BEFORE THE WATER RESOURCES DEPARTMENT OF THE STATE OF OREGON

In the Matter of Transfer Application)	
T-9192, Marion County, Oregon)	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 Salem c/o Tim Gerling, Public Works Director 555 Liberty Street SE Salem, Oregon 97301

Receiving Municipality

City of Stayton c/o Mike Faught, Public Works Director 362 North Third Avenue Stayton, Oregon 97383

Findings of Fact

- 1. On July 19, 2002, City of Salem filed an application to transfer the point of diversion and place of use of a portion of Certificate 12033. The Department assigned the application number T-9192.
- 2. The portion of the right to be transferred is as follows:

Certificate: 12033 in the name of City of Salem

Use: Municipal Priority Date: July 5, 1923

Quantity: 10.0 cubic feet per second

Source: North Santiam River, tributary to the Santiam River

Season of Use: Year round

Authorized Point of Diversion:

Township		Range		Meridian	Sec	1/4 1/4		Lot	DLC	Location
9	S	1	W	W.M.	13	SW	NE			

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:

Sections 10, 11, 12, 13, 14, 15, 22, 23, 24, 25, 26, 27, 28, 33, 34, 35, and 36, Township 7 South, Range 3 West, W.M., Sections 7, 8, 17, 18, 19, 20, and 29, Township 8 South, Range 2 West, W.M., Sections 1, 2, 3, 4, 10, 11, and 12, Township 8 South, Range 3 West, W.M..

3. Application T-9192 proposes to move the authorized point of diversion approximately 2.0 miles downstream in the source to:

Township		Range		Meridian	Sec	1/4 1/4	Lot	DLC	Location
9	S	1	w	W.M.	11	SW S			South 1883 feet and East 2874 feet from the W ¹ / ₄ Corner of Section 11.

- 4. Application T-9192 proposes to change the place of use of the right to the Stayton Urban Growth Boundary. The urban growth boundary is currently located in Sections 32 and 33, Township 8 South, Range 1 West, W.M.; Sections 2, 3, 4, 5, 9, 10, 11, 12, 14, 15, and 16, Township 9 South, Range 1 West, W.M..
- 5. Notice of the application for transfer was published pursuant to ORS 540.520. One protest was filed and later withdrawn by the protestant.
- 6. Water has been used within the last five years according to the terms and conditions of the right. Any presumption of forfeiture likely would be rebutted pursuant to ORS 540.610(2)(a) or (b).
- 7. A diversion structure and ditch sufficient to use the full amount of water allowed under the existing right are present.
- 8. The proposed change would not result in enlargement of the right.
- 9. The proposed change would not result in injury to other water rights.

Conclusion of Law

The proposed changes in point of diversion and place of use in application T-9192 are consistent with the requirements of ORS 540.505 to 540.580 and OAR 690-380-5000.

Now, therefore, it is ORDERED:

- 1. The changes in point of diversion and place of proposed in application T-9192 are approved.
- 2. Water right certificate 12033 is cancelled. A new certificate will be issued describing that portion of the right not involved in this transfer.
- 3. Except as provided by ORS 540.510(3), 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 12033 and any related decree.

- 4. The proposed change shall be completed on or before October 1, 2010.
- 5. A Claim of Beneficial Use prepared by a Certified Water Rights Examiner shall be submitted by the applicant to the Department by October 1, 2011.
- 6. The quantity of water diverted at the proposed point of diversion, together with that diverted at the old point of diversion, shall not exceed the quantity of water lawfully available at the original point of diversion.
- 7. Prior to diverting water, the water user shall install and maintain a headgate, an in-line flow meter, weir, or other suitable device for measuring and recording the quantity of water diverted. The type and plans of the headgate and measuring device must be approved by the Department prior to beginning construction and shall be installed under the general supervision of the Department.
- 8. The water user shall install and maintain a fish screen or fish by-pass device, as appropriate, at the new point of diversion. The type and plans of the screen or by-pass device must be approved by the Oregon Department of Fish and Wildlife prior to beginning of construction, and shall be installed under the supervision of the Department of Fish and Wildlife. The water user may participate in the Department of Fish and Wildlife's cost-sharing program for installation of screening and by-pass devices in accordance with ORS 540.525.
- 9. When satisfactory proof of the completed changes is received, a new certificate confirming the right transferred will be issued.

Dated at Salem, Oregon this 15th day of Novamos 2004.

Phillip C. Ward

Acting Director

Mailing date: NOV 0 5 2004