

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

In the Matter of Transfer Application	)	FINAL ORDER APPROVING AN
T-11898, Washington County	)	ADDITIONAL POINT OF
	)	APPROPRIATION

**Authority**

Oregon Revised Statute (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 Rule (OAR) Chapter 690, Division 380 implements the statutes and provides the Department's procedures and criteria for evaluating transfer applications.

**Applicant**

CITY OF TIGARD  
13125 SW HALL BLVD  
TIGARD, OR 97223

**Findings of Fact**

1. On September 29, 2014, the CITY OF TIGARD filed an application for an additional point of appropriation under Certificates 85870, 85871, and 85872. The Department assigned the application number T-11898.
2. Notice of the application for transfer was published on October 7, 2014, pursuant to OAR 690-380-4000. No comments were filed in response to the notice.
3. On June 29, 2015, the Department sent a copy of the draft Preliminary Determination proposing to approve Transfer Application T-11898.
4. After issuance of the draft Preliminary Determination, the Department determined that it was issued without describing the authorized place of use. The place of use has been described in finding of fact #9.
5. On August 4, 2015, the Department issued a Preliminary Determination proposing to approve Transfer Application T-11898 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 August 11, 2015,

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.

and in the Tigard-Tualatin Times on August 8 and 20, 2015, pursuant to ORS 540.520 and OAR 690-380-4020. No protests were filed in response to the notice.

6. The first right to be transferred is as follows:

**Certificate:** 85870 in the name of CITY OF TIGARD (perfected under Permit G-3270)  
**Use:** MUNICIPAL USES  
**Priority Date:** APRIL 25, 1966  
**Rate:** 0.67 cubic foot per second, if available at the original points of appropriation, or its equivalent in case of rotation, measured at the wells.  
**Source:** THREE WELLS within the FANNO CREEK BASIN

**Original Point of Appropriation:**

Well	Twp	Rng	Mer	Sec	Q-Q	Measured Distances
Well 1	2 S	1 W	WM	10	SW NW	SOUTH 44° 37" WEST 1639 FEET FROM THE NW CORNER OF SECTION 10
ASR 1	2 S	1 W	WM	10	SW NW	SOUTH 3° 13' 22" EAST 1561 FEET FROM THE NW CORNER OF SECTION 11

**Authorized Points of Appropriation:**

Well	Twp	Rng	Mer	Sec	Q-Q	Measured Distances
Well 2	2 S	1 W	WM	10	NW NW	610 FEET SOUTH AND 1270 FEET EAST FROM THE NW CORNER OF SECTION 10
ASR 2	2 S	1 W	WM	10	SW NW	1750 FEET SOUTH AND 30 FEET EAST FROM THE NW CORNER OF SECTION 10
ASR 1	2 S	1 W	WM	11	SW NW	SOUTH 3° 13' 22" EAST 1561 FEET FROM THE NW CORNER OF SECTION 11

7. The second right to be transferred is as follows:

**Certificate:** 85871 in the name of CITY OF TIGARD (perfected under Permit G-2999)  
**Use:** MUNICIPAL USES  
**Priority Date:** NOVEMBER 19, 1965  
**Rate:** 0.63 cubic foot per second, if available at the original point of appropriation, or its equivalent in case of rotation, measured at the well.  
**Source:** THREE WELLS within the FANNO CREEK BASIN

**Original Point of Appropriation:**

Well	Twp	Rng	Mer	Sec	Q-Q	Measured Distances
Well 4	2 S	1 W	WM	10	NW SW	25 FEET SOUTH AND 500 FEET EAST FROM THE WEST 1/4 CORNER OF SECTION 10

**Authorized Points of Appropriation:**

Wells	Twp	Rng	Mer	Sec	Q-Q	GLot	Measured Distances
Well 2	2 S	1 W	WM	10	NW NW		610 FEET SOUTH AND 1270 FEET EAST FROM THE NW CORNER OF SECTION 10
ASR 2	2 S	1 W	WM	10	SW NW		1750 FEET SOUTH AND 30 FEET EAST FROM THE NW CORNER OF SECTION 10
ASR 1	2 S	1 W	WM	11	SW NW	2	SOUTH 3° 13' 22" EAST 1561 FEET FROM THE NW CORNER OF SECTION 11

8. The third right to be transferred is as follows:

**Certificate:** 85872 in the name of CITY OF TIGARD (perfected under Permit G-655)  
**Use:** MUNICIPAL USES  
**Priority Date:** SEPTEMBER 16, 1957  
**Rate:** 0.78 cubic foot per second, if available at the original points of appropriation, or its equivalent in case of rotation, measured at the wells.  
**Source:** THREE WELLS within the FANNO CREEK BASIN

