

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

In the Matter of Groundwater	)	PRELIMINARY DETERMINATION
Registration Modification Application	)	PROPOSING APPROVAL OF RECOGNITION
T-13940, MARION County	)	OF ADDITIONAL POINTS OF APPROPRIATION
	)	AND MODIFICIATION 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 AUMSVILLE
STEVE OSLIE, PUBLIC WORKS DIRECTOR
595 MAIN ST
AUMSVILLE, OR 97325

Findings of Fact

1. On March 7, 2022, the CITY OF AUMSVILLE filed a groundwater registration modification application for additional points of appropriation and to modify the place of use under Groundwater Registration GR-3543 (Certificate of Registration GR-3258). The Department assigned the application number T-13940.
2. Notice of the application for groundwater registration modification was published on March 15, 2022, pursuant to OAR 690-382-0600. No comments were filed in response to the notice.
3. On July 22, 2022, the Department received a request from the applicant to add an additional well, to change the name and location of the proposed additional points of appropriation, to update well construction information for the additional points of appropriation, and to update transfer application agent information. Along with the requested revisions, the agent for the applicant provided a revised transfer application map and updated pages for the transfer application, including Part 3 of 4 (applicant/agent information and Part 4 of 4 (Table 1 (location of existing and proposed wells), Table 2 (description of existing place of use to be modified and proposed place of use), and Table 3 (well construction details)).

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 the newspaper notice or the Department's weekly notice as prescribed by OAR 690-380-4020, whichever is later, of this preliminary determination.

4. On March 20, 2023, the agent for the applicant requested to update (to more accurately describe) the locations of the existing well and the three additional points of appropriation requested. The request included a revised Table 1 and application map. The updated application map does not show the location of the authorized well and the place of use has been modified from previous maps provided to the Department. In addition, the updated map includes another well, but it is not clear whether this new well is intended to be part of this transfer application. This new well (Reservoir Well) has not been reviewed by the Department's Groundwater Section and Watermaster.
5. On February 12, 2024, the Department sent a copy of the draft Preliminary Determination proposing to deny Groundwater Registration Modification Application T-13940 to the applicant. The draft Preliminary Determination cover letter set forth a deadline of March 12, 2024, for the applicant to respond. The applicant requested that the Department proceed with issuance of a Preliminary Determination.
6. On February 19, 2024, the agent for the applicant contacted the Department via email that the Department's review and denial of Groundwater Registration Modification T-13940 included application pages and maps associated with the City of Aumsville's water right Transfer Application T-13938. An amended Table 1 with updated well locations and an updated application map were mailed to OWRD for Groundwater Registration Modification T-13940 on March 14, 2023.
7. The groundwater registration to be modified is as follows:

Registration: GR-3543 (Certificate of Registration GR-3258), in the name of CITY OF AUMSVILLE

Use: MUNICIPAL USE

Tentative

Priority Date: AUGUST 1948

Quantity: 75.0 GALLONS PER MINUTE (GPM)

Source: A WELL within the BEAVER CREEK BASIN

Original Point of Appropriation:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
8 S	2 W	WM	25	SW SE	SOUTH 71 DEGREES 10 MINUTES EAST 157.6 FEET FROM THE NE CORNER OF BLOCK 1 TURNER ADDITION

Original Place of Use:

MUNICIPAL USES				
Twp	Rng	Mer	Sec	Q-Q
8 S	2 E	WM	25	NE SE
8 S	2 E	WM	25	NW SE
8 S	2 E	WM	25	SW SE
8 S	2 E	WM	25	SE SE

8. On March 24, 2023, the applicant submitted a revision to Table 1 (Location of Authorized and Proposed Points of Appropriation) for the groundwater registration modification application. The applicant has provided information on the location of the authorized Point of Appropriation (POA). The authorized POA may be more accurately described as follows:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
8 S	2 W	WM	25	SE SE	BAKER WELL - 600 FEET NORTH AND 945 FEET WEST FROM THE SE CORNER OF SECTION 25

