

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

In the Matter of Transfer Application	)	FINAL ORDER
T-11014, Multnomah County	)	APPROVING A CHANGE IN POINT OF
	)	APPROPRIATION, ADDITIONAL
	)	POINTS OF APPROPRIATION AND A
	)	CHANGE IN PLACE OF USE

**Authority**

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. OAR Chapter 690, Division 380 implements the statutes and provides the Department's procedures and criteria for evaluating transfer applications.

**Applicant**

PORTLAND STATE UNIVERSITY  
ATTN RICHARD KOONTZ  
PO BOX 751  
PORTLAND OR 97207-0751

**Findings of Fact**

***Background***

1. On February 1, 2010, Portland State University filed an application to change the point of appropriation and place of use under Certificate 35590 and for additional points of appropriation and a change in place of use under Certificate 44645. The Department assigned the application number T-11014.
2. On April 9, 2010, the applicant's agent requested additional time, until October 1, 2015, to complete the change and apply water to beneficial use, in order to provide sufficient time for the completion of construction work.

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.

3. The first right to be transferred is as follows:

**Certificate:** 35590 in the name of PACIFIC NW BELL TELEPHONE CO. (perfected under Permit G-2061)

**Use:** AIR CONDITIONING

**Priority Date:** FEBRUARY 21, 1962

**Rate:** 0.67 CUBIC FOOT PER SECOND

**Source:** FOURTH AVENUE BUILDING WELL within the WILLAMETTE BASIN

**Authorized Point of Appropriation:**

Twp	Rng	Mer	Sec	Q-Q	DLC	Measured Distances
1 S	1 E	WM	3	NW SW	48	FOURTH AVENUE BUILDING WELL - 1965 FEET NORTH AND 575 FEET EAST FROM THE SW CORNER OF SECTION 3

**Authorized Place of Use:**

AIR CONDITIONING						
Twp	Rng	Mer	Sec	Q-Q	DLC	
1 S	1 E	WM	3	NW SW	48	

4. The applicant has submitted information that better describes the location of the authorized point of appropriation as:

Twp	Rng	Mer	Sec	Q-Q	DLC	Measured Distances
1 S	1 E	WM	3	NW SW	48	FOURTH AVENUE BUILDING WELL - 687 FEET SOUTH AND 395 FEET EAST FROM THE W¼ CORNER OF SECTION 3

5. Transfer Application T-11014 proposes to move the authorized point of appropriation approximately 1700 and 1900 feet northwesterly from the existing point of appropriation to:

Twp	Rng	Mer	Sec	Q-Q	DLC	Measured Distances
1 S	1 E	WM	4	SE NE	48	SB2 SUPPLY WELL 1 - 169 FEET NORTH AND 1091 FEET WEST FROM THE E¼ CORNER OF SECTION 4
1 S	1 E	WM	4	SE NE	48	SB2 SUPPLY WELL 2 - 392 FEET NORTH AND 1148 FEET WEST FROM THE E¼ CORNER OF SECTION 4

6. Transfer Application T-11014 also proposes to change the place of use of the right to:

AIR CONDITIONING						
Twp	Rng	Mer	Sec	Q-Q	DLC	Tax Lots
1 S	1 E	WM	4	SE NE	48	8700, 8900

7. The second right to be transferred is as follows:

**Certificate:** 44645 in the name of PORTLAND STATE COLLEGE (perfected under Permit G-3965)

**Use:** AIR CONDITIONING

**Priority Date:** JANUARY 23, 1968

**Rate:** 0.80 CUBIC FOOT PER SECOND

**Limit:** This right is subject to the provision that the use of water for air conditioning in excess of 5000 gallons per day shall be subsequent in priority to future beneficial consumptive use unless a two 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 WILLAMETTE BASIN

**Authorized Point of Appropriation:**

Twp	Rng	Mer	Sec	Q-Q	DLC	Measured Distances
1 S	1 E	WM	4	SE NE	48	1496 FEET NORTH AND 1237 FEET EAST FROM THE NW CORNER OF COROTHERS DLC 43

**Authorized Place of Use:**

AIR CONDITIONING					
Twp	Rng	Mer	Sec	Q-Q	DLC
1 S	1 E	WM	4	SE NE	48
1 S	1 E	WM	4	SE NE	46
1 S	1 E	WM	4	NE SE	48

8. The applicant has submitted information that better describes the location of the authorized point of appropriation as:

