

**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-12483, Multnomah County	)	RECOGNITION OF MODIFICATIONS
	)	IN ADDITIONAL POINTS OF
	)	APPROPRIATION AND PLACE OF
	)	USE AND CHARACTER 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 ground water 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 ground water registration modification applications.

Applicant

PORT OF PORTLAND
ATTN: DOROTHY SPERRY
PO BOX 3529
PORTLAND OR 97208

Findings of Fact

1. On September 19, 2016, PORT OF PORTLAND, ATTN: DOROTHY SPERRY, filed a ground water registration modification application to modify the points of appropriation, place of use and character of use under Registration Application GR-1086 (Certificate of Registration GR-1047). The Department assigned the application number T-12483.
2. On May 10, 2016, Registration Application GR-1086 (Certificate of Registration GR-1047) was assigned from Russell Towboat & Moorage Company to Port of Portland.
3. Notice of the application for ground water registration modification was published on September 27, 2016, pursuant to OAR 690-382-0600. No comments were filed in response to the notice.

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.
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4. On September 5, 2017, the Department contacted the applicant's agent in regards to several discrepancies found in the ground water registration modification application.
5. On September 19, 2017, the applicant's agent submitted a revised application and map, clarifying the discrepancies outlined in the September 5, 2017 letter.
6. On September 29, 2017, the Department contacted the applicant's agent in regards to a scrivener's error found in the revised table 1 of the application.
7. On September 29, 2017, the applicant's agent submitted a revised table 1 of the application.
8. On November 6, 2017, the Department mailed a copy of the draft Preliminary Determination proposing to approve Transfer Application T-12483 to the applicant. The draft Preliminary Determination cover letter set forth a deadline of December 6, 2017, for the applicant to respond.
9. On November 17, 2017, the Applicant's agent provided additional information based on AgriMet's crop water use data from the Forest Grove, Oregon AgriMet Weather station and the most consumptive crop use data (apples) for the area. The data and calculations provided demonstrate the need for a higher annual duty based off the maximum quantity that could be beneficially used without waste during the irrigation season.
10. On January 17, 2018, the Department mailed a copy of the revised draft Preliminary Determination proposing to approve Transfer Application T-12483 to the applicant. The draft Preliminary Determination cover letter set forth a deadline of February 16, 2018.
11. On January 18, 2018, the Applicant's agent contacted the Department in regards to the authority of the Department to refer to the Willamette Basin Program for establishing an irrigation season for groundwater registration modifications.
12. On January 29, 2018, the Department addressed the Applicant's agent questions and concluded that because the groundwater registration claim does not identify the irrigation season, the recognition of the change from irrigation use to municipal use under the Ground Water Registration Modifications will be limited to use during the irrigation season.
13. On March 16, 2018, the Department mailed a copy of the revised draft Preliminary Determination proposing to approve Transfer Application T-12483 to the applicant. The revised draft Preliminary Determination cover letter set forth a deadline of April 16, 2018, for the applicant to respond. The applicant requested that the Department proceed with issuance of a Preliminary Determination and provided the necessary information to demonstrate that the applicant is authorized to pursue the.

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

Registration: Application GR-1086 (Certificate of Registration GR-1047), in the name of
RUSSELL TOWBOAT & MOORAGE COMPANY
(assigned to PORT OF PORTLAND)

Use: IRRIGATION OF 60.0 ACRES

Tentative

Priority Date: 1952

Quantity: 400 GALLONS PER MINUTE

Source: A WELL, within the COLUMBIA SLOUGH BASIN

Original Point of Appropriation:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
1 N	1 E	WM	1	SW NW	2150 FEET SOUTH AND 700 FEET EAST FROM THE NW CORNER OF SECTION 1

Original Place of Use:

IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
1 N	1 E	WM	1	SW NW	4.0
1 N	1 E	WM	1	NW SW	32.0
1 N	1 E	WM	1	SW SW	23.0
1 N	1 E	WM	2	SE NE	1.0
Total					60.0

15. The Department reviewed information in the file for Ground Water Registration Application GR-1086 (Certificate of Registration GR-1047) and submitted by the applicant that better describes the location of the original point of appropriation in Finding No. 8, as follows:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
1 N	1 E	WM	1	NW SW	RUSSEL TUGBOAT WELL 1 - 2015 FEET NORTH AND 650 FEET EAST FROM THE SW CORNER OF SECTION 1

16. Ground Water Registration Application GR-1086 does not list a duty of water; however, the limit of the water right is the maximum quantity that could be beneficially used without waste. Based on AgriMet's crop water use data, the most consumptive crop use for the area of this water right is 2.6875 acre feet per acre per year. Utilizing an evaporative loss quantification of 10%, the maximum duty of water to be transferred would be 2.986 acre feet per acre per year (AF). Therefore, to prevent enlargement of this right, the maximum diverted annual volume of water for municipal use under this right should be limited to 179.16 acre feet per year (2.986 AF x 60.0 acres) during the irrigation season.