9. Groundwater Registration Modification Application T-13940 proposes additional points of appropriation with approximate distances from the existing point of appropriation as follows:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances and Latitude/Longitude	Approximate Distance from Authorized Well
8 S	2 W	WM	25	SE SW	BOONE WELL 3 - 1460 FEET NORTH AND 3680 FEET WEST FROM THE SE CORNER OF SECTION 25; 44.842229 DEGREES, -122.880209 DEGREES	0.45 mile northwest
8 S	2 W	WM	25	SE SW	MILL CREEK WELL 1A - 485 FEET NORTH AND 2745 FEET WEST FROM THE SE CORNER OF SECTION 25; 44.839630 DEGREES, -122.876499 DEGREES	0.35 mile southwest
8 S	2 W	WM	25	SE SW	MILL CREEK WELL 1B - 510 FEET NORTH AND 2745 FEET WEST FROM THE SE CORNER OF SECTION 25; 44.839979 DEGREES, -122.876451 DEGREES	0.35 mile southwest

10. Groundwater Registration Modification Application T-13940 proposes to modify the place of use under the ground water registration to:

MUNICIPAL USES
WITHIN THE SERVICE AREA OF CITY OF AUMSVILLE

Review Criteria for Groundwater Registration Modification Applications [OAR 690-382-0100(10), 690-382-0700(2), 690-382-1000(1) and 690-380-2110(2)]

11. The proposed modifications would not result in a state Scenic Waterway not receiving previously available water during periods in which stream flows are less than the quantities determined by the Department to be necessary to meet the requirements of ORS 390.835.
12. The proposed points of appropriation develop groundwater from the same aquifer as the authorized point of appropriation, as required by OAR 690-380-2110(2).
13. The proposed modifications, as conditioned, would not result in enlargement of the groundwater registration.
14. The proposed modifications, as conditioned, would not result in injury to other water rights.
15. All other application requirements are met.

Determination and Proposed Action

The additional points of appropriation and modification in place of use proposed in Groundwater Registration Modification T-13940 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.

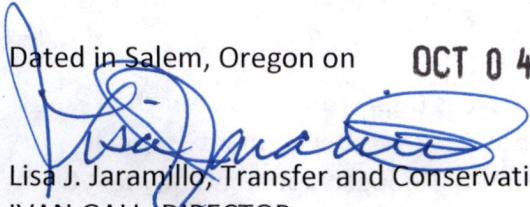
If Groundwater Registration Modification Application T-13940 is approved, the final order will include the following:

- 1. The modifications to Registration Application GR-3543 (Certificate of Registration GR-3258) proposed in Groundwater Registration Modification Application T-13940 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-3543 (Certificate of Registration GR-3258) and any related decree.*
- 3. Approval of this groundwater registration modification application does not constitute nor grant legal access onto or through another person's property for purposes of accessing the new points of appropriation and the new place of use.*
- 4. Water shall be acquired from the same aquifer (water source) as the original point of appropriation.*
- 5. The combined quantity of water diverted at the proposed additional points of appropriation (BOONE WELL 3, MILL CREEK WELL 1A, AND MILL CREEK WELL 1B, together with that diverted at the original point of appropriation (BAKER WELL), shall not exceed the quantity of water lawfully available at the original point of appropriation (BAKER WELL).*

6. *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.*
- 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 **OCT 04 2024**


Lisa J. Jaramillo, Transfer and Conservation Section Manager, for
IVAN GALL, DIRECTOR
Oregon Water Resources Department

This Preliminary Determination was prepared by Arla L Davis. If you have questions about the information in this document, you may reach me at 503-979-3129 or arla.l.davis@water.oregon.gov.

Protests

Under the provisions of ORS 540.520(6) & (7) and OAR 690-382-0900, within 30 days after the last date of publication of the newspaper notice or the Department's weekly notice as prescribed by OAR 690-382-0800, whichever is later, any person may file, jointly or severally, a protest expressing opposition of approval of the groundwater registration application and disagreement with this Preliminary Determination or a standing statement in support of this Preliminary Determination. Protests and standing statements must be received by the Water Resources Department within 30 days after the last date of publication of the newspaper notice or the Department's weekly notice as prescribed by OAR 690-382-0900, whichever is later.

Protests must be in writing and received in hard copy form with the appropriate statutory protest filing fee; protests cannot be filed by electronic mail. [OAR 690-002-0025(3) and 690-382-0900]. and include the following:

- The person's name, address, and telephone number;
- All reasonably ascertainable issues and all reasonably available arguments supporting the person's position by the close of the protest period. Failure to raise a reasonably ascertainable issue in a protest or failure to provide sufficient specificity to afford the Department an opportunity to respond to the issue may preclude consideration of the issue during the hearing;
- If you are the applicant, a protest fee of \$480 required by ORS 536.050; and

- If you are not the applicant, a protest fee of \$950 required by ORS 536.050 and proof of service of the protest upon the applicant.

