

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

In the Matter of Groundwater)	PRELIMINARY DETERMINATION
Registration Modification Application)	PROPOSING APPROVAL OF
T-13380, Yamhill County)	RECOGNITION OF MODIFICATIONS
)	IN POINTS OF APPROPRIATION AND
)	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 NEWBERG
ATTN: RUSS THOMAS, INTERIM PUBLIC WORKS DIRECTOR
PO BOX 970
NEWBERG, OR 97132

Findings of Fact

1. On February 28, 2020, CITY OF NEWBERG filed a groundwater registration modification application to modify the point of appropriation and place of use under Registration Application GR-63 (Certificate of Registration GR-54). The Department assigned the application number T-13380.
2. Notice of the application for groundwater registration modification was published on March 10, 2020, pursuant to OAR 690-382-0600. No comments were filed in response to the notice.
3. On August 17, 2020, the Department sent a copy of the draft Preliminary Determination proposing to approve Groundwater Registration Modification Application T-13380 to the applicant. The draft Preliminary Determination cover letter set forth a deadline of September 16, 2020, for the applicant to respond. The applicant requested that the Department proceed with issuance of a Preliminary Determination.

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. The groundwater registration to be modified is as follows:

Registration: Application GR-63 (Certificate of Registration GR-54), in the name of CITY OF NEWBERG

Use: MUNICIPAL USES

Tentative

Priority Date: MAY 1948 and SEPTEMBER 30, 1951

Quantity: 1000 GALLONS PER MINUTE

Source: PUMP WELLS

Original Points of Appropriation:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
3 S	2 W	WM	29	NE SW	PUMP WELL 1 - 502 FEET SOUTH AND 1300 FEET EAST FROM THE E1/4 CORNER OF SECTION 30
3 S	2 W	WM	29	NE SW	PUMP WELL 2 - 502 FEET SOUTH AND 1300 FEET EAST FROM THE E1/4 CORNER OF SECTION 30

Original Place of Use:

Twp	Rng	Mer	Sec
3 S	2 W	WM	17
3 S	2 W	WM	18
3 S	2 W	WM	19
3 S	2 W	WM	20

5. Groundwater Registration Modification Application T-13380 proposes to modify the location of the original wells approximately:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances	Distance from Original Wells in Feet (ft.)
3 S	2 W	WM	29	SE NW	WELL 7 - 242 FEET NORTH AND 2235 FEET EAST FROM THE WEST ¼ CORNER OF SECTION 29	1190 ft.
3 S	2 W	WM	29	SE NW	WELL 8 - 18 FEET NORTH AND 2408 FEET EAST FROM THE WEST ¼ CORNER OF SECTION 29	1220 ft.
3 S	2 W	WM	29	SE NW	WELL 9 - 65 FEET NORTH AND 2118 FEET EAST FROM THE WEST ¼ CORNER OF SECTION 29	100 ft.

6. Groundwater Registration Modification Application T-13380 proposes to modify the place of use under the ground water registration to:

MUNICIPAL USES
CITY OF NEWBERG WATER SERVICE AREA

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

7. The proposed modifications would not result in enlargement of the groundwater registration.

8. 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.
9. The proposed modifications would not result in injury to other water rights.

Determination and Proposed Action

The modification in point of appropriation and modification in place of use proposed in Groundwater Registration Modification T-13380 appears 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-13380 is approved, the final order will include the following:

1. *The modifications to Registration Application GR-63 (Certificate of Registration GR-54) proposed in Groundwater Registration Modification Application T-13380 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-63 (Certificate of Registration GR-54) and any related decree.*
3. *Water shall be acquired from the same aquifer (water source) as the original point of appropriation.*
4. *Water shall no longer be appropriated from the original point of appropriation (Pump Wells) as part of this groundwater certificate of registration.*
5. *The quantity of water diverted at the new points of appropriation (Well 7, Well 8 and Well 9), shall not exceed the quantity of water lawfully available at the original point of appropriation (Pump Wells).*

Dated in Salem, Oregon on **OCT 14 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.

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.

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

October 14, 2020

Applicant

CITY OF NEWBERG
ATTN: RUSS THOMAS, INTERIM PUBLIC WORKS DIRECTOR
PO BOX 970
NEWBERG, OR 97132

SUBJECT: Water Right Transfer Application T-13380

Please find enclosed the Preliminary Determination indicating that, based on the information available, the Department intends to approve application T-13380. 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 contact me at scott.a.grew@oregon.gov or 503-986-0890 if I may be of assistance.

Sincerely,

Scott Grew

Transfer Specialist

Gregory J. Wacker, District 16 Watermaster (*via e-mail*)

Ted Ressler, GSI Water Solutions Inc., Agent for the applicant (*via e-mail*)

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