

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

| | | |
|---------------------------------------|---|-------------------------------|
| In the Matter of Groundwater |) | PRELIMINARY DETERMINATION |
| Registration Modification Application |) | PROPOSING APPROVAL OF |
| T-13144, Wheeler County |) | RECOGNITION OF ADDITIONAL |
| |) | POINTS OF APPROPRIATION AND A |
| |) | MODIFICATION IN PLACE 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 groundwater 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 groundwater registration modification applications.

Applicant

CITY OF MILWAUKIE
10722 SE MAIN STREET
MILWAUKIE, OR 97222

Findings of Fact

1. On March 11, 2019, CITY OF MILWAUKIE filed a groundwater registration modification application for an additional points of appropriation and to modify the place of use under Registration Application GR-1479 (Certificate of Registration GR-1428). The Department assigned the application number T-13144.
2. Notice of the application for groundwater registration modification was published on March 19, 2019, 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.

3. On January 23, 2020, the Department mailed a copy of the draft Preliminary Determination proposing to approve Transfer Application T-13144 to the applicant. The draft Preliminary Determination cover letter set forth a deadline of February 24, 2020, for the applicant to respond. The applicant requested that the Department proceed with issuance of a Preliminary Determination.
4. The groundwater registration to be modified is as follows:

Registration: Application GR-1479 (Certificate of Registration GR-1428), in the name of CITY OF MILWAUKIE

Use: DOMESTIC, MUNICIPAL, INDUSTRIAL

Tentative

Priority Date: 1935

Quantity: 380 GALLONS PER MINUTE and 606 ACRE FEET PER YEAR

Source: PUMP WELL #1

Original Point of Appropriation:

| Twp | Rng | Mer | Sec | Q-Q | Measured Distances |
|-----|-----|-----|-----|-------|---|
| 1 S | 1 E | WM | 25 | NE SE | PUMP WELL #1 - 1630 FEET NORTH AND 600 FEET WEST FROM THE SE CORNER OF SECTION 25 |

Original Place of Use:

| DOMESTIC, MUNICIPAL, INDUSTRIAL | | | | |
|---------------------------------|-----|-----|-----|-------|
| Twp | Rng | Mer | Sec | Q-Q |
| 1 S | 1 E | WM | 25 | SW NW |
| 1 S | 1 E | WM | 25 | NE SW |
| 1 S | 1 E | WM | 25 | NW SW |
| 1 S | 1 E | WM | 25 | SW SW |
| 1 S | 1 E | WM | 25 | SE SW |
| 1 S | 1 E | WM | 25 | NE SE |
| 1 S | 1 E | WM | 25 | NW SE |
| 1 S | 1 E | WM | 25 | SW SE |
| 1 S | 1 E | WM | 25 | SE SE |
| 1 S | 1 E | WM | 26 | SE NE |
| 1 S | 1 E | WM | 30 | SW SW |
| 1 S | 1 E | WM | 31 | NE NW |
| 1 S | 1 E | WM | 31 | NW NW |
| 1 S | 1 E | WM | 31 | SW NW |
| 1 S | 1 E | WM | 31 | SE NW |
| 1 S | 1 E | WM | 35 | NE NE |
| 1 S | 1 E | WM | 35 | NW NE |
| 1 S | 1 E | WM | 35 | SW NE |
| 1 S | 1 E | WM | 35 | SE NE |
| 1 S | 1 E | WM | 35 | SE SE |
| 1 S | 1 E | WM | 36 | NE NE |
| 1 S | 1 E | WM | 36 | NW NE |
| 1 S | 1 E | WM | 36 | SW NE |
| 1 S | 1 E | WM | 36 | SE NE |
| 1 S | 1 E | WM | 36 | NE NW |
| 1 S | 1 E | WM | 36 | NW NW |
| 1 S | 1 E | WM | 36 | SW NW |

| DOMESTIC, MUNICIPAL, INDUSTRIAL | | | | |
|---------------------------------|-----|-----|-----|-------|
| Twp | Rng | Mer | Sec | Q-Q |
| 1 S | 1 E | WM | 36 | SE NW |
| 1 S | 1 E | WM | 36 | SW SW |
| 1 S | 1 E | WM | 36 | NE SE |
| 1 S | 1 E | WM | 36 | NW SE |
| 1 S | 1 E | WM | 36 | SW SE |
| 1 S | 1 E | WM | 36 | SE SE |

