

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

In the Matter of Transfer Application) FINAL ORDER
T-12266, Clackamas County) APPROVING A CHANGE IN POINT
) OF APPROPRIATION AND PARTIAL
) CANCELLATION OF A WATER
) RIGHT

Authority

Oregon Revised Statutes (ORS) 537.705 and 540.505 to 540.580 establish the process in which a water right holder may submit a request to transfer the point of appropriation, 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. ORS 540.621 establishes the process for the owner of land to which a water right is appurtenant to certify under oath that the water right, or a portion thereof, has been abandoned and to voluntarily request that it be cancelled.

Applicant

OREGON CITY SCHOOL DISTRICT NO. 62
ATTN: MIKE RISELING
1417 12TH ST
OREGON CITY, OR 97045
mike.riseling@orecity.k12.or.us

Findings of Fact

1. On February 5, 2016, OREGON CITY SCHOOL DISTRICT NO. 62 filed an application to change the point of appropriation and to cancel a portion of a water right under Certificate 55078. The Department assigned the application number T-12266.
2. Notice of the application for transfer was published on February 16, 2016, pursuant to OAR 690-380-4000. No comments were filed in response to the notice.
3. On December 7, 2016, the applicant submitted an affidavit for partial cancellation of water right certificate 55078.

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.

4. On December 12, 2016, the Department sent a copy of the draft Preliminary Determination proposing to approve Transfer Application T-12266 to the applicant. The draft Preliminary Determination cover letter set forth a deadline of January 13, 2017, for the applicant to respond. The applicant requested that the Department proceed with issuance of a Preliminary Determination and provided the necessary information to demonstrate that the applicant is authorized to pursue the transfer.
5. On February 7, 2017, the Department issued a Preliminary Determination proposing to approve Transfer Application T-12266 and sent a copy to the applicant. Additionally, notice of the Preliminary Determination for the transfer application was published in the Department's weekly notice on February 14, 2017 pursuant to ORS 540.520 and OAR 690-380-4020. No protests were filed in response to the notice.
6. The portion of the right to be transferred is as follows:

Certificate: 55078 in the name of OREGON CITY PUBLIC SCHOOL DIST. NO. 62
(perfected under Permit G-6685)

Use: IRRIGATION OF 3.7 ACRES

Priority Date: APRIL 24, 1975

Rate: 0.04 CUBIC FOOT PER SECOND FOR IRRIGATION

Limit/Duty: The amount of water used for irrigation, together with the amount secured under any other right existing for the same lands, shall be limited to ONE-EIGHTIETH of one cubic foot per second per acre, or its equivalent for each acre irrigated and shall be further limited to a diversion of not to exceed 2.5 acre-feet per acre for each acre irrigated during the irrigation season of each year, providing that use of water for air conditioning in excess of 5,000 gallons per day shall be subsequent in priority to future beneficial consumptive use unless a well system is constructed and all water wasted from the system is recharged to the same ground water reservoir from which it was withdrawn.

Source: A WELL, within the CANFIELD CREEK BASIN

Authorized Point of Appropriation:

Twp	Rng	Mer	Sec	Q-Q	DLC	Measured Distances
3 S	2 E	WM	9	SE SE	44	1110 FEET NORTH AND 360 FEET WEST FROM THE SE CORNER OF SECTION 9

Authorized Place of Use:

IRRIGATION						
Twp	Rng	Mer	Sec	Q-Q	DLC	Acres
3 S	2 E	WM	9	SW SE	44	0.1
3 S	2 E	WM	9	SE SE	44	3.6
Total						3.7

7. Transfer Application T-12266 proposes to move the authorized point of appropriation approximately 975 feet from the existing point of appropriation to:

Twp	Rng	Mer	Sec	Q-Q	DLC	Measured Distances
3 S	2 E	WM	9	NE SE	44	1390 FEET NORTH AND 1280 FEET WEST FROM THE SE CORNER OF SECTION 9

Transfer Review Criteria (OAR 690-380-4010)

8. 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.
9. A pump, pipeline, and sprinkler 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-12266.
10. The proposed change would not result in enlargement of the right.
11. The proposed change would not result in injury to other water rights.
12. All other application requirements are met.