**Original Point of Appropriation:**

Well	Twp	Rng	Mer	Sec	Q-Q	Measured Distances
Well 3	2 S	1 W	WM	4	SW NE	25 FEET SOUTH AND 50 FEET EAST FROM THE CENTER 1/4 CORNER OF SECTION 4

**Authorized Points of Appropriation:**

Twp	Rng	Mer	Sec	Q-Q	GLot	Measured Distances
2 S	1 W	WM	10	NW NW		610 FEET SOUTH AND 1270 FEET EAST FROM NW CORNER, SECTION 10
2 S	1 W	WM	10	SW NW		1750 FEET SOUTH AND 30 FEET EAST FROM NW CORNER, SECTION 10
2 S	1 W	WM	11	SW NW	2	SOUTH 3° 13' 22" EAST 1561 FEET FROM THE NW CORNER OF SECTION 11

9. Certificates 85870, 85871, and 85872 have the same authorized place of use, as follows:

MUNICIPAL				
Twp	Rng	Mer	Sec	Q-Q
1 S	1 W	WM	27	SE SE
1 S	1 W	WM	33	NE NE
1 S	1 W	WM	33	SW NE
1 S	1 W	WM	33	SE NE
1 S	1 W	WM	33	SE NW
1 S	1 W	WM	33	NE SW
1 S	1 W	WM	33	NW SW
1 S	1 W	WM	33	SW SW
1 S	1 W	WM	33	SE SW
1 S	1 W	WM	33	NE SE
1 S	1 W	WM	33	NW SE
1 S	1 W	WM	33	SW SE
1 S	1 W	WM	33	SE SE
1 S	1 W	WM	34	ALL
1 S	1 W	WM	35	NW NW
1 S	1 W	WM	35	SW NW
1 S	1 W	WM	35	NE SW
1 S	1 W	WM	35	NW SW
1 S	1 W	WM	35	SW SW
1 S	1 W	WM	35	SE SW
1 S	1 W	WM	35	NW SE

MUNICIPAL				
Twp	Rng	Mer	Sec	Q-Q
1 S	1 W	WM	35	SW SE
1 S	1 W	WM	35	SE SE
1 S	1 W	WM	36	SW SW
2 S	1 W	WM	1	NE NW
2 S	1 W	WM	1	NW NW
2 S	1 W	WM	1	SW NW
2 S	1 W	WM	1	SE NW
2 S	1 W	WM	1	NE SW
2 S	1 W	WM	1	NW SW
2 S	1 W	WM	1	SW SW
2 S	1 W	WM	1	SE SW
2 S	1 W	WM	2	ALL
2 S	1 W	WM	3	ALL
2 S	1 W	WM	4	ALL
2 S	1 W	WM	5	NE NE
2 S	1 W	WM	5	SW NE
2 S	1 W	WM	5	SE NE
2 S	1 W	WM	5	SW NW
2 S	1 W	WM	5	SE NW
2 S	1 W	WM	5	NE SW
2 S	1 W	WM	5	NW SW

MUNICIPAL				
Twp	Rng	Mer	Sec	Q-Q
2 S	1 W	WM	5	SW SW
2 S	1 W	WM	5	SE SW
2 S	1 W	WM	5	NE SE
2 S	1 W	WM	5	NW SE
2 S	1 W	WM	5	SW SE
2 S	1 W	WM	5	SE SE
2 S	1 W	WM	6	SE NE
2 S	1 W	WM	6	NE SE
2 S	1 W	WM	6	SE SE
2 S	1 W	WM	7	NE NE
2 S	1 W	WM	7	SE NE
2 S	1 W	WM	7	NE SE
2 S	1 W	WM	8	NE NE
2 S	1 W	WM	8	NW NE
2 S	1 W	WM	8	SW NE
2 S	1 W	WM	8	SE NE
2 S	1 W	WM	8	NE NW
2 S	1 W	WM	8	NW NW
2 S	1 W	WM	8	SW NW
2 S	1 W	WM	8	SE NW
2 S	1 W	WM	8	NE SW
2 S	1 W	WM	8	NW SW
2 S	1 W	WM	8	NE SE
2 S	1 W	WM	8	NW SE
2 S	1 W	WM	8	SE SE
2 S	1 W	WM	9	ALL
2 S	1 W	WM	10	ALL
2 S	1 W	WM	11	ALL
2 S	1 W	WM	12	NW NE
2 S	1 W	WM	12	SW NE
2 S	1 W	WM	12	NE NW
2 S	1 W	WM	12	NW NW
2 S	1 W	WM	12	SW NW
2 S	1 W	WM	12	SE NW
2 S	1 W	WM	12	NE SW
2 S	1 W	WM	12	NW SW
2 S	1 W	WM	12	SW SW
2 S	1 W	WM	12	SE SW
2 S	1 W	WM	12	NE SE
2 S	1 W	WM	12	NW SE
2 S	1 W	WM	12	SW SE
2 S	1 W	WM	12	SE SE
2 S	1 W	WM	13	NE NE
2 S	1 W	WM	13	NW NE
2 S	1 W	WM	13	SW NE
2 S	1 W	WM	13	SE NE
2 S	1 W	WM	13	NE NW
2 S	1 W	WM	13	NW NW
2 S	1 W	WM	13	SW NW
2 S	1 W	WM	13	SE NW
2 S	1 W	WM	13	NE SW
2 S	1 W	WM	13	NW SW

