

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

In the Matter of Transfer Application)	FINAL ORDER APPROVING
T-9866, Washington County)	ADDITIONAL POINTS OF
)	APPROPRIATION AND CHANGES IN
)	PLACE OF USE

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 TIGARD
13125 SW HALL BOULEVARD
TIGARD, OREGON 97223

Findings of Fact

1. On February 16, 2005, the City of Tigard filed a transfer application to add three points of appropriation and to change the place of use for the right described under Certificate 28971. The Department assigned the application number T-9866.
2. The right to be transferred is as follows:

Certificate: 28971 in the name of Tigard Water District (perfected under Permit G-655)

Use: Municipal

Priority Date: September 16, 1957

Quantity: 0.78 cubic foot per second

Source: Well #3 in the Fanno Creek Basin

Authorized Point of Appropriation:

Township		Range		Meridian	Sec	¼ ¼	Survey Coordinates
2	S	1	W	W.M.	4	SW NE	Well 3—25 feet North and 50 feet East from the Center of Section 4

This is a final order in other than a contested case. This order is subject to judicial review under ORS 183.484. Any petition for judicial review must be filed within the 60 day time period specified by ORS 183.484(2). Pursuant to ORS 536.075 and OAR 137-004-0080, you may either 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 Place of Use:

MUNICIPAL USES				
Twp	Rng	Mer	Sec	Q-Q
1 S	1 W	WM	34	NE SW
1 S	1 W	WM	34	NW SW
1 S	1 W	WM	34	SW SW
1 S	1 W	WM	34	SE SW
1 S	1 W	WM	34	NE SE
1 S	1 W	WM	34	NW SE
1 S	1 W	WM	34	SW SE
1 S	1 W	WM	34	SE SE
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	NE SE
1 S	1 W	WM	35	NW SE
1 S	1 W	WM	35	SW SE
1 S	1 W	WM	35	SE SE
2 S	1 W	WM	2	NE NE
2 S	1 W	WM	2	NW NE
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2 S	1 W	WM	2	SE NE
2 S	1 W	WM	2	NE NW
2 S	1 W	WM	2	NW NW
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2 S	1 W	WM	2	SE NW
2 S	1 W	WM	2	NE SW
2 S	1 W	WM	2	NW SW
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2 S	1 W	WM	2	SE SW
2 S	1 W	WM	2	NE SE
2 S	1 W	WM	2	NW SE
2 S	1 W	WM	2	SW SE
2 S	1 W	WM	2	SE SE
2 S	1 W	WM	3	NE NE
2 S	1 W	WM	3	NW NE
2 S	1 W	WM	3	SW NE
2 S	1 W	WM	3	SE NE
2 S	1 W	WM	3	NE NW
2 S	1 W	WM	3	NW NW
2 S	1 W	WM	3	SW NW
2 S	1 W	WM	3	SE NW
2 S	1 W	WM	3	NE SW
2 S	1 W	WM	3	NW SW
2 S	1 W	WM	3	SW SW
2 S	1 W	WM	3	SE SW
2 S	1 W	WM	3	NE SE
2 S	1 W	WM	3	NW SE
2 S	1 W	WM	3	SW SE
2 S	1 W	WM	3	SE SE
2 S	1 W	WM	4	NE NE

MUNICIPAL USES				
Twp	Rng	Mer	Sec	Q-Q
2 S	1 W	WM	4	NW NE
2 S	1 W	WM	4	SW NE
2 S	1 W	WM	4	SE NE
2 S	1 W	WM	4	NE NW
2 S	1 W	WM	4	NW NW
2 S	1 W	WM	4	SW NW
2 S	1 W	WM	4	SE NW
2 S	1 W	WM	4	NE SW
2 S	1 W	WM	4	NW SW
2 S	1 W	WM	4	SW SW
2 S	1 W	WM	4	SE SW
2 S	1 W	WM	4	NE SE
2 S	1 W	WM	4	NW SE
2 S	1 W	WM	4	SW SE
2 S	1 W	WM	4	SE SE
2 S	1 W	WM	5	NE SW
2 S	1 W	WM	5	NW SW
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	7	NE NE
2 S	1 W	WM	7	SE NE
2 S	1 W	WM	7	NE SE
2 S	1 W	WM	7	SE 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	SW SW
2 S	1 W	WM	8	SE SW
2 S	1 W	WM	8	NE SE
2 S	1 W	WM	8	NW SE
2 S	1 W	WM	8	SW SE
2 S	1 W	WM	8	SE SE
2 S	1 W	WM	9	NE NE
2 S	1 W	WM	9	NW NE
2 S	1 W	WM	9	SW NE
2 S	1 W	WM	9	SE NE
2 S	1 W	WM	9	NE NW
2 S	1 W	WM	9	NW NW

