11396, indicating that the well location is better described as follows:

Point of Appropriation:

Twp	Rng	Mer	Sec	Q-Q	Well	Tentative Priority Date	Measured Distances
1 N	3 E	WM	23	SW NW	4	1943	2190 FEET SOUTH AND 475 FEET EAST FROM THE NW CORNER OF SECTION 23

5. Ground Water Registration Modification Application T-11396 proposes to modify the character of use of this portion of the ground water registration to municipal use.
6. Ground Water Registration Modification Application T-11396 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

MUNICIPAL USE				
Twp	Rng	Mer	Sec	Q-Q
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
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-11396 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, and on

November 15, 2012 the agent identified an error in the priority date and additional information relevant to the description of the point of appropriation that should be included in a revised Preliminary Determination.

9. On November 15, 2012, the Department granted the agent's request and revised the listing of the proposed place of use and priority date, and added the better description of the point of appropriation location, 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-11396 to the applicant. The 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.

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 streamflows 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-11396 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-11396 is approved, the final order will include the following:

1. *The modifications to Registration Application GR-1441 (Certificate of Registration GR-1587) proposed in Ground Water Registration Modification Application T-11396 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 remaining portion of Registration Application GR-1441 (Certificate of Registration GR-1587) is unchanged from the original claim.*

3. *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-1441 (Certificate of Registration GR-1587) and any related decree.*
4. *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 the point of appropriation.*
 - b. *The water user shall maintain the meter or measuring device in good working order.*
 - c. *The water user shall allow the Watermaster access to the meter or measuring device; provided however, where the meter or measuring device is located within a private structure, the Watermaster shall request access upon reasonable notice.*

Dated at Salem, Oregon this 27 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@wrdd.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-11396**

T-11396 filed by the Port of Portland, PO Box 3529, Portland, OR 97208, proposes changes in place of use and use under Registration Application GR-1441 (Certificate of Registration GR-1587). The registration allows the use of 1.56 cubic foot per second from Well 4 in Sec. 23, T 1 N, R 3 E, W.M., for irrigation, domestic and manufacturing in Sec. 22 and 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.