

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

In the Matter of Transfer Application)	FINAL ORDER APPROVING
T-11026, Crook County)	CHANGES IN POINT OF
)	APPROPRIATION AND 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

CITY OF PRINEVILLE
ATTN: ERIC KLANN
387 NE 3RD ST
PRINEVILLE OR 97754

Agent

ADAM SUSSMAN
GSI WATER SOLUTIONS, INC.
1600 WESTERN BLVD, SUITE 240
CORVALLIS, OR 97333

Findings of Fact

Background

1. On February 26, 2010, the CITY OF PRINEVILLE filed an application to change the point of appropriation and place of use under Certificate 29097. The Department assigned the application number T-11026.
2. On March 22, 2010, the City of Prineville submitted a Certificate of Water Right Ownership Update form. In addition, the City of Prineville submitted the Prineville City Council Minutes of December 17, 1984, and Resolution No. 622, authorizing the City to purchase the water right under Certificate 29097 from Pacific Power and Light Company.
3. The portion of the right to be transferred is as follows:

Certificate: 29097 in the name of PACIFIC POWER & LIGHT CO. (perfected under Permit G-506)
Use: MUNICIPAL USES
Priority Date: APRIL 5, 1957

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.

Rate: 0.33 CUBIC FOOT PER SECOND

Source: LAMONTA WELL within the OCHOCO CREEK BASIN

Authorized Point of Appropriation:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
14 S	16 E	WM	31	NW NW	SOUTH 58 DEGREES 13 MINUTES EAST, 1447 FEET FROM THE NW CORNER OF SECTION 31

Authorized Place of Use:

MUNICIPAL USES					
Twp	Rng	Mer	Sec	Q-Q	GLot
14 S	16 E	WM	31	NE SE	
14 S	16 E	WM	31	NW SE	
14 S	16 E	WM	31	SW SE	
14 S	16 E	WM	31	SE SE	
14 S	16 E	WM	32	NE SW	
14 S	16 E	WM	32	NW SW	
14 S	16 E	WM	32	SW SW	
14 S	16 E	WM	32	SE SW	
15 S	16 E	WM	5	NW NE	2
15 S	16 E	WM	5	SW NE	
15 S	16 E	WM	5	NE NW	3
15 S	16 E	WM	5	NW NW	4
15 S	16 E	WM	6	NE NE	1
15 S	16 E	WM	6	NW NE	2
15 S	16 E	WM	6	SE NE	

4. Transfer Application T-11026 proposes to move the authorized point of appropriation approximately 1.8 miles northwest from the existing point of appropriation to:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
14 S	15 E	WM	23	SE SE	780 FEET NORTH AND 685 FEET WEST FROM THE SE CORNER OF SECTION 23

5. Transfer Application T-11026 also proposes to change the place of use for this portion of the right to:

MUNICIPAL USES					
Twp	Rng	Mer	Sec	Q-Q	Tax Lot
14 S	15 E	WM	23	SE SE	602
14 S	15 E	WM	23	SE SE	607

6. Notice of the application for transfer was published on March 2, 2010, pursuant to OAR 690-380-4000. No comments were filed in response to the notice.
7. On April 2, 2010, the Department mailed a copy of the draft Preliminary Determination proposing to approve Transfer Application T-11026 to the applicant. The draft Preliminary Determination cover letter set forth a deadline on May 2, 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.

8. On April 8, 2010, the Department issued a Preliminary Determination proposing to approve Transfer Application T-11026 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 13, 2010, and in the Central Oregonian newspaper on April 21 and 28, 2010, and May 5, 2010. No protests were filed in response to the notice.

Transfer Review Criteria (OAR 690-380-4010)

9. 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.
10. 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-11026.
11. The proposed changes would not result in enlargement of the right.
12. The proposed changes would not result in injury to other water rights.

Conclusions of Law

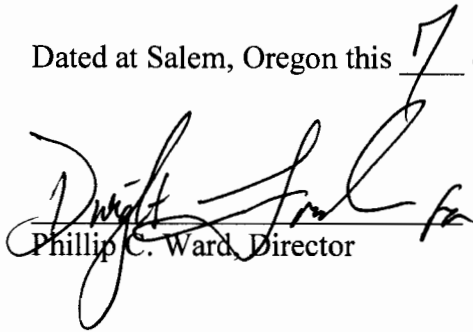
The change in point of appropriation and change in place of use proposed in Transfer Application T-11026 are consistent with the requirements of ORS 537.705 and 540.505 to 540.580 and OAR 690-380-5000.

Now, therefore, it is ORDERED:

1. The change in point of appropriation and change in place of use proposed in application T-11026 are approved.
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 29097 and any related decree.
3. Water right certificate 29097 is cancelled. A new certificate will be issued describing that portion of the right not affected by this transfer.
4. The quantity of water diverted at the new point 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.
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 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. The approved changes shall be completed and full beneficial use of the water shall be made on or before **October 1, 2011**. 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.
 - 8. When satisfactory proof of the completed changes is received, a new certificate confirming the right transferred will be issued.

Dated at Salem, Oregon this 7 day of June 2010.


Phillip C. Ward, Director

Mailing Date: JUN 08 2010