Twp	Rng	Mer	Sec	Q-Q	DLC	Measured Distances
1 S	1 E	WM	4	SE NE	48	WELL 2 (MULT 2749) - 247 FEET NORTH AND 492 FEET WEST FROM THE E¼ CORNER OF SECTION 4

9. Transfer Application T-11014 proposes two additional points of appropriation approximately 600 and 670 feet westerly from the existing point of appropriation to:

Twp	Rng	Mer	Sec	Q-Q	DLC	Measured Distances
1 S	1 E	WM	4	SE NE	48	SB2 SUPPLY WELL 1 - 169 FEET NORTH AND 1091 FEET WEST FROM THE E¼ CORNER OF SECTION 4
1 S	1 E	WM	4	SE NE	48	SB2 SUPPLY WELL 2 - 392 FEET NORTH AND 1148 FEET WEST FROM THE E¼ CORNER OF SECTION 4

10. Transfer Application T-11014 also proposes to change the place of use of the right to:

AIR CONDITIONING						
Twp	Rng	Mer	Sec	Q-Q	DLC	Tax Lots
1 S	1 E	WM	4	SE NE	48	7600, 8500, 8700, 8900
1 S	1 E	WM	4	SE NE	46	7600

11. Notice of the application for transfer was published on February 9, 2010, pursuant to OAR 690-380-4000. No comments were filed in response to the notice.
12. On March 11, 2010, the Department e-mailed a copy of the draft Preliminary Determination proposing to approve Transfer Application T-11014 to the applicant. The draft Preliminary Determination cover letter set forth a deadline of April 12, 2010, 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.
13. On April 13, 2010, the Department issued a Preliminary Determination proposing to approve Transfer Application T-11014 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 April 20, 2010, and in the Oregonian Newspaper on May 4, 11, and 18, 2010, pursuant to ORS 540.520 and OAR 690-380-4020. No protests were filed in response to the notice.

***Transfer Review Criteria (OAR 690-380-4010)***

14. Water has been used within the last five years according to the terms and conditions of the rights. There is no information in the record that would demonstrate that the rights are subject to forfeiture under ORS 540.610.
15. Pumps and cooling systems sufficient to use the full amount of water allowed under the existing rights were present within the five-year period prior to submittal of Transfer Application T-11014.
16. The proposed changes would not result in enlargement of the rights.
17. The proposed changes would not result in injury to other water rights.

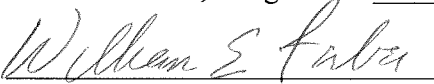
**Conclusions of Law**

The change in point of appropriation, additional points of appropriation, and changes in place of use proposed in Transfer Application T-11014 are consistent with the requirements of ORS 537.705 and 540.505 to 540.580 and OAR 690-380-5000.

**Now, therefore, it is ORDERED:**

1. The change in point of appropriation, additional points of appropriation, and changes in place of use proposed in Transfer Application T-11014 are approved.
2. The right to the use of the water is restricted to beneficial use at the places of use described, and is subject to all other conditions and limitations contained in Certificates 35590 and 44645, and any related decree.
3. Water right certificates 35590 and 44645 are 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 under the right described by Certificate 35590.
5. The quantity of water diverted at the additional points of appropriation, together with that diverted at the original point of appropriation, shall not exceed the quantity of water lawfully available at the original point of appropriation under the right described by Certificate 44645.
6. 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 point of appropriation.
  - b. The water user shall maintain the meters or measuring devices in good working order.
  - c. The water user shall allow the Watermaster access to the meters or measuring devices; provided however, where the meters or measuring devices are located within a private structure, the Watermaster shall request access upon reasonable notice.
7. Water shall be acquired only from the same aquifer (Troutdale Aquifer) as the original points of appropriation.
8. The approved changes shall be completed and full beneficial use of the water shall be made on or before **October 1, 2015**. 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.
9. When satisfactory proof of the completed changes is received, new certificates confirming the rights transferred will be issued.

Dated at Salem, Oregon this 23<sup>rd</sup> day of June 2010.

  
For Phillip C. Ward, Director

Mailing Date: JUN 29 2010