

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

In the Matter of Transfer Application)	SUPERSEDING FINAL ORDER
T-10525, Lake County)	APPROVING CHANGES IN POINT OF
)	APPROPRIATION AND PLACE OF
)	USE AND CORRECTING A
)	SCRIVENER'S ERROR IN A
)	PREVIOUS ORDER

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

CITY OF LAKEVIEW
PO BOX 28
LAKEVIEW OR 97630

Findings of Fact

Background

1. On January 30, 2008, the City of Lakeview filed an application to change the point of appropriation under Certificate 19943. The Department assigned the application number T-10525.
2. On March 9, 2009, the applicant submitted a revised map, identifying a proposed new place of use for transfer.
3. The right to be transferred is as follows:
Certificate: 19943 in the name of CITY OF LAKEVIEW (perfected under Permit U-128)
Use: DOMESTIC, CITY WATER SUPPLY
Priority Date: JUNE 29, 1940
Rate: 1.56 CUBIC FEET PER SECOND
Source: A WELL in the Goose Lake Basin

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.

Authorized Point of Appropriation:

Twp	Rng	Mer	Sec	Q-Q	Survey Coordinates
39 S	20 E	WM	16	NW NE	SOUTH 57 DEGREES WEST, 1600 FEET FROM THE NE CORNER OF SECTION 16

Authorized Place of Use:

DOMESTIC, CITY WATER SUPPLY				
Twp	Rng	Mer	Sec	Q-Q
39 S	20 E	WM	10	NE SW
39 S	20 E	WM	10	NW SW
39 S	20 E	WM	10	SW SW
39 S	20 E	WM	10	SE SW
39 S	20 E	WM	10	NE SE
39 S	20 E	WM	10	NW SE
39 S	20 E	WM	10	SW SE
39 S	20 E	WM	10	SE SE
39 S	20 E	WM	15	NE NE
39 S	20 E	WM	15	NW NE
39 S	20 E	WM	15	SW NE
39 S	20 E	WM	15	SE NE
39 S	20 E	WM	15	NE NW
39 S	20 E	WM	15	NW NW
39 S	20 E	WM	15	SW NW
39 S	20 E	WM	15	SE NW
39 S	20 E	WM	15	NE SW
39 S	20 E	WM	15	NW SW
39 S	20 E	WM	15	SW SW
39 S	20 E	WM	15	SE SW
39 S	20 E	WM	15	NE SE
39 S	20 E	WM	15	NW SE
39 S	20 E	WM	15	SW SE
39 S	20 E	WM	15	SE SE

4. Application T-10525 proposes to move the authorized point of appropriation approximately 80 feet north from the existing point of appropriation to:

Twp	Rng	Mer	Sec	Q-Q	Survey Coordinates
39 S	20 E	WM	16	NW NE	1861.35 FEET NORTH AND 1327.62 FEET WEST FROM THE E ¹ / ₄ CORNER OF SECTION 16

5. Transfer Application T-10525 also proposes to change the place of use of the right to:

DOMESTIC, CITY WATER SUPPLY				
Twp	Rng	Mer	Sec	Q-Q
39 S	20 E	WM	3	NW NW
39 S	20 E	WM	3	NW SW
39 S	20 E	WM	3	SW SW
39 S	20 E	WM	4	NE NE
39 S	20 E	WM	4	NW NE
39 S	20 E	WM	4	SW NE
39 S	20 E	WM	4	SE NE
39 S	20 E	WM	4	NE NW
39 S	20 E	WM	4	NW NW
39 S	20 E	WM	4	SW NW
39 S	20 E	WM	4	SE NW
39 S	20 E	WM	4	NE SW
39 S	20 E	WM	4	NW NW
39 S	20 E	WM	4	SW SW
39 S	20 E	WM	4	SE SW
39 S	20 E	WM	4	NE SE
39 S	20 E	WM	4	NW SE
39 S	20 E	WM	4	SW SE
39 S	20 E	WM	4	SE SE
39 S	20 E	WM	9	NE NE
39 S	20 E	WM	9	NW NE
39 S	20 E	WM	9	SW NE
39 S	20 E	WM	9	SE NE
39 S	20 E	WM	9	NE NW
39 S	20 E	WM	9	NW NW
39 S	20 E	WM	9	SW NW
39 S	20 E	WM	9	SE NW
39 S	20 E	WM	9	NE SW
39 S	20 E	WM	9	NW SW
39 S	20 E	WM	9	SW SW
39 S	20 E	WM	9	SE SW
39 S	20 E	WM	9	NE SE
39 S	20 E	WM	9	NW SE
39 S	20 E	WM	9	SW SE
39 S	20 E	WM	9	SE SE
39 S	20 E	WM	10	NE NW
39 S	20 E	WM	10	NW NW
39 S	20 E	WM	10	SW NW
39 S	20 E	WM	10	SE NW
39 S	20 E	WM	10	NE SW
39 S	20 E	WM	10	NW SW
39 S	20 E	WM	10	SW SW
39 S	20 E	WM	10	SE SW
39 S	20 E	WM	10	NE SE
39 S	20 E	WM	10	NW SE
39 S	20 E	WM	10	SW SE
39 S	20 E	WM	10	SE SE
39 S	20 E	WM	15	NE NE
39 S	20 E	WM	15	NW NE
39 S	20 E	WM	15	SW NE

