

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

In the Matter of Transfer Application)	FINAL ORDER APPROVING AN
T-10929, Deschutes County)	ADDITIONAL POINT 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

CLINE BUTTE UTILITY COMPANY
1230 GOLDEN PHEASANT
REDMOND OR 97756

Findings of Fact

Background

1. On July 8, 2009, CLINE BUTTE UTILITY COMPANY filed an application for an additional point of appropriation under Certificate 85471. The Department assigned the application number T-10929.
2. The right to be transferred is as follows:

Certificate: 85471 in the name of CLINE BUTTE UTILITY CO. (perfected under Permit G-11762)

Use: QUASI-MUNICIPAL USES

Priority Date: MAY 4, 1992

Rate: 3.0 CUBIC FEET PER SECOND

Source: THREE WELLS in the DESCHUTES RIVER 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 Points of Appropriation:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
15 S	12 E	WM	14	NW SW	WELL 8: 1404 FEET NORTH AND 281 FEET EAST FROM THE SW CORNER OF SECTION 14
15 S	12 E	WM	15	SW SE	WELL 6: 966 FEET NORTH AND 1817 FEET WEST FROM THE SE CORNER OF SECTION 15
15 S	12 E	WM	15	SW SE	WELL 7: 930 FEET NORTH AND 1819 FEET WEST FROM THE SE CORNER OF SECTION 15

Authorized Place of Use:

Twp	Rng	Mer	Sec	Q-Q
15 S	12 E	WM	13	SW SW
15 S	12 E	WM	14	NE NW
15 S	12 E	WM	14	NW NW
15 S	12 E	WM	14	SW NW
15 S	12 E	WM	14	SE NW
15 S	12 E	WM	14	NE SW
15 S	12 E	WM	14	NW SW
15 S	12 E	WM	14	SW SW
15 S	12 E	WM	14	SE SW
15 S	12 E	WM	14	NE SE
15 S	12 E	WM	14	NW SE
15 S	12 E	WM	14	SW SE
15 S	12 E	WM	14	SE SE
15 S	12 E	WM	15	SW NE
15 S	12 E	WM	15	SE NE
15 S	12 E	WM	15	NE SE
15 S	12 E	WM	15	NW SE
15 S	12 E	WM	15	SW SE
15 S	12 E	WM	15	SE SE
15 S	12 E	WM	22	NE NE
15 S	12 E	WM	22	NW NE
15 S	12 E	WM	22	SE NE
15 S	12 E	WM	23	NE NE
15 S	12 E	WM	23	NW NE
15 S	12 E	WM	23	SW NE
15 S	12 E	WM	23	SE NE
15 S	12 E	WM	23	NE NW
15 S	12 E	WM	23	NW NW
15 S	12 E	WM	23	SW NW
15 S	12 E	WM	23	SE NW
15 S	12 E	WM	23	NE SE
15 S	12 E	WM	23	NW SE
15 S	12 E	WM	24	NW NW
15 S	12 E	WM	24	SW NW
15 S	12 E	WM	24	NW SW
15 S	12 E	WM	24	SW SW

- Transfer Application T-10929 proposes an additional point of appropriation (Well #8) approximately 1.33 miles Northwest from the existing point of appropriation:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
15S	12E	WM	16	NE NE	WELL 9: 204 FEET SOUTH AND 476 FEET WEST FROM THE NE CORNER OF SECTION 16

- Notice of the application for transfer was published on July 21, 2009, pursuant to OAR 690-380-4000. No comments were filed in response to the notice.
- On December 31, 2009, additional information was submitted, indicating that use of Well #9 is intended to fill the reservoir if Well #6 cannot keep up with demands, thereby minimizing dependence on Well #8 for domestic use. It is estimated that Well #9 will produce an annual volume of 279.46 million gallons, correlating to an average yearly duration of use of 3,212 hours at an average production rate of 1,450 gallons per minute.
- On January 6, 2010, the Department mailed a copy of the draft Preliminary Determination proposing to approve Transfer Application T-10929 to the applicant. The draft Preliminary Determination cover letter set forth a deadline of February 6, 2010, for the applicant to respond. The applicant requested that the Department proceed with issuance of a Preliminary Determination and is authorized to pursue the transfer.
- On February 17, 2010, the Department issued a Preliminary Determination proposing to approve Transfer Application T-10929 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 February 23, 2010, and in the Redmond Spokesman newspaper on March 3, 10, and 17, 2010, pursuant to ORS 540.520 and OAR 690-380-4020. No protests were filed in response to the notice.

Transfer Review Criteria (OAR 690-380-4010)

- 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.
- A pump, pipeline, and sprinkler system sufficient to use the full amount of water allowed under the existing right was present within the five-year period prior to submittal of Transfer Application T-10929.
- The proposed change would not result in enlargement of the right.
- The proposed change would not result in injury to other water rights.

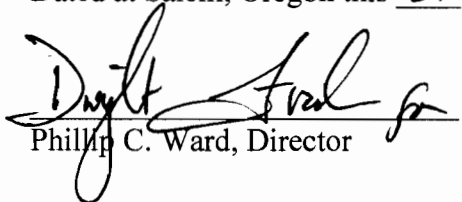
Conclusions of Law

The additional point of appropriation proposed in Transfer Application T-10929 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 additional point of appropriation proposed in application T-10929 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 85471 and any related decree.
3. Water right certificate 85471 is cancelled.
4. The quantity of water diverted at the additional point of appropriation, together with that diverted at the original points of appropriation, shall not exceed the quantity of water lawfully available at the original points 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 the new point of appropriation.
 - b. The water user shall maintain the meter or measuring device in good working order.
 - c. The water user shall allow the Watermaster access to the meter or measuring device; provided however, where the meter or measuring device is 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 points of appropriation.
7. The approved changes shall be completed and full beneficial use of the water shall be made on or before **October 1, 2015**. 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 change and full beneficial use of the water.
8. When satisfactory proof of the completed change is received, a new certificate confirming the right transferred will be issued.

Dated at Salem, Oregon this 21 day of April 2010.


Phillip C. Ward, Director

Mailing date: APR 23 2010