

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

In the Matter of Transfer Application) FINAL ORDER
T-10012, Umatilla County) APPROVING A CHANGE IN PLACE
) OF USE AND CHARACTER OF USE

ORS 537.705, and ORS 540.505 to 540.580 establishes the process in which a water right holder may submit a request to transfer the point of diversion, 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 PILOT ROCK
STEVE DRAPER
144 ALDER PLACE
PILOT ROCK, OREGON 97868

Findings of Fact

1. On September 26, 2005, Steve Draper of the City of Pilot Rock filed a transfer application to change the place of use and character of use under Certificates 24374 and 38851. The Department assigned the application number T-10012.

2. The portion of the first right to be transferred is as follows:

Certificate: 24374 in the name of OREGON FIBRE PRODUCTS, INC., and PILOT ROCK LUMBER COMPANY (perfected under Permit U-471)

Use: FIRE PROTECTION, MAINTAINING LOG POND AND MANUFACTURING

Priority Date: AUGUST 15, 1952

Rate: 1.25 CUBIC FEET PER SECOND (CFS)

Source: WELL 2 – HARDBOARD PLANT, within the BIRCH CREEK BASIN

Authorized Point of Appropriation:

| Twp | Rng | Mer | Sec | Q-Q |
|-----|------|-----|-----|-------|
| 1 S | 32 E | WM | 9 | SW NW |

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.

Authorized Place of Use:

| FIRE PROTECTION, MAINTENANCE OF A LOG POND, AND MANUFACTURING | | | | |
|---|------|-----|-----|-------|
| Twp | Rng | Mer | Sec | Q-Q |
| 1 S | 32 E | WM | 9 | NW NW |
| 1 S | 32 E | WM | 9 | SW NW |

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

Certificate: 38851 in the name of UNITED STATES GYPSUM COMPANY, INC.
(perfected under Permit G-3221)

Use: INDUSTRIAL

Priority Date: MARCH 29, 1966

Rate: 2.22 CUBIC FEET PER SECOND (CFS)

Source: A WELL within the BIRCH CREEK BASIN (Umatilla River)

Authorized Point of Diversion:

| Twp | Rng | Mer | Sec | Q-Q | Survey Coordinates |
|-----|------|-----|-----|-------|---|
| 1 S | 32 E | WM | 9 | NW NW | 280 FEET SOUTH AND 950 FEET EAST FROM NW CORNER OF SECTION 9. |

Authorized Place of Use:

| INDUSTRIAL | | | | |
|------------|------|-----|-----|-------|
| Twp | Rng | Mer | Sec | Q-Q |
| 1 S | 32 E | WM | 9 | SW NW |

4. Application T-10012 proposes to change the place of use of the rights to within the urban growth boundary of the City of Pilot Rock, further described as:

| MUNICIPAL | | | | |
|-----------|------|-----|-----|-------|
| Twp | Rng | Mer | Sec | Q-Q |
| 1 S | 32 E | WM | 4 | SW NE |
| 1 S | 32 E | WM | 4 | SE NW |
| 1 S | 32 E | WM | 4 | NE SW |
| 1 S | 32 E | WM | 4 | SW SW |
| 1 S | 32 E | WM | 4 | SE SW |
| 1 S | 32 E | WM | 4 | NW SE |
| 1 S | 32 E | WM | 4 | SW SE |
| 1 S | 32 E | WM | 4 | SE SE |
| 1 S | 32 E | WM | 8 | NE NE |
| 1 S | 32 E | WM | 8 | SE NE |
| 1 S | 32 E | WM | 8 | NE SE |
| 1 S | 32 E | WM | 8 | SW SE |
| 1 S | 32 E | WM | 8 | SE SE |
| 1 S | 32 E | WM | 9 | NE NE |
| 1 S | 32 E | WM | 9 | NW NE |
| 1 S | 32 E | WM | 9 | SW NE |
| 1 S | 32 E | WM | 9 | NE NW |
| 1 S | 32 E | WM | 9 | NW NW |
| 1 S | 32 E | WM | 9 | SW NW |

| MUNICIPAL | | | | |
|-----------|------|-----|-----|-------|
| Twp | Rng | Mer | Sec | Q-Q |
| 1 S | 32 E | WM | 9 | SE NW |
| 1 S | 32 E | WM | 9 | NE SW |
| 1 S | 32 E | WM | 9 | NW SW |
| 1 S | 32 E | WM | 9 | SW SW |
| 1 S | 32 E | WM | 9 | SE SW |
| 1 S | 32 E | WM | 9 | NW SE |
| 1 S | 32 E | WM | 9 | SW SE |
| 1 S | 32 E | WM | 16 | NE NW |
| 1 S | 32 E | WM | 16 | NW NW |
| 1 S | 32 E | WM | 16 | SW NW |
| 1 S | 32 E | WM | 16 | SE NW |
| 1 S | 32 E | WM | 16 | NE SW |
| 1 S | 32 E | WM | 16 | NW SW |
| 1 S | 32 E | WM | 16 | SW SW |
| 1 S | 32 E | WM | 17 | NE NE |
| 1 S | 32 E | WM | 17 | SW NE |
| 1 S | 32 E | WM | 17 | SE NE |
| 1 S | 32 E | WM | 17 | NE SE |
| 1 S | 32 E | WM | 17 | NW SE |
| 1 S | 32 E | WM | 17 | SW SE |
| 1 S | 32 E | WM | 17 | SE SE |
| 1 S | 32 E | WM | 21 | NW NW |
| 1 S | 32 E | WM | 21 | SW NW |

5. Application T-10012 proposes to change the character of use of the rights from FIRE PROTECTION, MAINTAINING LOG POND AND MANUFACTURING, AND INDUSTRIAL USE to MUNICIPAL USE.
6. Notice of the application for transfer was published on October 4, 2005 pursuant to ORS 540.520 and OAR 690-380-4000. No comments were filed in response to the notice.
7. On November 30, 2006, the Department issued a preliminary determination proposing to approve Transfer T-10012 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 December 5, 2006, and in the East Oregonian on December 12, 19, and 26, 2006, pursuant to ORS 540.520 and OAR 690-380-4020. No protests were filed in response to the notices.
8. Water has been used within the last five years according to the terms and conditions of the rights, and no evidence is available that would demonstrate that the rights are subject to forfeiture under ORS 540.610.
9. Pumps, pipeline, and water delivery systems sufficient to use the full amount of water allowed under the existing rights are present.
10. The proposed changes would not result in enlargement of the rights.

11. The proposed change would not result in injury to other water rights.

Conclusions of Law

The changes in place of use and character of use proposed in application T-10012 are 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 changes in place of use and character of use proposed in application T-10012 are approved.
2. 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 Certificates 24374 and 38851 and any related decree.
3. Water Right Certificates 24374 and 38851 are cancelled. A certificate will be issued to confirm that portion of the right described by Certificate 24374 not involved in the transfer.
4. The approved changes shall be completed and full beneficial use of the water shall be made on or before **October 1, 2012**. 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.
5. Prior to diverting water for the proposed use, 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.
6. When satisfactory proof of the completed changes is received, new certificates confirming the rights transferred will be issued.

Dated at Salem, Oregon this 13th day of April 2007.


Phillip C. Ward, Director *PCW*

Mailing Date: MAY 16 2007