Partial Cancellation of a Water Right

13. On December 7, 2016, an affidavit certifying that a portion of a water right has been abandoned and requesting cancellation of the right was received from Mike Riseling, District Manager. The right to be cancelled is as follows:

Certificate: 55078 in the name of OREGON CITY PUBLIC SCHOOL DIST. NO. 62
(perfected under Permit G-6685)

Use: IRRIGATION OF 2.4 ACRES AND AIR CONDITIONING

Priority Date: APRIL 24, 1975

Rate: 0.78 CUBIC FOOT PER SECOND FOR AIR CONDITIONING AND 0.02 CUBIC FOOT PER SECOND FOR IRRIGATION

Limit/Duty: The amount of water used for irrigation, together with the amount secured under any other right existing for the same lands, shall be limited to ONE-EIGHTIETH of one cubic foot per second per acre, or its equivalent for each acre irrigated and shall be further limited to a diversion of not to exceed 2.5 acre-feet per acre for each acre irrigated during the irrigation season of each year, providing that use of water for air conditioning in excess of 5,000 gallons per day shall be subsequent in priority to future beneficial consumptive use unless a well system is constructed and all water wasted from the system is recharged to the same ground water reservoir from which it was withdrawn.

Source: A WELL in the CANFIELD CREEK BASIN

Authorized Point of Diversion:

Twp	Rng	Mer	Sec	Q-Q	DLC	Measured Distances
3 S	2 E	WM	9	SE SE	44	1110 FEET NORTH AND 360 FEET WEST FROM THE SE CORNER OF SECTION 9

Authorized Places of Use to be Cancelled:

IRRIGATION						
Twp	Rng	Mer	Sec	Q-Q	DLC	Acres
3 S	2 E	WM	9	SE SE	44	2.1
3 S	2 E	WM	10	SW SW	44	0.3
Total						2.4

AIR CONDITIONING					
Twp	Rng	Mer	Sec	Q-Q	DLC
3 S	2 E	WM	9	SE SE	44

Conclusions of Law

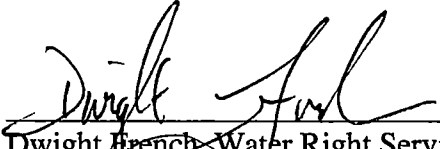
The change in point of appropriation proposed in Transfer Application T-12266 is consistent with the requirements of ORS 537.705 and 540.505 to 540.580 and OAR 690-380-5000 and the abandoned portion of the right should be cancelled.

Now, therefore, it is ORDERED:

1. The change in point of appropriation proposed in Transfer Application T-12266 is approved. The portion of the right that has been abandoned is cancelled.
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 55078 and any related decree.
3. Water right Certificate 55078 is cancelled.
4. The quantity of water diverted at the new point of appropriation, shall not exceed the quantity of water lawfully available at the original point of appropriation.
5. 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 new point of appropriation.
 - b. The water user shall maintain the meter or measuring device in good working order.
 - c. The water user shall allow the Watermaster access to the meter or measuring device; provided however, where the meter or measuring device is located within a private structure, the Watermaster shall request access upon reasonable notice.
6. Water shall be acquired from the same aquifer (water source) as the original point of appropriation.
7. Full beneficial use of the water shall be made, consistent with the terms of this order, on or before **October 1, 2018**. 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 change and full beneficial use of the water.

8. After satisfactory proof of beneficial use is received, a new certificate confirming the right transferred will be issued.

Dated at Salem, Oregon this 17 day of March, 2017.



Dwight French, Water Right Services Administrator, for
Thomas M. Byler, Director
Oregon Water Resources Department

Mailing date: MAR 22 2017