MUNICIPAL USES				
Twp	Rng	Mer	Sec	Q-Q
2 S	1 W	WM	9	SW NW
2 S	1 W	WM	9	SE NW
2 S	1 W	WM	9	NE SW
2 S	1 W	WM	9	NW SW
2 S	1 W	WM	9	SW SW
2 S	1 W	WM	9	SE SW
2 S	1 W	WM	9	NE SE
2 S	1 W	WM	9	NW SE
2 S	1 W	WM	9	SW SE
2 S	1 W	WM	9	SE SE
2 S	1 W	WM	10	NE NE
2 S	1 W	WM	10	NW NE
2 S	1 W	WM	10	SW NE
2 S	1 W	WM	10	SE NE
2 S	1 W	WM	10	NE NW
2 S	1 W	WM	10	NW NW
2 S	1 W	WM	10	SW NW
2 S	1 W	WM	10	SE NW
2 S	1 W	WM	10	NE SW
2 S	1 W	WM	10	NW SW
2 S	1 W	WM	10	SW SW

MUNICIPAL USES				
Twp	Rng	Mer	Sec	Q-Q
2 S	1 W	WM	10	SE SW
2 S	1 W	WM	10	NE SE
2 S	1 W	WM	10	NW SE
2 S	1 W	WM	10	SW SE
2 S	1 W	WM	10	SE SE
2 S	1 W	WM	11	NE NE
2 S	1 W	WM	11	NW NE
2 S	1 W	WM	11	SW NE
2 S	1 W	WM	11	SE NE
2 S	1 W	WM	11	NE NW
2 S	1 W	WM	11	NW NW
2 S	1 W	WM	11	SW NW
2 S	1 W	WM	11	SE NW
2 S	1 W	WM	11	NE SW
2 S	1 W	WM	11	NW SW
2 S	1 W	WM	11	SW SW
2 S	1 W	WM	11	SE SW
2 S	1 W	WM	11	NE SE
2 S	1 W	WM	11	NW SE
2 S	1 W	WM	11	SW SE
2 S	1 W	WM	11	SE SE

3. Application T-9866 proposes to add three authorized points of appropriation, approximately 1.0 mile from the existing point of appropriation in the Fanno Creek basin, located as follows:

Township		Range		Meridian	Sec	¼ ¼	Survey Coordinates
2	S	1	W	W.M.	10	NW NW	Well 2—610 feet South and 1,270 feet East from the NW Corner of Section 10
2	S	1	W	W.M.	10	SW NW	ASR 2—1,750 feet South and 100 feet East from the NW Corner of Section 10
2	S	1	W	W.M.	11	SW NW	ASR 1—South 03° 13' 22" East 1561 feet from the NW Corner of Section 11

