

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

In the Matter of Transfer Application)
T-11517, Multnomah County)
)
)

FINAL ORDER APPROVING AN
ADDITIONAL POINT OF
APPROPRIATION

Authority

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

METRO
ATTN: LYDIA NEILL
600 NE GRAND AVE
PORTLAND, OR 97232

Findings of Fact

1. On December 31, 2012, METRO filed an application for an additional point of appropriation under Certificate 83230. The Department assigned the application number T-11517.
2. Notice of the application for transfer was published on January 8, 2013, pursuant to OAR 690-380-4000. No comments were filed in response to the notice.
3. The transfer application description of the authorized place of use incorrectly described the ¼ ¼ location of the acres. However, the map identified the correct ¼ ¼ locations. After communicating with the applicant through email, they provided clarification to the corrections sent to them, via email.
4. On December 9, 2013, the Department mailed a copy of the Draft Preliminary Determination proposing to approve Transfer Application T-11517 to the applicant. The Draft Preliminary Determination cover letter set forth a deadline of January 10, 2014, 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.

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.

5. On January 10, 2014, the Department issued a Preliminary Determination proposing to approve Transfer Application T-11517 and sent a copy to the applicant. Additionally, notice of the Preliminary Determination for the transfer application was published on the Department's weekly notice on January 14, 2014, and in the Daily Journal of Commerce newspaper on January 15, 2014 and January 22, 2014, pursuant to ORS 540.520 and OAR 690-380-4020. No protests were filed in response to the notice.

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

Certificate: 83230 in the name of COUNTY OF MULTNOMAH (perfected under Permit G-10490)
Use: IRRIGATION of 88.9 ACRES
Priority Date: MAY 1, 1985
Rate: 1.1 CUBIC FEET PER SECOND
Limit/Duty: The amount of water used for irrigation, together with the amount secured under any other right existing for the same lands, is limited to a diversion of ONE-EIGHTIETH of one cubic foot per second, or its equivalent for each acre irrigated, and shall be further limited to a diversion of not to exceed 2.5 acre-feet per acre for each acre irrigated during the irrigation season of each year.
Source: A WELL within the WILLAMETTE BASIN

Authorized Point of Appropriation:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
1 N	2 E	WM	35	SW NE	POA NO. 1 - 90 FEET NORTH AND 100 FEET EAST FROM THE C 1/4 CORNER OF SECTION 35

Authorized Place of Use:

IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
1 N	2 E	WM	35	NE NE	14.00
1 N	2 E	WM	35	NW NE	1.00
1 N	2 E	WM	35	SW NE	16.30
1 N	2 E	WM	35	SE NE	14.60
1 N	2 E	WM	36	NE NW	7.40
1 N	2 E	WM	36	NW NW	16.80
1 N	2 E	WM	36	SW NW	13.80
1 N	2 E	WM	36	SE NW	5.00

7. Transfer Application T-11517 proposes to add an additional point of appropriation approximately 3996 feet from the existing point of appropriation to:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
1 N	2 E	WM	36	SE NW	POA NO. 2 - 165 FEET NORTH AND 84 FEET EAST FROM THE C 1/16 OF SECTION 36

Transfer Review Criteria [OAR 690-380-4010(2)]

8. Water has been used within the five-year period prior to submittal of the transfer application 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.
9. 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-11517.
10. Provided totalizing flow meters are installed as conditioned below, the proposed change would not result in enlargement of the right.
11. If conditioned as followed, the proposed change would not result in injury to other water rights.

Conclusions of Law

The additional point of appropriation proposed in Transfer Application T-11517 is consistent with the requirements of ORS 540.505 to 540.580 and OAR 690-380-5000.

Now, therefore, it is ORDERED:

1. The additional point of appropriation proposed in Transfer Application T-11517 is 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 83230 and any related decree.
3. Water right certificate 83230 is cancelled.
4. 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 diversion.
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 (new and existing).
 - b. The water user shall maintain the meters or measuring devices in good working order.
 - c. The water user shall allow the Watermaster access to the meters or measuring devices; provided however, where the meters or measuring devices are 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. Full beneficial use of the water shall be made, consistent with the terms of this order, on or before **October 1, 2015**. 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 change and full beneficial use of the water.
8. After satisfactory proof of beneficial use is received, a new certificate confirming the right transferred will be issued.

Dated at Salem, Oregon this 24 day of February, 2014.


Dwight French, Water Right Services Administrator, for
PHILLIP C. WARD, DIRECTOR

Mailing Date MAR 03 2014