

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

In the Matter of Transfer Application) FINAL ORDER
T-11554, Union County) APPROVING AN 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

CITY OF NORTH POWDER
ATTN: BONITA HEBERT
635 THIRD STREET
NORTH POWDER, OR 97867

Agent

PATRICK CURRAN, CWRE
6655 SW HAMPTON STREET, SUITE 210
PORTLAND, OR 97223

Findings of Fact

1. On March 25, 2013, the City of North Powder filed an application for an additional point of appropriation under Certificate 65088. The Department assigned the application number T-11554.
2. Notice of the application for transfer was published on April 2, 2013, pursuant to OAR 690-380-4000. No comments were filed in response to the notice.
3. On December 2, 2013, the applicant submitted an amended application and map to better describe the place of use within the political/Urban Growth/or Service Area boundary required in the Department's administrative rules regarding map requirements under OAR 690-380-3100 (2)(j).
4. On December 11, 2013, the Department sent a copy of the draft Preliminary Determination proposing to approve Transfer Application T-11554 to the applicant. The draft Preliminary Determination cover letter set forth a deadline of January 11, 2014, for the applicant to respond. The applicant requested that the Department proceed with issuance of a Preliminary Determination. On January 27, 2014, the Department issued a Preliminary Determination proposing to approve Transfer Application T-11554 and sent a copy to the

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.

applicant. Additionally, notice of the Preliminary Determination for the transfer application was published on the Department's weekly notice on May 13, 2014, and in the LaGrande Observer newspaper on April 11 and 18, 2014, pursuant to ORS 540.520 and OAR 690-380-4020. No protests were filed in response to the notice.

6. The right to be transferred is as follows:

Certificate: 65088 in the name of CITY OF NORTH POWDER (perfected under Permit G-10589)
Use: MUNICIPAL USE
Priority Date: DECEMBER 9, 1985
Rate: 2.2 CUBIC FEET PER SECOND
Source: A WELL within the NORTH POWDER RIVER BASIN

Authorized Point of Appropriation:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
6 S	39 E	WM	22	SE SW	WELL NO. 4 - 1120 FEET NORTH AND 2048 FEET EAST FROM SW CORNER OF SECTION 22

Authorized Place of Use:

MUNICIPAL USE				
Twp	Rng	Mer	Sec	Q - Q
6 S	39 E	WM	22	NE NE
6 S	39 E	WM	22	NW NE
6 S	39 E	WM	22	SW NE
6 S	39 E	WM	22	SE NE
6 S	39 E	WM	22	NE NW
6 S	39 E	WM	22	NW NW
6 S	39 E	WM	22	SW NW
6 S	39 E	WM	22	SE NW
6 S	39 E	WM	22	NE SW
6 S	39 E	WM	22	NW SW
6 S	39 E	WM	22	SW SW
6 S	39 E	WM	22	SE SW
6 S	39 E	WM	22	NE SE
6 S	39 E	WM	22	NW SE
6 S	39 E	WM	22	SW SE
6 S	39 E	WM	22	SE SE
6 S	39 E	WM	23	NE NW
6 S	39 E	WM	23	NW NW
6 S	39 E	WM	23	SW NW
6 S	39 E	WM	23	SE NW
6 S	39 E	WM	23	NE SW
6 S	39 E	WM	23	NW SW
6 S	39 E	WM	23	SW SW
6 S	39 E	WM	23	SE SW

7. Transfer Application T-11554 proposes an additional point of appropriation located:

Twp	Rng	Mer	Sec	Q - Q	Measured Distances
6 S	39 E	WM	22	SW NE	WELL NO. 5 – 3370 FEET NORTH AND 2990 FEET EAST FROM THE SW CORNER OF SECTION 22

8. The Department has determined that the new proposed Well No. 5 construction will develop the same source of water as the authorized existing Well #4 (UNIO 1537).

Transfer Review Criteria (OAR 690-380-4010)

9. Water has been used within the last five years prior to the submittal of Transfer Application T-11554 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 well, pumps and municipal water delivery 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-11554.
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 point of appropriation proposed in Transfer Application T-11554 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 Transfer Application T-11554 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 65088 and any related decree.
3. Water right certificate 65088 is cancelled.
4. The quantity of water diverted at the proposed 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 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 (new and existing) point of appropriation.
 - 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 12th day of June 2014.



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

JUN 19 2014
Mailing date: _____