Requests for Standing

Under the provisions of OAR 690-382-0900(5), the Department shall provide to persons who have filed standing statements as defined under OAR 690-382-0100(8) notice of any differences between the Department's Preliminary Determination and the Final Order, notice of a hearing on the application under OAR 137-003-0535, and an opportunity to request limited party status or party status in the hearing.

Requests for standing must be received in the Water Resources Department no later than 30 days after the last date of publication of the newspaper notice or the Department's weekly notice as prescribed by OAR 690-382-0900, whichever is later. Requests for standing must be in writing, and must include the following:

- The requester's name, mailing address and telephone number;
- If the requester is representing a group, association or other organization, the name, address and telephone number of the represented group;
- A statement that the requester supports the preliminary determination as issued.

After the protest period has ended, the Director will either issue a Final Order or schedule a contested case hearing. The contested case hearing will be scheduled only if a protest has been filed under OAR 690-382-0900. In accordance with OAR 690-382-1100, notice and conduct of the hearing shall:

- Be under the applicable provisions of ORS 183.310 to 183.550, pertaining to contested cases, and the hearing shall be held in the area where the rights are located unless all parties stipulate otherwise; and
- If a protest has asserted that a water right to be transferred has been forfeited through non-use, include the notice and procedures described in OAR 690-017-0500 to 690-017-0900.

If you do not request a hearing within 30 days after the close of the protest period, or if you withdraw a request for a hearing, notify the Department or the administrative law judge that you will not appear, or fail to appear at a scheduled hearing, the Director may issue a final order by default. If the Director issues a Final Order by default, the Department designates the relevant portions of its files on this matter, including all materials that you have submitted relating to this matter, as the record for purpose of proving a *prima facie* case upon default.

You may be represented by an attorney at the hearing. Legal aid organizations may be able to assist a party with limited financial resources. Generally, partnerships, corporations, associations, governmental subdivisions, or public or private organizations are represented by an attorney. However, consistent with OAR 690-002-0020 and OAR 690-137-0555, an agency

representative may represent partnerships, corporations, associations, governmental subdivisions or public, or private organizations if the Department determines that appearance of a person by an authorized representative will not hinder the orderly and timely development of the record in this case.

Notice Regarding Servicemembers: Active-duty servicemembers have a right to stay proceedings under the federal Servicemembers Civil Relief Act. 50 U.S.C. App. §§501-597b. For more information contact the Oregon State Bar at 800-452-8260, the Oregon Military Department at 971-355-4127, or the nearest United States Armed Forces Legal Assistance Office through <http://legalassistance.law.af.mil>.

If you have questions about how to file a protest or if you have previously filed a protest and you want to know the status, please contact Will Davidson at 503-507-2749.

If you have questions about the Department or any of its programs, please contact our Water Resources Customer Service Group at 503-986-0900.

Address any correspondence to: Oregon Water Resources Department, Transfer and Conservation Section, 725 Summer Street NE, Suite A, Salem OR 97301-1266.



Oregon

Tina Kotek, Governor

Water Resources Department

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October 4, 2024

VIA CERTIFIED MAIL AND E-MAIL

CITY OF AUMSVILLE
STEVE OSLIE, PUBLIC WORKS DIRECTOR
595 MAIN ST
AUMSVILLE, OR 97325

SUBJECT: Groundwater Registration Modification T-13940

Please find enclosed the Preliminary Determination indicating that, based on the information available, the Department intends to approve application T-13940. This document is an intermediate step in the approval process; water may not be used legally as proposed in the groundwater 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 Statesman Journal 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 503-979-3129 or arla.l.davis@water.oregon.gov if I may be of assistance.

Sincerely,

Arla L Davis

Arla L Davis
Groundwater Registration Modification Specialist
Transfers and Conservation Section

cc: GR Modification application file T-13940
Gregory J. Wacker, District 16 Watermaster (via e-mail)
GSI Water Solutions Inc., Agent for the applicant (via e-mail)
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