

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

In the Matter of Transfer Application)	FINAL ORDER APPROVING A
T-12831, Yamhill County)	CHANGE IN PLACE OF USE AND
)	CHARACTER OF USE

Authority

Oregon Revised Statutes (ORS) 540.505 to 540.580 establish 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. Oregon Administrative Rules (OAR) Chapter 690, Division 380 implement the statutes and provides the Department's procedures and criteria for evaluating transfer applications.

Applicant

CITY OF NEWBERG
ATTN: JAY HARRIS
PO BOX 970
NEWBERG, OR 97132

Receiving Landowner

CHEHALEM SPRINGS WATER ASSOCIATION
15165 NE CULLEN ROAD
NEWBERG, OR 97132

Findings of Fact

1. On January 25, 2018, CITY OF NEWBERG; ATTN: JAY HARRIS filed an application to change the place of use and to change the character of use under Certificate 5456. The Department assigned the application number T-12831.
2. The City of Newberg and Chehalem Springs Water Association will be responsible for completion of the changes.
3. Notice of the application for transfer was published on February 6, 2018, pursuant to OAR 690-380-4000. No comments were filed in response to the notice.
4. On February 14, 2019, the Department mailed a copy of the draft Preliminary Determination proposing to approve Transfer Application T-12831 to the applicant. The draft Preliminary Determination cover letter set forth a deadline of March 15, 2019, for the applicant to respond.

This final order is subject to judicial review by the Court of Appeals under ORS 183.482. Any petition for judicial review must be filed within the 60-day time period specified by ORS 183.482(1). Pursuant to ORS 536.075 and OAR 137-003-0675, you may petition for judicial review or petition the Director for reconsideration of this order. A petition for reconsideration may be granted or denied by the Director, and if no action is taken within 60 days following the date the petition was filed, the petition shall be deemed denied.

5. On March 6, 2019, the applicant requested that the Department proceed with issuance of a Preliminary Determination, and requested to extend the date to complete full beneficial use of the water 20 years, being October 1, 2039. Pursuant to OAR 690-380-5140, the Department requested additional information from the applicant to justify the need for longer period of time.
6. On May 10, 2019, the Department contacted the applicant by written correspondence to notify the applicant and the applicant's agent, the Department had not received the additional information requested to justify the need for a longer period of time. The Department requested that the deficiencies be resolved by May 17, 2019.
7. On May 14, 2019, the applicant's agent submitted a development plan and timeline, satisfying the request for additional information.
8. On July 31, 2019, the Department issued a Preliminary Determination proposing to approve Transfer T-12831 and mailed a copy to the applicant. Additionally, notice of the Preliminary Determination for the transfer application was published on the Department's weekly notice on August 6, 2019, and in the Newberg Graphic newspaper on August 7, and 14, 2019 pursuant to ORS 540.520 and OAR 690-380-4020. No protests were filed in response to the notice.
9. The portion of the right to be transferred is as follows:

Certificate: 5456 in the name of CITY OF NEWBERG (perfected under Permit S-5977)
Use: MUNICIPAL, including DOMESTIC, FIRE PROTECTION and MANUFACTURING PURPOSES
Priority Date: JUNE 24, 1919
Rate: 0.07 CUBIC FOOT PER SECOND
Source: SKELTON SPRINGS, tributaries of CHEHALEM CREEK, a tributary of WILLAMETTE WATERSHED

Authorized Point of Diversion:

Twp	Rng	Mer	Sec	Q-Q	Survey Coordinates
<i>Not specified in Certificate</i>					

Authorized Place of Use:

MUNICIPAL, INCLUDING DOMESTIC, FIRE PROTECTION and MANUFACTURING PURPOSES					
Twp	Rng	Mer	Sec	Q-Q	
3 S	2 W	WM	20	SW SW	

10. The Department received information from the applicant that better describes the location of the authorized point of diversion for Certificate 5456 as follows:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
2 S	2 W	WM	31	SW SW	1265 FEET NORTH AND 310 FEET EAST FROM THE SW CORNER OF SECTION 31

11. Transfer Application T-12831 proposes to change the character of use to quasi-municipal use for a portion of the right, to be serviced by Chehalem Springs Water Association.
12. Transfer Application T-12831 also proposes to change the place of use of the right to:

QUASI-MUNICIPAL USE
WITHIN THE CHEHALEM SPRINGS WATER ASSOCIATION WATER SERVICE AREA

Transfer Review Criteria [OAR 690-380-4010(2)]

13. Water has been used within the last five years according to the terms and conditions of the right. There is no information in the record that would demonstrate that the right is subject to forfeiture under ORS 540.610.
14. A diversion structure, pipeline, and distribution system sufficient to use the full amount of water allowed under the existing right were present within the five-year period prior to submittal of Transfer Application T-12831.
15. The proposed changes would not result in enlargement of the right.
16. The proposed changes would not result in injury to other water rights.
17. All other application requirements are met.

Conclusions of Law

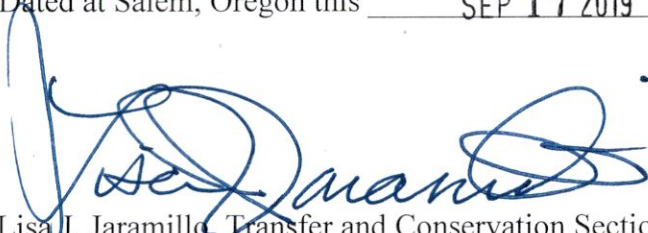
The change in place of use and change in character of use proposed in Transfer Application T-12831 are consistent with the requirements of ORS 540.505 to 540.580 and OAR 690-380-5000.

Now, therefore, it is ORDERED:

1. The change in place of use and change in character of use proposed in Transfer Application T-12831 are approved.
2. The right to 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 Certificate 5456 and any related decree.
3. Water right Certificate 5456 is cancelled. A new certificate will be issued describing that portion of the right not affected by this transfer.

4. Full beneficial use of the water shall be made, consistent with the terms of this order, on or before **October 1, 2039**. A Claim of Beneficial Use prepared by a Certified Water Right Examiner shall be submitted by the applicant to the Department within one year after the deadline for completion of the changes and full beneficial use of the water.
5. After satisfactory proof of beneficial use is received, a new certificate confirming the right transferred will be issued.

Dated at Salem, Oregon this SEP 17 2019,



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

Mailing date: SEP 18 2019