

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

In the Matter of Groundwater)	PRELIMINARY DETERMINATION
Registration Modification Application)	PROPOSING APPROVAL OF
T-13062, Marion, Polk County)	RECOGNITION OF ADDITIONAL
)	POINTS OF APPROPRIATION, A
)	MODIFICATION IN POINT 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 INDEPENDENCE
PO BOX 7
INDEPENDENCE, OR 97351

Findings of Fact

1. On November 15, 2018, CITY OF INDEPENDENCE filed a groundwater registration modification application for additional points of appropriation, a modification in point of appropriation and a modification in place of use under Registration Application GR-3185 (Certificate of Registration GR-3143). The Department assigned the application number T-13062.
2. On August 28, 1991, Registration Application GR-3185 (Certificate of Registration GR-3143) was assigned from Pacific Power and Light Company to the City of Independence.
3. Notice of the application for groundwater registration modification was published on November 20, 2018, 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.

4. On February 20, 2020 the Department sent a copy of the draft Preliminary Determination proposing to approve Groundwater Registration Modification Application T-13060 to the applicant. The draft Preliminary Determination cover letter set forth a deadline of March 23, 2020, for the applicant to respond. The applicant requested that the Department proceed with issuance of a Preliminary Determination.
5. The groundwater registration to be modified is as follows:

Registration: Application G-3185 (Certificate of Registration GR-3143), in the name of PACIFIC POWER AND LIGHT COMPANY (assigned to the City of Independence)

Use: MUNICIPAL SUPPLY FOR THE CITY OF INDEPENDENCE, OREGON

Tentative

Priority Date: MARCH 25, 1953

Quantity: 400 GALLONS PER MINUTE

Source: WELL 3 within the SOUTH FORK ASH CREEK BASIN

Original Point of Appropriation:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
8 S	4 W	WM	28	NE SW	WELL 3 - SOUTHWEST CORNER WELL PROPERTY SOUTH 12 DEGREES 30 MINUTES WEST 804.00 FT FROM INTERSECTION OF SOUTH LINE OF "T" STREET AND EAST LINE SOUTHERN PACIFIC RAILROAD RIGHT OF WAY, BLOCK 19, HILL'S ADDITION TO HILL'S INDEPENDENCE

Original Place of Use:

MUNICIPAL SUPPLY FOR THE CITY OF INDEPENDENCE				
Twp	Rng	Mer	Sec	Q-Q
8 S	4 W	WM	21	NE SW
8 S	4 W	WM	21	SE SW
8 S	4 W	WM	28	NE NW
8 S	4 W	WM	28	SW NW
8 S	4 W	WM	28	NW NW
8 S	4 W	WM	28	SE NW
8 S	4 W	WM	29	NE NE
8 S	4 W	WM	29	SE NE

6. Groundwater Registration Modification Application T-13062 proposes to move the authorized point of appropriation approximately 275 feet from the existing point of appropriation to:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
8 S	4 W	WM	28	NE SW	SOUTH WELL 3 - 760 FEET SOUTH AND 660 FEET WEST FROM THE C1/4 CORNER OF SECTION 28

7. Groundwater Registration Modification Application T-13062 also proposes additional points of appropriation located:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances	Approximate Distance from Original Well 1 in feet (ft.)
8 S	4 W	WM	28	NE SW	SOUTH WELL 1 - 1140 FEET SOUTH AND 600 FEET WEST FROM THE C1/4 CORNER OF SECTION 28	115 ft.
8 S	4 W	WM	28	NE SW	SOUTH WELL 2 - 1000 FEET SOUTH AND 740 FEET WEST FROM THE C1/4 CORNER OF SECTION 28	145 ft.
8 S	4 W	WM	28	NE SW	SOUTH WELL 4 - 960 FEET SOUTH AND 620 FEET WEST FROM THE C1/4 CORNER OF SECTION 28	75 ft.
8 S	4 W	WM	28	NE SW	SOUTH WELL 5 - 820 FEET SOUTH AND 620 FEET WEST FROM THE C1/4 CORNER OF SECTION 28	210 ft.

8. Groundwater Registration Modification Application T-13062 also proposes to modify the place of use under the ground water registration to:

MUNICIPAL SUPPLY FOR THE CITY OF INDEPENDENCE
CITY OF INDEPENDENCE SERVICE AREA

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

9. The proposed modifications would not result in enlargement of the groundwater registration.
10. 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.
11. The proposed modifications would not result in injury to other water rights.

Determination and Proposed Action

The additional points of appropriation, a modification in point of appropriation and a modification in place of use in Groundwater Registration Modification T-13062 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-13062 is approved, the final order will include the following:

1. *The modifications to Registration Application GR-3185 (Certificate of Registration GR-3143) proposed in Groundwater Registration Modification Application T-13062 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-3185 (Certificate of Registration GR-3143) and any related decree.*
3. *Water shall be acquired from the same aquifer (water source) as the original point of appropriation (Well 3).*
4. *The quantity of water diverted at the new point of appropriation (South Well 3) shall not exceed the quantity of water lawfully available at the original point of appropriation (Well 3).*
5. *The quantity of water diverted at the new additional points of appropriation (South Well 1, South Well 2, South Well 4, and South Well 5), together with that diverted at the new point of appropriation (South Well 3), shall not exceed the quantity of water lawfully available at the original point of appropriation (Well 3).*

Dated in Salem, Oregon on

JUN 23 2020


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

This Preliminary Determination was prepared by Scott Grew. If you have questions about the information in this document, you may reach him at scott.a.grew@oregon.gov or 503-986-0890.

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

June 23, 2020

Applicant

CITY OF INDEPENDENCE
PO BOX 7
INDEPENDENCE, OR 97351

SUBJECT: Ground Water Registration Modification T-13062

Please find enclosed the Preliminary Determination indicating that, based on the information available, the Department intends to approve application T-13062. 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 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.

IMPORTANT: Due to COVID-19, the Department's office is closed to walk-in services. The Department encourages the submission of protests by U.S. mail. Please consider mailing early to ensure the Department receives the protest by the deadline specified above.

Please contact me at scott.a.grew@oregon.gov or 503-986-0890 if I may be of assistance.

Sincerely,

Scott Grew

Transfer Specialist

cc: GR Modification T-13062
Joel M. Plahn, District 16 Watermaster (*via e-mail*)
GSI Water Solutions Inc., Agent for the applicant (*via e-mail*)

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