BEFORE THE WATER RESOURCES DEPARTMENT OF THE STATE OF OREGON

In the Matter of Transfer Application)	
T-9568, Linn 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 Albany, Oregon 333 Broadalbin Street SW Albany, Oregon 97321

Findings of Fact

- 1. City of Albany filed an application to add an additional point of diversion under Certificate 49386. The Department assigned the application number T-9568.
- 2. The right to be transferred is as follows:

Certificate:

49386 in the name of Pacific Power and Light Company

Use:

Municipal use in and around the City of Albany

Priority Date: 1878

Quantity:

21.0 cubic feet per second

Source:

South Santiam River, tributary to the Santiam River

Authorized Point of Diversion:

Tow	nship	Rai	nge	Meridian	Sec 1/4 1/4 Lot DL		DLC	Location	
12	S	1	w	W.M.	19	NW NW		55	1430 feet North and 1050 feet East from the W1/4 Corner of Section 19.

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:

Town	nship	Rai	nge	Meridian	Sec	1/4	1/4	Lot	DLC	Acres
10	S	3	W	W.M.	28	SW	NE			
10	S	3	W	W.M.	28	SE	NW			
10	S	3	W	W.M.	28	NE	SW			
10	S	3	W	W.M.	28	SE	SW			
10	S	3	W	W.M.	28	NW	SE			
10	S	3	W	W.M.	28	SW	SE			
10	S	3	W	W.M.	33	NW	NE			
10	S	3	W	W.M.	33	SW	NE			
10	S	3	W	W.M.	33	NE	NW			
10	S	3	W	W.M.	33	SE	NW			
10	S	3	W	W.M.	33	NE	SW			
10	S	3	W	W.M.	33	SE	SW			
10	S	3	W	W.M.	33	NW	SE			
11	S	3	W	W.M.	4	NE	NW			
11	S	3	W	W.M.	4	NW	NW			
11	S	3	W	W.M.	4	SW	NW			
11	S	3	W	W.M.	4	SE	NW			
11	S	3	W	W.M.	4	NE	SW			
11	S	3	W	W.M.	4	NW	SW			
11	S	3	W	W.M.	4	SW	SW			
11	S	3	W	W.M.	4	SE	SW			
11	S	3	W	W.M.	5	SW	NE			
11	S	3	W	W.M.	5	SE	NW			
11	S	3	W	W.M.	5	NE	SW			
11	S	3	W	W.M.	5	NW	SW			
11	S	3	W	W.M.	5	SW	SW			
11	S	3	W	W.M.	5	SE	SW			
11	S	3	W	W.M.	5	NE	SE			
11	S	3	W	W.M.	5	NW	SE			
11	S	3	W	W.M.	5	SW	SE			
11	S	3	W	W.M.	5	SE	SE			
11	S	3	W	W.M.	6	SW	SW			
11	S	3	W	W.M.	6	SE	SW			
11	S	3	W	W.M.	6	NE	SE			
11	S	3	W	W.M.	6	NW	SE			

Town	nship	Rai	nge	Meridian	Sec	1/4	1/4	Lot	DLC	Acres
11	S	3	W	W.M.	6	SW	SE			
11	S	3	W	W.M.	6	SE	SE			
11	S	3	W	W.M.	7	NE	NE			
11	S	3	W	W.M.	7	NW	NE			
11	S	3	W	W.M.	7	SW	NE			
11	S	3	W	W.M.	7	SE	NE			
11	S	3	W	W.M.	7	NE	NW			
11	S	3	W	W.M.	7	NW	NW			
11	S	3	W	W.M.	7	SW	NW			
11	S	3	W	W.M.	7	SE	NW			
11	S	3	W	W.M.	7	NE	SW			
11	S	3	W	W.M.	7	NW	SW			
11	S	3	W	W.M.	7	SW	SW			
11	S	3	W	W.M.	7	SE	SW			
11	S	3	W	W.M.	7	NE	SE			
11	S	3	W	W.M.	7	NW	SE			
11	S	3	W	W.M.	7	SW	SE			
11	S	3	W	W.M.	7	SE	SE			
11	S	3	W	W.M.	8	NE	NE			
11	S	3	W	W.M.	8	NW	NE			
11	S	3	W	W.M.	8	SW	NE			
11	S	3	W	W.M.	8	SE	NE			
11	S	3	W	W.M.	8	NE	NW			
11	S	3	W	W.M.	8	NW	NW			
11	S	3	W	W.M.	8	SW	NW			
11	S	3	W	W.M.	8	NE	SW			
11	S	3	W	W.M.	8	NW	SW			
11	S	3	W	W.M.	8	SW	SW			
11	S	3	W	W.M.	8	SE	sw			
11	S	3	W	W.M.	8	NE	SE			
11	S	3	W	W.M.	8	SE	SE			
11	S	3	W	W.M.	9	SW	NE			
11	S	3	W	W.M.	9	SE	NE			
11	S	3	W	W.M.	9	NE	NW			
11	S	3	W	W.M.	9	NW	NW			
11	S	3	W	W.M.	9	SW	NW			
11	S	3	W	W.M.	9	SE	NW			
11	S	3	W	W.M.	9	NE	sw			