MUNICIPAL				
Twp	Rng	Mer	Sec	Q-Q
2 S	1 W	WM	13	SW SW
2 S	1 W	WM	13	SE SW
2 S	1 W	WM	13	NE SE
2 S	1 W	WM	13	NW SE
2 S	1 W	WM	13	SW SE
2 S	1 W	WM	14	NE NE
2 S	1 W	WM	14	NW NE
2 S	1 W	WM	14	SW NE
2 S	1 W	WM	14	SE NE
2 S	1 W	WM	14	NE NW
2 S	1 W	WM	14	NW NW
2 S	1 W	WM	14	SW NW
2 S	1 W	WM	14	SE NW
2 S	1 W	WM	14	NE SW
2 S	1 W	WM	14	NE SE
2 S	1 W	WM	14	NW SE
2 S	1 W	WM	14	SW SE
2 S	1 W	WM	14	SE SE
2 S	1 W	WM	15	NE NE
2 S	1 W	WM	15	NW NE
2 S	1 W	WM	15	SW NE
2 S	1 W	WM	15	SE NE
2 S	1 W	WM	15	NE NW
2 S	1 W	WM	15	NW NW
2 S	1 W	WM	15	SW NW
2 S	1 W	WM	15	SE NW
2 S	1 W	WM	15	NE SW
2 S	1 W	WM	15	NW SW
2 S	1 W	WM	15	SW SW
2 S	1 W	WM	15	NW SE
2 S	1 W	WM	16	NE NE
2 S	1 W	WM	16	NW NE
2 S	1 W	WM	16	SW NE
2 S	1 W	WM	16	SE NE
2 S	1 W	WM	16	NE NW
2 S	1 W	WM	16	NW NW
2 S	1 W	WM	16	SE NW
2 S	1 W	WM	16	NE SW
2 S	1 W	WM	16	SE SW
2 S	1 W	WM	16	NE SE
2 S	1 W	WM	16	NW SE
2 S	1 W	WM	16	SW SE
2 S	1 W	WM	16	SE SE
2 S	1 W	WM	17	NE NE
2 S	1 W	WM	17	NW NE
2 S	1 W	WM	24	NW NE
2 S	1 W	WM	24	SW NE
2 S	1 W	WM	24	NE NW
2 S	1 W	WM	24	NW NW
2 S	1 W	WM	24	SE NW

10. Transfer Application T-11898 proposes an additional point of appropriation for Certificates 85870, 85871, and 85872:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances	Distance to existing points of appropriation in miles		
						Well 2	ASR 1	ASR 2
2 S	1 W	WM	9	SW NW	1770 FEET SOUTH AND 1500 FEET WEST FROM THE NE CORNER OF SECTION 9	0.55	1.29	0.28

***Transfer Review Criteria (OAR 690-380-4010)***

11. Water has been used within the last five years according to the terms and conditions of the rights. There is no information in the record that would demonstrate that the rights are subject to forfeiture under ORS 540.610.
12. The proposed change would not result in enlargement of the rights.
13. The proposed change would not result in injury to other water rights.
14. All other application requirements are met.

**Conclusion of Law**


The additional point of appropriation proposed in Transfer Application T-11898 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-11898 is approved.
2. Except as provided in ORS 540.510(3)(a) 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 Certificates 85870, 85871, and 85872 and any related decree.
3. Water right Certificates 85870, 85871, and 85872 are cancelled.
4. The quantity of water diverted at the additional point of appropriation, together with the original point of appropriations, 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 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, 2026**. 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, new certificates confirming the rights transferred will be issued.

Dated at Salem, Oregon this 28<sup>th</sup> day of September, 2015.

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

Mailing date: SEP 29 2015