

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

In the Matter of Transfer Application)	FINAL ORDER APPROVING
T-10699, Clackamas County)	CHANGES IN PLACE OF USE AND
)	CHARACTER 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

SUNRISE WATER AUTHORITY
10602 SE 129TH AVE
HAPPY VALLEY OR 97086

Findings of Fact

Background

1. On August 18, 2008, Sunrise Water Authority filed an application to change the use and place of use under Certificate 50468. The Department assigned the application number T-10699.
2. On February 25, 2009 and March 18, 2009, revisions to the application and map were submitted on behalf of Sunrise Water Authority by Kimberly Grigsby of GSI Water Solutions, Inc., the applicant's agent.
3. The portion of the right to be transferred is as follows:

Certificate: 50468 in the name of JAMES W GILBERT (perfected under Permit G-8016)

Use: IRRIGATION of 14.7 ACRES

Priority Date: JANUARY 19, 1978

Rate: 0.18 CUBIC FOOT PER SECOND

Limit/Duty: ONE-EIGHTIETH cfs per acre, not to exceed 2.5 acre-feet per acre per year

Source: A WELL in the ROCK CREEK 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	Measured Distances
2 S	2 E	WM	1	SE NE	1,430 FEET SOUTH AND 170 FEET WEST FROM THE NE CORNER OF SECTION 1

Authorized Place of Use:

Twp	Rng	Mer	Sec	Q-Q	Acres
2 S	2 E	WM	1	NE NE	4.6
2 S	2 E	WM	1	SE NE	10.1

4. Application T-10699 proposes to change the place of use of the right to:

Twp	Rng	Mer	Sec	Q-Q
2 S	2 E	WM	1	NE ¼
2 S	2 E	WM	1	NW ¼
2 S	2 E	WM	1	SW ¼
2 S	2 E	WM	1	SE ¼
2 S	2 E	WM	2	NE ¼
2 S	2 E	WM	2	SE ¼
2 S	2 E	WM	11	NE NE
2 S	2 E	WM	11	NW NE
2 S	2 E	WM	12	NE NE
2 S	2 E	WM	12	NW NE
2 S	2 E	WM	12	NE NW
2 S	2 E	WM	12	NW NW
2 S	3 E	WM	6	NW NW
2 S	3 E	WM	6	SW NW
2 S	3 E	WM	6	NW SW
2 S	3 E	WM	6	SW SW
2 S	3 E	WM	7	NW NW

5. Application T-10699 proposes to change the character of use to Municipal.
6. Notice of the application for transfer was published on August 26, 2008, pursuant to OAR 690-380-4000. No comments were filed in response to the notice.
7. On October 14, 2008, the Department mailed a copy of the draft Preliminary Determination proposing to approve Transfer Application T-10699 to the applicant. The draft Preliminary Determination set forth a deadline of November 17, 2008, for the applicant to respond. The applicant requested additional time to submit the necessary information to demonstrate that the applicant is authorized to pursue the transfer. On February 25, 2009, the applicant's agent submitted modifications to the transfer application and map and documentation that the applicant is authorized to pursue the transfer, as modified.
8. On March 10, 2009, the Department mailed to the applicant a copy of a revised draft Preliminary Determination reflecting the modifications to the application and proposing to approve Transfer Application T-10699. The applicant responded by letter, agreeing with the

revised draft, submitted a final revision of the map and requested that the Department proceed with issuance of a Preliminary Determination.

9. On March 25, 2009, the Department issued a Preliminary Determination proposing to approve Transfer Application T-10699 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 7, 2009, and The Oregonian newspaper on April 13, 20 and 27, 2009, pursuant to ORS 540.520 and OAR 690-380-4020. No protests were filed in response to the Department's or newspaper notice.
10. The applicant proposed to limit the annual volume of water for municipal use to the rate and total annual duty currently authorized under the right, in order to prevent enlargement of the right. The currently authorized rate and duty are 0.18 cfs and 36.8 acre-feet (2.5 acre-feet per acre x 14.7 acres) per year, during the irrigation season of each year.

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 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 Application T-10699.
13. As defined by OAR 690-380-0100(2) the proposed change in place of use from 14.7 acres to a municipal place of use encompassing over 1,000 acres could result in enlargement if not conditioned so as to prevent use of more water than could have been beneficially used without waste for the existing authorized use. However, the best currently available information indicates that municipal use in the Willamette and Sandy Basins during the irrigation season is less consumptive (expressed as a percent of water diverted) than irrigation use for the most consumptive crops. It is unlikely that diverting an annual volume of water equal to the full face value duty of the right (2.5 acre-feet per acre times 14.7 acres = 36.8 acre-feet) would result in an increase in consumptive water use.
14. The proposed changes, if conditioned to limit diversion to a rate of 0.18 cfs and a total annual volume of 36.8 acre-feet during the irrigation season of each year would not result in enlargement of the right.
15. The proposed change would not result in injury to other water rights.


Conclusions of Law

The changes in use and place of use proposed in application T-10699 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 use and place of use proposed in application T-10699 are approved.
2. Water right Certificate 50468 is cancelled. A new certificate will be issued describing that portion of the right not affected by this transfer.
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 50468 and any related decree.
4. Water shall be acquired from the same aquifer (water source) as the original point of appropriation.
5. The use of the water under the right shall be limited to a rate of 0.18 cfs and a total annual volume of 36.8 acre-feet during the irrigation season of each year.
6. 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.
7. The approved changes shall be completed and full beneficial use of the water shall be made on or before **October 1, 2020**. 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.
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 28th day of May 2009.


Phillip C. Ward, Director *pc*

Mailing date: JUN 01 2009