Town	nship	Rai	nge	Meridian	Sec	1/4	1/4	Lot	DLC	Acres
11	S	3	W	W.M.	9	NW	SW			
11	S	3	W	W.M.	9	NW	SE			
11	S	3	W	W.M.	17	NE	NE			
11	S	3	W	W.M.	17	NW	NE			
11	S	3	W	W.M.	17	SW	NE			•
11	S	3	W	W.M.	17	SE	NE			
11	S	3	W	W.M.	17	NE	NW			
11	S	3	W	W.M.	17	NW	NW			
11	S	3	W	W.M.	17	SW	NW			
11	S	3	W	W.M.	17	SE	NW			
11	S	3	W	W.M.	17	NE	SW			
11	S	3	W	W.M.	17	NW	SW			
11	S	3	W	W.M.	17	SW	SW			
11	S	3	W	W.M.	17	SE	SW			
11	S	3	W	W.M.	17	NE	SE			
11	S	3	W	W.M.	17	NW	SE			
11	S	3	W	W.M.	17	SW	SE			
11	S	3	W	W.M.	17	SE	SE			•
11	S	3	W	W.M.	18	NE	NE			
11	S	3	W	W.M.	18	NW	NE			
11	S	3	W	W.M.	18	sw	NE			* * * * * * * * * * * * * * * * * * * *
11	S	3	W	W.M.	18	SE	NE			
11	S	3	W	W.M.	18	NW	NW			
11	S	3	W	W.M.	18	SW	NW			
11	S	3	W	W.M.	18	NE	SW			
11	S	3	W	W.M.	18	NW	SW			
11	S	3	W	W.M.	18	SW	SW			
11	S	3	W	W.M.	18	SE	SW			
11	S	3	W	W.M.	18	NE	SE			
11	S	3	W	W.M.	18	NW	SE			
11	S	3	W	W.M.	18	SW	SE			
11	S	3	W	W.M.	18	SE	SE			
11	S	3	W	W.M.	19	NE	NE			
11	S	3	W	W.M.	19	NW	NE			
11	S	3	W	W.M.	20	NE	NW			
11	S	3	W	W.M.	20	NW	NW			
11	S	4	W	W.M.	1	SE	SE			
11	S	4	W	W.M.	12	NE	NE			

Town	nship	Rai	nge	Meridian	Sec	1/4	1/4	Lot	DLC	Acres
11	S	4	W	W.M.	12	NW	NE			
11	S	4	W	W.M.	12	SW	NE			
11	S	4	W	W.M.	12	SE	NE			
11	S	4	W	W.M.	12	SE	NW			
11	S	4	W	W.M.	12	NE	SW			
11	S	4	W	W.M.	12	NW	SW			
11	S	4	W	W.M.	12	SW	SW			
11	S	4	W	W.M.	12	SE	SW			
11	S	4	W	W.M.	12	NE	SE			
11	S	4	W	W.M.	12	NW	SE			
11	S	4	W	W.M.	12	SW	SE			
11	S	4	W	W.M.	12	SE	SE			
11	S	4	W	W.M.	13	NE	NE			
11	S	4	W	W.M.	13	NW	NE			
11	S	4	W	W.M.	13	SW	NE			
11	S	4	W	W.M.	13	SE	NE			
11	S	4	W	W.M.	13	NE	NW			
11	S	4	W	W.M.	13	SE	NW			
11	S	4	W	W.M.	13	NE	SW			
11	S	4	W	W.M.	13	NE	SE			
11	S	4	W	W.M.	13	NW	SE			
11	S	4	W	W.M.	13	SW	SE			
11	S	4	W	W.M.	13	SE	SE			
11	S	4	W	W.M.	24	NE	NE			
11	S	4	W	W.M.	24	SE	NE			
11	S	4	W	W.M.	24	NE	SE			
11	S	4	W	W.M.	24	SE	SE			
11	S	4	W	W.M.	25	NE	NE			
11	S	4	W	W.M.	25	SE	NE			
11	S	4	W	W.M.	25	NE	SE			

3. Application T-9568 proposes an additional point of diversion approximately 21.0 miles downstream in the source located:

Tow	nship	Rai	nge	Meridian	Sec			Lot	DLC	Location
10	s	3	w	W.M.	24	sw	NW			2096 feet South and 693 feet East from the NW Corner of Section 24.

- 4. Notice of the application for transfer was published pursuant to ORS 540.520 and OAR 690-380-4000. No comments were filed in response to the notice.
- 5. Water has been used within the last five years according to the terms and conditions of the right and no evidence is available that would demonstrate that the right is subject to forfeiture under ORS 540.610.
- 6. A diversion structure and ditch sufficient to use the full amount of water allowed under the existing right are present.
- 7. The proposed change would not result in enlargement of the right.
- 8. The proposed change would not result in injury to other water rights.

Conclusion of Law

The proposed additional point of diversion in application T-9568 is consistent with the requirements of ORS 540.505 to 540.580 and OAR 690-380-5000.

Now, therefore, it is ORDERED:

- 1. The additional point of diversion proposed in application T-9568 is approved.
- 2. Water right certificate 49386 is cancelled.
- 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 49386 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 additional 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 change is received, a new certificate confirming the right transferred will be issued.

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Dated at Salem,	Oregon this	24 -day	OI Nova	4617 4-2004

Phillip C. Ward

Director

Mailing Date: NOV 2 9 2004