5. Groundwater Registration Modification Application T-13144 proposes additional points of appropriation as follows:

| Twp | Rng | Mer | Sec | Q-Q | Measured Distances | Approximate distance from original point of appropriation in feet (ft.) |
|-----|-----|-----|-----|-------|---|---|
| 1 S | 1 E | WM | 25 | NE SE | NEW WELL 2 - 1420 FEET NORTH AND 665 FEET WEST FROM THE SE CORNER OF SECTION 25 | 219.7 ft. |
| 1 S | 1 E | WM | 25 | SE SE | WELL 3 - 1280 FEET NORTH AND 840 FEET WEST FROM THE SE CORNER OF SECTION 25 | 424.0 ft. |

6. Groundwater Registration Modification Application T-13144 proposes to modify the place of use under the ground water registration to:

| |
|--------------------------------------|
| DOMESTIC, MUNICIPAL, INDUSTRIAL |
| CITY OF MILWAUKIE WATER SERVICE AREA |

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

- The proposed modifications would not result in enlargement of the groundwater registration.
- 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.
- The proposed modifications would not result in injury to other water rights.

Determination and Proposed Action

The additional points of appropriation and modification in place of use proposed in Groundwater Registration Modification T-13144 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 Groundwater Registration Modification T-13144 is approved, the final order will include the following:

- 1. The modifications to Registration Application GR-1479 (Certificate of Registration GR-1428) proposed in Groundwater Registration Modification Application T-13144 are recognized. Recognition of the modifications shall not be construed as a final determination of the right to appropriate groundwater 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-1479 (Certificate of Registration GR-1428) 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 new additional points of appropriation (New Well 2 and Well 3), together with that diverted at the original point of appropriation (Well 1), shall not exceed the quantity of water lawfully available at the original point of appropriation (Well 1).*

5. *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.*

Dated in Salem, Oregon on

MAR 11 2020



Lisa J. Jaramillo, Transfer and Conservation Section Manager, for
THOMAS M BYLER, DIRECTOR
Oregon Water Resources Department

This Preliminary Determination was prepared by Corey Courchane. If you have questions about the information in this document, you may reach me at 503-986-0825 or corey.a.courchane@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 servicemembers have a right to stay these proceedings under the federal Servicemembers Civil Relief Act. For more information contact the Oregon State Bar at 800-452-8260, the Oregon Military Department at 503-584-3571, or the nearest United States Armed Forces Legal Assistance Office through <http://legalassistance.law.af.mil>. The Oregon Military Department does not have a toll free number



Oregon
Kate Brown, Governor

Water Resources Department
725 Summer St NE, Suite A
Salem, OR 97301
(503) 986-0900
Fax (503) 986-0904

March 11 , 2020

CITY OF MILWAUKIE
10722 SE MAIN STREET
MILWAUKIE, OR 97222

SUBJECT: Water Right Transfer Application T-13144

Please find enclosed the Preliminary Determination indicating that, based on the information available, the Department intends to approve application T-13144. 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, 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.

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 corey.a.courchane@oregon.gov or (503) 986-0825, if I may be of assistance.

Sincerely,

Corey Courchane
Transfer Specialist
Transfer and Conservation Section

cc: T-13144
Amy J. Landvoigt, District 20 Watermaster (*via e-mail*)
Owen McMurtrey, Agent for the applicant (*via e-mail*)

encs