4. Application T-9866 proposes to change the place of use of the right to:

MUNICIPAL USES				
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

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

MUNICIPAL USES				
Twp	Rng	Mer	Sec	Q-Q
1 S	1 W	WM	34	SE SW
1 S	1 W	WM	34	NE SE
1 S	1 W	WM	34	NW SE
1 S	1 W	WM	34	SW SE
1 S	1 W	WM	34	SE SE
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
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	NE NE
2 S	1 W	WM	2	NW NE
2 S	1 W	WM	2	SW NE
2 S	1 W	WM	2	SE NE
2 S	1 W	WM	2	NE NW
2 S	1 W	WM	2	NW NW
2 S	1 W	WM	2	SW NW
2 S	1 W	WM	2	SE NW
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2 S	1 W	WM	2	SW SW
2 S	1 W	WM	2	SE SW
2 S	1 W	WM	2	NE SE
2 S	1 W	WM	2	NW SE
2 S	1 W	WM	2	SW SE
2 S	1 W	WM	2	SE SE
2 S	1 W	WM	3	NE NE
2 S	1 W	WM	3	NW NE
2 S	1 W	WM	3	SW NE
2 S	1 W	WM	3	SE NE
2 S	1 W	WM	3	NE NW
2 S	1 W	WM	3	NW NW
2 S	1 W	WM	3	SW NW
2 S	1 W	WM	3	SE NW
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MUNICIPAL USES				
Twp	Rng	Mer	Sec	Q-Q
2 S	1 W	WM	3	SE SW
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2 S	1 W	WM	3	NW SE
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2 S	1 W	WM	3	SE SE
2 S	1 W	WM	4	NE NE
2 S	1 W	WM	4	NW NE
2 S	1 W	WM	4	SW NE
2 S	1 W	WM	4	SE NE
2 S	1 W	WM	4	NE NW
2 S	1 W	WM	4	NW NW
2 S	1 W	WM	4	SW NW
2 S	1 W	WM	4	SE NW
2 S	1 W	WM	4	NE SW
2 S	1 W	WM	4	NW SW
2 S	1 W	WM	4	SW SW
2 S	1 W	WM	4	SE SW
2 S	1 W	WM	4	NE SE
2 S	1 W	WM	4	NW SE
2 S	1 W	WM	4	SW SE
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2 S	1 W	WM	5	NE NE
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2 S	1 W	WM	5	SE SE
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2 S	1 W	WM	6	NE SE
2 S	1 W	WM	6	SE SE
2 S	1 W	WM	7	NE NE
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Twp	Rng	Mer	Sec	Q-Q
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2 S	1 W	WM	9	SE NW
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MUNICIPAL USES				
Twp	Rng	Mer	Sec	Q-Q
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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	NW SE
2 S	1 W	WM	12	NE 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
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2 S	1 W	WM	13	SE NW
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2 S	1 W	WM	13	NW SW
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2 S	1 W	WM	13	NE SE
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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
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MUNICIPAL USES				
Twp	Rng	Mer	Sec	Q-Q
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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

MUNICIPAL USES				
Twp	Rng	Mer	Sec	Q-Q
2 S	1 W	WM	16	NE SW
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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

5. Notice of the application for transfer was published pursuant to ORS 540.520 and 690-380-4000. No comments were filed in response to the notice.
6. Water has been used within the last five years according to the terms and conditions of the right, and no evidence is available that would demonstrate that the right is subject to forfeiture under ORS 540.610.
7. Pumps, pipelines, and a municipal system sufficient to use the full amount of water allowed under the existing right are present.
8. The proposed change would not result in enlargement of the right.
9. The proposed change would not result in injury to other water rights.

Conclusions of Law

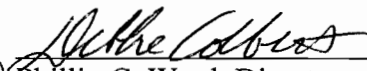
The changes in place of use, and the additional points of appropriation proposed in application T-9866 are consistent with the requirements of ORS 537.705 and 540.505 to 540.580, and OAR 690-380-5000.

Now, therefore, it is ORDERED:

1. The additional points of appropriation and change in place of use proposed in T-9866 are approved.
2. Water right certificate 28971 is cancelled.
3. The right to 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 46638 and any related decree.
4. Water shall be acquired from the same aquifer (water source) as the original point of appropriation.

5. The proposed change shall be completed on or before October 1, 2010.
6. A Claim of Beneficial Use prepared by a Certified Water Rights Examiner shall be submitted by the applicant to the Department by October 1, 2011.
7. 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.
8. Prior to diverting water at the new points of appropriation, the water user shall install and maintain in-line flow meters or other suitable devices for measuring and recording the quantity of water appropriated. The type and plans of the measuring devices must be approved by the Department prior to beginning construction and shall be installed under the general supervision of the Department.
9. When satisfactory proof of the completed changes is received, a new certificate confirming the right transferred will be issued.

Dated at Salem, Oregon this 27 day of September, 2005.


For Phillip C. Ward, Director

SEP 28 2005

Mailing Date: _____