

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

In the Matter of Transfer Application) **FINAL ORDER APPROVING**
T-11731, Deschutes County) **ADDITIONAL POINTS OF**
) **APPROPRIATION**

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

LAIDLAW WATER DISTRICT
64711 WOOD AVE
BEND, OR 97701

Findings of Fact

1. On January 27, 2014, LAIDLAW WATER DISTRICT filed an application for additional points of appropriation under Certificate 80614. The Department assigned the application number T-11731.
2. Notice of the application for transfer was published on February 4, 2014, pursuant to OAR 690-380-4000. No comments were filed in response to the notice.
3. On March 18, 2014, the Department contacted Tye Engineering & Surveying, Inc. by email to notify the applicant’s agent, that the measured location of the wells and the description of the place of use are not accurate. On March 18, 2014, the applicant’s agent emailed the amended application resolving the deficiencies.
4. On March 27, 2014, the Department mailed a copy of the draft Preliminary Determination proposing to approve Transfer Application T-11731 to the applicant. The draft Preliminary Determination cover letter set forth a deadline of April 28, 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 May 14, 2014, the Department issued a preliminary determination proposing to approve Transfer T-11731 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 May 20, 2014, and in the Bend Bulletin newspaper on May 17 and 24, 2014, pursuant to ORS 540.520 and OAR 690-380-4020. No protests were filed in response to the notice.
6. On June 6, 2014, the Department identified a scrivener's error describing the quarter-quarter location of the proposed Reservoir Well in the Preliminary Determination. The Preliminary Determination described the quarter-quarter as NE SE. This Final Order correctly states the quarter-quarter location.
7. The right to be transferred is as follows:

Certificate: 80614 in the name of LAIDLAW WATER DISTRICT (perfected under Permit G-9375)
Use: QUASI-MUNICIPAL USE
Priority Date: MAY 6, 1981
Rate: 55.0 GALLONS PER MINUTE
Source: SCHOOL WELL within the DESCHUTES BASIN

Authorized Point of Appropriation:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
16 S	12 E	WM	31	NW NE	664 FEET SOUTH AND 531 FEET EAST FROM THE NORTH 1/4 CORNER OF SECTION 31

Authorized Place of Use:

Twp	Rng	Mer	Sec	Q-Q
12 S	12 E	WM	29	SW NW
12 S	12 E	WM	29	SE NW
12 S	12 E	WM	29	NE SW
12 S	12 E	WM	29	SE SW
16 S	12 E	WM	29	NW SW
16 S	12 E	WM	29	SW SW
16 S	12 E	WM	30	NE SE
16 S	12 E	WM	30	SW SE
16 S	12 E	WM	30	SE SE
16 S	12 E	WM	31	NE NE
16 S	12 E	WM	31	NW NE
16 S	12 E	WM	31	SW NE
16 S	12 E	WM	31	SE NE
16 S	12 E	WM	31	NE NW
16 S	12 E	WM	31	NE SE
16 S	12 E	WM	31	NW SE
16 S	12 E	WM	31	SW SE
16 S	12 E	WM	31	SE SE
16 S	12 E	WM	32	NW NW

8. Transfer Application T-11731 proposes additional points of appropriation approximately 2640 feet for Ruesse Well and approximately 800 feet for the Reservoir Well from the existing point of appropriation to:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
16 S	12 E	WM	29	NW SW	RUESSE WELL: 108 FEET SOUTH AND 365 FEET EAST FROM THE W1/4 CORNER OF SECTION 29
16 S	12 E	WM	31	NE NW	RESERVOIR WELL: 1217 FEET SOUTH AND 2220 FEET EAST FROM THE NW CORNER OF SECTION 31

Transfer Review Criteria (OAR 690-380-4010)

9. Water has been used within the last five years 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.
10. A pump, pipeline, and delivery 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-11731.
11. The proposed change would not result in enlargement of the right.
12. The proposed change would not result in injury to other water rights.
13. All other application requirements are met.

Conclusions of Law

The additional points of appropriation proposed in Transfer Application T-11731 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 additional points of appropriation proposed in Transfer Application T-11731 are 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 80614 and any related decree.
3. Water right Certificate 80614 is cancelled.
4. The quantity of water diverted at the additional points 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.

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, 2019**. 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 changes 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 1 day of July, 2014.



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

Mailing date: JUL 10 2014