

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

In the Matter of Transfer Application)	FINAL ORDER APPROVING A
T-12261, Polk County)	CHANGE IN POINT OF
)	APPROPRIATION, PLACE OF USE
)	AND CHARACTER OF USE

Authority

Oregon Revised Statutes (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. Oregon Administrative Rules (OAR) Chapter 690, Division 380 implement the statutes and provides the Department's procedures and criteria for evaluating transfer applications.

Applicant

CITY OF INDEPENDENCE
PO BOX 7
INDEPENDENCE, OR 97351

Findings of Fact

1. On February 4, 2016, 4B Engineering & Consulting, LLC, on behalf of the City of Independence, filed an application to change the point of appropriation, to change the place of use and to change the character of use under Certificate 31510. The Department assigned the application number T-12261.
2. Notice of the application for transfer was published on February 9, 2016, pursuant to OAR 690-380-4000. No comments were filed in response to the notice.
3. On December 29, 2016, the Department informed the applicant's agent of the potential for Polk Well #1 to be over pumped due to the number of water rights pumping from the well.
4. On January 4, 2017, the Department informed the applicant's agent of several deficiencies in the transfer application and map that needed to be resolved prior to issuance of the draft preliminary determination. The agent provided revised application materials on January 5, January 6, and February 7, 2017.
5. On February 9, 2017, the Department notified the applicant's agent that a new Land Use Information Form, approved by the county, was required. The Land Use Information Form,

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.

submitted with the application on February 4, 2016, inaccurately described the place of use proposed in transfer T-12261.

6. On February 14, 2017, the agent submitted a new Land Use Form, approved by the County, which encompassed the urban growth boundary of the City of Independence.
7. On March 2, 2017, the Department sent a copy of the draft Preliminary Determination proposing to approve Transfer Application T-12261 to the applicant's agent. The draft Preliminary Determination cover letter set forth a deadline of April 3, 2017, for the applicant to respond. The applicant requested that the Department proceed with issuance of a Preliminary Determination.
8. On May 16, 2017, the Department issued a Preliminary Determination proposing to approve Transfer Application T-12261 and sent a copy to the applicants. Additionally, notice of the Preliminary Determination for the transfer application was published in the Department's weekly notice on May 23, 2017, and in the Polk County Itemizer-Observer newspaper on May 24 and 31, 2017, pursuant to ORS 540.520 and OAR 690-380-4020. No protests were filed in response to the notice.
9. The right to be transferred is as follows:

Certificate: 31510 in the name of Valley Concrete and Gravel Company, Inc. (perfected under Permit G-2279)

Use: Washing sand and gravel and production of concrete

Priority Date: October 15, 1962

Rate: 0.56 cubic foot per second

Source: A Well within the Willamette River Basin

Authorized Point of Appropriation:

Twp	Rng	Mer	Sec	Q-Q	DLC	Measured Distances
8 S	4 W	WM	28	NW NE	45	1286.46 FEET SOUTH AND 599.05 FEET EAST FROM THE N1/4 CORNER OF SECTION 28

Authorized Place of Use:

Twp	Rng	Mer	Sec	Q-Q	DLC
8 S	4 W	WM	28	NW NE	45

10. Transfer Application T-12261 proposes to move the authorized point of appropriation approximately 0.7 mile from the existing point of appropriation to:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
8 S	4 W	WM	21	NW SE	RIVER DRIVE: 2383 FEET NORTH AND 2437.5 FEET WEST FROM THE SE CORNER OF SECTION 21
8 S	4 W	WM	21	NW SE	POLK #1: 2378.6 FEET NORTH AND 2003.2 FEET WEST FROM THE SE CORNER OF SECTION 21
8 S	4 W	WM	21	NW SE	POLK #2: 2082.9 FEET NORTH AND 2039.7 FEET WEST FROM THE SE CORNER OF SECTION 21
8 S	4 W	WM	21	NW SE	POLK #3: 2033.7 FEET NORTH AND 2221.2 FEET WEST FROM THE SE CORNER OF SECTION 21

11. Transfer Application T-12261 also proposes to change the place of use of the right to:

Municipal Use
Within the urban growth boundary of the City of Independence

12. Transfer Application T-12261 proposes to change the character of use to municipal.

Transfer Review Criteria (OAR 690-380-4010)

13. Water has been used within the last five years
14. A pump, pipeline, and 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-12261.
15. The proposed change would not result in enlargement of the right.
16. The proposed change would not result in injury to other water rights.
17. All other application requirements are met.

Determination and Proposed Action

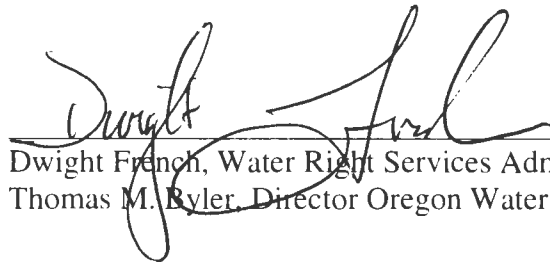
The change in point of appropriation, change in place of use and change in character of use proposed in Transfer Application T-12261 is consistent with the requirements of ORS 537.705 and 540.505 to 540.580 and OAR 690-380-5000.

Now, therefore, it is ORDERED:

1. The change in point of appropriation, change in place of use and change in character of use proposed in Transfer Application T-12261 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 31510 and any related decree.
3. Water right Certificate 31510 is cancelled.
4. The quantity of water diverted at the new points of appropriation, shall not exceed the quantity of water lawfully available at the original point of appropriation.
5. Water shall be acquired from the same aquifer (water source) as the original point of appropriation.
6. Full beneficial use of the water shall be made, consistent with the terms of this order, on or before **October 1, 2018**. 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. After satisfactory proof of beneficial use is received, a new certificate confirming the right transferred will be issued.

Dated at Salem, Oregon this 6 day of July 2017.



Dwight French, Water Right Services Administrator, for
Thomas M. Byler, Director Oregon Water Resources Department

Mailing date: JUL 11 2017