

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

In the Matter of Transfer Application) FINAL ORDER APPROVING A
T-9809, Multnomah County) TRANSFER
)

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 Fairview (Attn: Robert Cochran)
1300 NE Village Street
Fairview, OR 97204

Findings of Fact

1. On October 28, 2004, City of Fairview filed a transfer application to change the place of use and add a point of appropriation under Certificate 74802. The Department assigned the application number T-9809.

2. The right to be transferred is as follows:

Certificate: 74802 in the name of City of Fairview (perfected under Permit G-443)
Use: Municipal
Priority Date: December 19, 1956 for 0.11 cfs and February 7, 1957 for 0.89 cfs
Quantity: 1.0 cfs or its equivalent in case of rotation measured at the well
Rate/Duty: None
Acres: Not applicable
Source: City of Fairview Well [Well 3] in the Fairview Creek Basin

Authorized Point of Appropriation:

Township		Range		Meridian	Sec	¼ ¼	Lot	DLC	Survey Coordinates
1	N	3	E	W.M.	27	NW SW	—	Scott 39	2,450 feet north and 70 feet east from the SW corner of Section 27

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. 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 Place of Use:

Township		Range		Meridian	Sec	¼ ¼		Lot	DLC
1	N	3	E	W.M.	27	SW	NE		47
1	N	3	E	W.M.	27	SW	NE	2	
1	N	3	E	W.M.	27	SW	NW	—	39
1	N	3	E	W.M.	27	SW	NW	—	47
1	N	3	E	W.M.	27	SE	NW	—	47
1	N	3	E	W.M.	27	SE	NW	—	39
1	N	3	E	W.M.	27	SE	NW	3	
1	N	3	E	W.M.	27	NE	SW	3	
1	N	3	E	W.M.	27	NE	SW	—	39
1	N	3	E	W.M.	27	NE	SW	—	41
1	N	3	E	W.M.	27	NW	SW	—	41
1	N	3	E	W.M.	27	NW	SW	—	39
1	N	3	E	W.M.	27	SW	SW	—	39
1	N	3	E	W.M.	27	SW	SW	—	41
1	N	3	E	W.M.	28	SW	NE	—	33
1	N	3	E	W.M.	28	SE	NE	—	33
1	N	3	E	W.M.	28	NE	SE	—	33
1	N	3	E	W.M.	28	NW	SE	—	33
1	N	3	E	W.M.	28	SW	SE	—	33
1	N	3	E	W.M.	28	SE	SE	—	33

3. Application T-9809 proposes to add an authorized point of appropriation (Well 9) approximately 0.02 mile from the existing point of appropriation in the Fairview Creek basin to:

Township		Range		Meridian	Sec	¼ ¼		Survey Coordinates
1	N	3	E	W.M.	27	NW	SW	2,460 feet north and 165 feet east from SW corner of Section 27

4. Application T-9809 proposes to change the place of use of the right to encompass the City of Fairview's service area in its entirety within the following sections:

Township		Range		Meridian	Sec	¼ ¼	
1	N	3	E	W.M.	15	SW	SW
1	N	3	E	W.M.	15	SE	SW
1	N	3	E	W.M.	15	All	SE
1	N	3	E	W.M.	16	SE	SW
1	N	3	E	W.M.	16	SW	SE
1	N	3	E	W.M.	16	SE	SE
1	N	3	E	W.M.	20	NE	NE

Township		Range		Meridian	Sec	¼ ¼	
1	N	3	E	W.M.	20	SE	NE
1	N	3	E	W.M.	20	NE	SE
1	N	3	E	W.M.	20	SE	SE
1	N	3	E	W.M.	21		All
1	N	3	E	W.M.	22	NE	NE
1	N	3	E	W.M.	22	NW	NE
1	N	3	E	W.M.	22	SW	NE
1	N	3	E	W.M.	22	All	NW
1	N	3	E	W.M.	22	All	SW
1	N	3	E	W.M.	22	NW	SE
1	N	3	E	W.M.	22	SW	SE
1	N	3	E	W.M.	27	NW	NE
1	N	3	E	W.M.	27	SW	NE
1	N	3	E	W.M.	27	All	NW
1	N	3	E	W.M.	27	All	SW
1	N	3	E	W.M.	27	NW	SE
1	N	3	E	W.M.	27	SW	SE
1	N	3	E	W.M.	28	All	NE
1	N	3	E	W.M.	28	All	NW
1	N	3	E	W.M.	28	NE	SW
1	N	3	E	W.M.	28	NW	SW
1	N	3	E	W.M.	28	SE	SW
1	N	3	E	W.M.	28	All	SE
1	N	3	E	W.M.	29	NE	NE
1	N	3	E	W.M.	29	NE	SE
1	N	3	E	W.M.	33	NE	NE
1	N	3	E	W.M.	33	NW	NE
1	N	3	E	W.M.	33	SE	NE
1	N	3	E	W.M.	33	NE	NW
1	N	3	E	W.M.	34	NW	NW
1	N	3	E	W.M.	34	SW	NW

- Application T-9809 included the SE ¼ NE ¼, Section 29, Township 1 North, Range 3 East, in the proposed place of use, however the transfer map shows no land within the boundary of the City of Fairview's service district in that quarter quarter section. The SE ¼ NE ¼ of Section 29 has not been included in the proposed place of use listing in Finding #4 above.

6. 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.
7. 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.
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 changes in place of use and addition of a point of appropriation proposed in application T-9809 are consistent with the requirements of ORS 537.705 and 540.505 to 540.580, and OAR 690-380-5000.

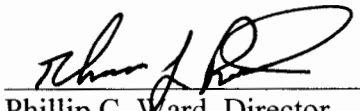
Now, therefore, it is ORDERED:

1. The changes in point of appropriation and place of use proposed in application T-9809 are approved.
2. Water right certificate 74802 is cancelled.
3. 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 74802 and any related decree.
4. Water shall be acquired from the same aquifer (water source) as the original point of appropriation.
5. The proposed change shall be completed on or before October 1, 2006.
6. A Claim of Beneficial Use prepared by a Certified Water Rights Examiner shall be submitted by the applicant to the Department by October 1, 2007.
7. The quantity of water diverted at the additional 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.
8. Prior to diverting water at the new point of appropriation, the water user shall install and maintain an in-line flow meter or other suitable device for measuring and recording the quantity of water appropriated. 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.

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 28th day of MARCH, 2005.



Phillip C. Ward, Director

Mailing date: APR 05 2005