DOMESTIC, CITY WATER SUPPLY				
Twp	Rng	Mer	Sec	Q-Q
39 S	20 E	WM	15	SE NE
39 S	20 E	WM	15	NE NW
39 S	20 E	WM	15	NW NW
39 S	20 E	WM	15	SW NW
39 S	20 E	WM	15	SE NW
39 S	20 E	WM	15	NE SW
39 S	20 E	WM	15	NW SW
39 S	20 E	WM	15	SW SW
39 S	20 E	WM	15	SE SW
39 S	20 E	WM	15	NE SE
39 S	20 E	WM	15	NW SE
39 S	20 E	WM	15	SW SE
39 S	20 E	WM	15	SE SE
39 S	20 E	WM	16	NE NE
39 S	20 E	WM	16	NW NE
39 S	20 E	WM	16	SW NE
39 S	20 E	WM	16	SE NE
39 S	20 E	WM	16	NE NW
39 S	20 E	WM	16	NW NW
39 S	20 E	WM	16	SW NW
39 S	20 E	WM	16	SE NW
39 S	20 E	WM	16	NE SW
39 S	20 E	WM	16	NW SW
39 S	20 E	WM	16	SW SW
39 S	20 E	WM	16	SE SW
39 S	20 E	WM	16	NE SE
39 S	20 E	WM	16	NW SE
39 S	20 E	WM	16	SW SE
39 S	20 E	WM	16	SE SE
39 S	20 E	WM	17	NE NE
39 S	20 E	WM	17	SE NE
39 S	20 E	WM	21	NE NE
39 S	20 E	WM	21	SE NE
39 S	20 E	WM	21	NE SE
39 S	20 E	WM	21	SE SE
39 S	20 E	WM	22	NW NE
39 S	20 E	WM	22	SW NE
39 S	20 E	WM	22	NE NW
39 S	20 E	WM	22	NW NW
39 S	20 E	WM	22	SW NW
39 S	20 E	WM	22	SE NW
39 S	20 E	WM	22	NE SW
39 S	20 E	WM	22	NW SW
39 S	20 E	WM	22	SW SW
39 S	20 E	WM	22	SE SW
39 S	20 E	WM	22	NW SE
39 S	20 E	WM	22	SW SE

6. Notice of the application for transfer was published on February 12, 2009, pursuant to OAR 690-380-4000. No comments were filed in response to the notice.
7. On March 20, 2009, the Department delivered a copy of the Preliminary Determination proposing to approve Transfer Application T-10525 to the applicant. The Preliminary Determination set forth a deadline of April 28, 2009, for the applicant to respond. On March 23, 2009, the applicant responded and identified a few corrections to the place of use listing in the draft and requested that the Department proceed with issuance of a Preliminary Determination. This document reflects those corrections.
8. On April 15, 2009, the Department issued a Preliminary Determination proposing to approve Transfer Application T-10525 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 21, 2009, pursuant to ORS 540.520 and OAR 690-380-4020. No protests were filed in response to the notice.
9. On May 21, 2009 the Department issued a Final Order for the transfer, recorded at Special Order Volume 77, Pages 910 to 914. Subsequent to issuance of the order the Department recognized a scrivener's error in the water right certificate named in the order. The certificate was incorrectly listed in the order as number 19443 rather than 19943.
10. This order is issued to supersede the previous order recorded at Special Order Volume 77, Pages 910 to 914, and to correct the scrivener's error.

Transfer Review Criteria (OAR 690-380-4010)

11. Water has been used within the last five years according to the terms and conditions of the right, and there is no information in the record that would demonstrate that the right is subject to forfeiture under ORS 540.610.
12. A pump, pipeline, and delivery 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 Application T-10525.
13. The proposed change would not result in enlargement of the right.
14. The proposed change would not result in injury to other water rights.

Conclusions of Law

The changes in point of appropriation and place of use proposed in application T-10525 are consistent with the requirements of ORS 537.705 and 540.505 to 540.580 and OAR 690-380-5000 and the scrivener's error in Special Order Volume 77, Pages 910 to 914 should be corrected in the record.

Now, therefore, it is ORDERED:

1. The order entered at Special Order Volume 77, Pages 910 to 914 is withdrawn and of no further force and effect and is superseded by this order.
2. The changes in point of appropriation and place of use proposed in application T-10525 are approved.
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 19943 and any related decree.
4. Water right certificate 19943 is cancelled.
5. Water shall be acquired from the same aquifer (water source) as the original point of appropriation.
6. 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.
7. Prior to diverting water, the water user shall install an in-line flow meter or other suitable device for measuring and recording the quantity of water diverted. The type and plans of the measuring device must be approved by the Department prior to beginning construction and shall be installed under the general supervision of the Department. The water user shall maintain and operate the measuring device as required by the Department.
8. The approved changes shall be completed and full beneficial use of the water shall be made on or before **October 1, 2014**. A Claim of Beneficial Use prepared by a Certified Water Rights 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, a new certificate confirming the right transferred will be issued.

Dated at Salem, Oregon this 13 day of May, 2011.



Dwight French, Water Right Services Administrator, for
PHILLIP C. WARD, DIRECTOR

Mailing date: **MAY 23 2011**