

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

In the Matter of Transfer Application) FINAL ORDER APPROVING A
T-10229, Marion County) CHANGE IN CHARACTER OF USE

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

BELL NORTHSIDE, LLC
C/O CRAIG BELL, PRESIDENT
3461 WACONDA ROAD
GERVAIS, OREGON 97026

Findings of Fact

1. On August 17, 2006, Bell Northside, LLC filed an application to transfer the character of use under Certificate 81896. The Department assigned the application number T-10229.
2. The portion of the right to be transferred is as follows:
Certificate: 81896 in the name of Bell Northside, LLC (perfected under Permit G-12141)
Use: Agricultural Use
Priority Date: August 26, 1993
Rate: 0.11 cubic foot per second (cfs)
Source: Well 2 within the Willamette River Basin

Authorized Point of Appropriation:

Twp	Rng	Mer	Sec	Q-Q	DLC	Survey Coordinates
6 S	3 W	WM	1	SE SE	61	730 FEET SOUTH AND 360 FEET WEST FROM NE CORNER, SILAS JONES DLC 61

Authorized Place of Use:

Twp	Rng	Mer	Sec	Q-Q	DLC
6 S	3 W	WM	1	NE SE	61
6 S	3 W	WM	1	SE SE	61

3. Application T-10229 proposes to change the character of use to industrial use.

NOTICE OF RIGHT TO PETITION FOR RECONSIDERATION OR JUDICIAL REVIEW

This is an order in other than a 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 137-004-0080, you may either 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. Notice of the application for transfer was published on August 22, 2006 pursuant to ORS 540.520 and OAR 690-380-4000. No comments were filed in response to the notice.
5. On January 31, 2007, the Department issued a preliminary determination proposing to approve Transfer T-10229 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 February 6, 2007, and in the Woodburn Independent newspaper on February 7, 14 and 21, 2007 pursuant to ORS 540.520 and OAR 690-380-4020. No protests were filed in response to the notice.
6. 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.
7. A pump, pipeline, and distribution system sufficient to use the full amount of water allowed under the existing right is present.
8. The proposed change would not result in enlargement of the right.
9. The proposed change would not result in injury to other water rights.

Conclusions of Law

The change in character of use proposed in application T-10229 is consistent with the requirements of ORS 537.705, 540.505 to 540.580, and OAR 690-380-5000.

Now, therefore, it is ORDERED:

1. The right to 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 81896 and any related decree.
2. Water right Certificate 81896 is cancelled. A new certificate will be issued to describe the portion of the right not affected by the transfer.
3. The approved change shall be completed and full beneficial use of the water shall be made on or before **October 1, 2008**. 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.
4. When satisfactory proof of the completed change is received, a new certificate confirming the right transferred will be issued.

Dated at Salem, Oregon this 28th day of March 2007.


 Phillip C. Ward, Director *FCW*

MAR 29 2007

Mailing date: _____