

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

In the Matter of Transfer Application)
T-7856, Wallowa County, Oregon) CORRECTING FINAL ORDER
)

ORS 540.505 to 540.580 establishes the process in which a water right holder may submit a request to transfer the point of diversion, place of use, or character of use authorized under an existing water right. OAR Chapter 690, Division 380 implements the statutes and provides the Department’s procedures and criteria for evaluating transfer applications.

Applicant

City of Joseph
P.O. Box 15
Joseph, OR 97846

Findings of Fact

- The Department issued an order approving T-7856 on May 24, 2002. The order was recorded at Special Order Volume 56, Pages 399 to 402.
- Application T-7856 was filed on October 3, 1997 by the City of Joseph. The application was filed with the consent of the Boise Cascade Corp, the landowner from whom the city was negotiating purchase of the property and appurtenant water rights.
- The right affected by the transfer is as follows:

Certificate: 55036 in the name of Boise Cascade Corp. (perfected under Permit G-6026)

Use: Industrial

Priority Date: February 19, 1974

Quantity: 0.84 cfs, being 0.54 cfs from Well #1 and 0.30 cfs from Well #2

Source: Joseph Mills Wells #1 & #2 in the Wallowa River Basin

Authorized Point of Appropriation:

Township		Range		Meridian	Sec	¼ ¼	Lot	DLC	Survey Coordinates
2	S	45	E	W.M.	30	SW SE			Well # 1 – 700 feet North and 340 feet East from the S ¼ corner Section 30
2	S	45	E	W.M.	30	SW SE			Well # 2 – 580 feet North and 350 feet East from the S ¼ corner Section 30

This is a final order in other than contested case. This order is subject to judicial review under ORS 183.484. Any petition for judicial review must be filed within the 60 day time period specified by ORS 183.484(2). Pursuant to ORS 536.075 and OAR 137-004-080 and OAR 690-01-005 you may either petition for judicial review or petition the Director for reconsideration of this order.

Authorized Place of Use:

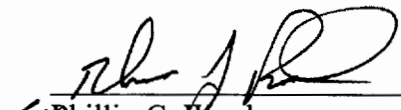
Township		Range		Meridian	Sec	¼ ¼	Lot	DLC	Acres
2	S	45	E	W.M.	30	SE SW			Industrial
2	S	45	E	W.M.	30	NW SE			Industrial
2	S	45	E	W.M.	30	SW SE			Industrial

4. The application proposed to change the authorized point of appropriation and place of use. In addition, the application proposed to change the character of use to municipal use.
5. On April 26, 2000, the City of Joseph provided the Department written notification that the property and appurtenant water rights had been acquired by the Joseph Chamber of Commerce and requested that the rights be placed in the name of the Joseph Chamber of Commerce.
6. Application T-7856 involved changes in the character of use of the right from industrial use to municipal use. Pursuant to OAR Chapter 690, Division 300, the Joseph Chamber of Commerce is not a municipal corporation eligible to hold a municipal use right as requested in the transfer.
7. The April 26, 2000 letter indicating that the Chamber of Commerce had acquired the lands and requesting that the rights be placed in the Chamber's name constituted a modification of the application. Given that the modification could not be accommodated under the Department's rules and that the landowner had communicated disagreement with the transfer as originally proposed, the transfer could not be approved.
8. The order approving T-7856 was issued in error.

Now, therefore, it is ORDERED:

1. The order approving T-7856 as recorded Special Order Volume 56, Pages 399 to 402 is corrected and the application T-7856 is rejected.
2. A new certificate will be issued describing the water right involved in the transfer consistent with Certificate 55036.

Dated at Salem, Oregon this 1st day of November, 2004.



Phillip C. Ward
Acting Director

Mailing date: NOV 03 2004