17. Ground Water Registration Modification Application T-12483 proposes to modify the location of the recognized point of appropriation with additional points of appropriation, located as follows:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances	Distance from original well location measured in miles
1 N	1 E	WM	1	SW SW	RUSSELL TUGBOAT WELL 2 - 1020 FEET NORTH AND 3980 FEET WEST FROM THE SE CORNER OF SECTION 1	0.25
1 N	1 E	WM	12	NE NW	33RD AVE WELL - 900 FEET SOUTH AND 2685 FEET WEST FROM THE NE CORNER OF SECTION 12	3.75
1 N	2 E	WM	7	NE SE	ANG WELL - 1470 FEET NORTH AND 820 FEET WEST FROM THE SE CORNER OF SECTION 7	2.6
1 N	2 E	WM	7	SW SE	AIRTRANS RD WELL - 640 FEET NORTH AND 1880 FEET WEST FROM THE SE CORNER OF SECTION 7	4.14
1 N	2 E	WM	8	SW NE	PDX WELL 2 - 2020 FEET SOUTH AND 2570 FEET WEST FROM THE NE CORNER OF SECTION 8	0.68
1 N	2 E	WM	9	SE SE	AIRPORT WAY WELL - 28 FEET NORTH AND 335 FEET WEST FROM THE SE CORNER OF SECTION 9	2.1
1 N	2 E	WM	16	SW NW	PIC WELL 2 - 1510 FEET SOUTH AND 1210 FEET EAST FROM THE NW CORNER OF SECTION 16	2.0

18. Ground Water Registration Modification Application T-12483 proposes to modify the place of use under the ground water registration:

Municipal Use
Within the service boundaries of the Port of Portland

19. Ground Water Registration Modification Application T-12483 proposed to modify the character of use under the ground water registration to municipal use. The use will be limited to the irrigation season.
20. The total volume of water that may be diverted annually for municipal uses is 179.16 acre-feet (2.986 AF/ac x 60.0 acres) during the irrigation season.

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

21. The proposed modifications, as conditioned, would not result in enlargement of the ground water registration.
22. 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.
23. The proposed modifications, as conditioned, would not result in injury to other water rights.

Determination and Proposed Action

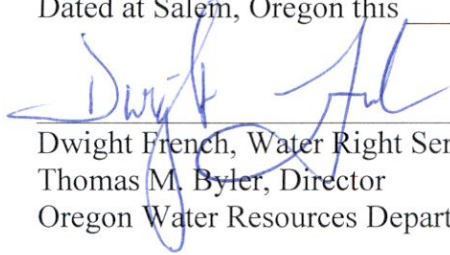
The additional points of appropriation, modification in place of use and character of use proposed in Ground Water Registration Modification Application T-12483 appear to be consistent with the requirements of ORS 537.610, 537.705, 540.505 to 540.580 and OAR 690-382-1000. If protests are not filed pursuant to OAR 690-382-0900, the modification will be approved.

If Ground Water Registration Modification T-12483 is recognized, the final order will include the following:

- 1. The modifications to Registration Application GR-1086 (Certificate of Registration GR-1047) proposed in Ground Water Registration Modification Application T-12483 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-1086 (Certificate of Registration GR-1047) 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. Water shall no longer be appropriated for the former character of use as part of this ground water certificate of registration.*
- 6. The former place of use of the modified ground water registration shall no longer receive water as part of the ground water certificate of registration.*
- 7. 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.*

8. *The use of water under the proposed municipal use shall be limited to a rate of diversion of 400 gallons per minute and further limited to a total quantity of water diverted of 179.16 acre-feet during the irrigation season.*

Dated at Salem, Oregon this JUN 28 2018.



Dwight French, Water Right Services Administrator, for
Thomas M. Byler, Director
Oregon Water Resources Department

This Preliminary Determination was prepared by Jessica Joye. If you have any questions about the information in this document, you may reach me at 503-986-0814 or Jessica.L.Joye@oregon.gov

Protests should be addressed to the attention of Water Rights Services Division, Water Resources Department, 725 Summer St. NE, Suite A, Salem, OR 97301-1266.

Notice Regarding Service Members: Active duty service members have a right to stay proceedings under the federal Service Members Civil Relief Act, 50 U.S.C. App. §§501-597b. You may contact the Oregon State Bar or the Oregon Military Department for more information. The toll-free telephone number for the Oregon State Bar is: 1 (800) 452-8260. The toll-free telephone number of the Oregon Military Department is: 1 (800) 452-7500. The Internet address for the United States Armed Forces Legal Assistance Legal Services Locator website is: <http://legalassistance.law.af.mil>