

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

In the Matter of Transfer Application	)	FINAL ORDER APPROVING
T-10470, Morrow County	)	ADDITIONAL POINTS 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 IRRIGON  
P.O. BOX 428  
IRRIGON, OR 97844

**Findings of Fact**

**Background**

1. On October 4, 2007, Gerald Breazeale, City Manager, on behalf of the City Of Irrigon, filed an application to add an additional point of appropriation under Certificates 81677 and 81678. The Department assigned the application number T-10470.

2. The FIRST right to be transferred is as follows:

**Certificate:** 81677 in the name of the CITY OF IRRIGON (perfected under Permit G-7241)

**Use:** MUNICIPAL USE

**Priority Date:** FEBRUARY 8, 1977

**Rate:** 0.89 CUBIC FOOT PER SECOND (cfs)

**Source:** WELL NO. 2 within the COLUMBIA RIVER BASIN

**Authorized Point of Appropriation:**

Twp	Rng	Mer	Sec	Q-Q	Survey Coordinates
5 N	27 E	WM	19	SW SW	WELL #2 - 1220 FEET NORTH AND 440 FEET EAST FROM THE SW CORNER OF SECTION 19

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 Place of Use:**

Twp	Rng	Mer	Sec	Q-Q
5 N	26E	WM	24	NE SE
5 N	26E	WM	24	NW SE
5 N	26E	WM	24	SW SE
5 N	26E	WM	24	SE SE
5 N	26E	WM	25	NE NE
5 N	26E	WM	25	NW NE
5 N	27E	WM	19	NE SW
5 N	27E	WM	19	NW SW
5 N	27E	WM	19	SW SW
5 N	27E	WM	19	SE SW
5 N	27E	WM	19	NE SE
5 N	27E	WM	19	NW SE
5 N	27E	WM	19	SW SE
5 N	27E	WM	19	SE SE
5 N	27E	WM	30	NE NE
5 N	27E	WM	30	NW NE
5 N	27E	WM	30	NE NW
5 N	27E	WM	30	NW NW

3. Application T-10470 proposes to add two new additional points of appropriation (wells) to the above described water right approximately 1½ miles west from the existing point of appropriation:

Twp	Rng	Mer	Sec	Q-Q	Survey Coordinates
5 N	26 E	WM	23	SE NE	WELL #3 - 700 FEET NORTH AND 545 FEET WEST FROM THE E¼ CORNER OF SECTION 23
5 N	26 E	WM	23	SW NE	WELL #4 - 870 FEET NORTH AND 1990 FEET WEST FROM THE E¼ CORNER OF SECTION 23

4. The SECOND right to be transferred is as follows:

**Certificate:** 81678 in the name of the CITY OF IRRIGON (perfected under Permit G-7563)

**Use:** MUNICIPAL USE

**Priority Date:** SEPTEMBER 9, 1977

**Rate:** 1.33 CUBIC FEET PER SECOND (cfs)

**Source:** WELL NO. 2 within the COLUMBIA RIVER BASIN

**Authorized Point of Appropriation:**

Twp	Rng	Mer	Sec	Q-Q	Survey Coordinates
5 N	27 E	WM	19	SW SW	WELL #2 - 1220 FEET NORTH AND 440 FEET EAST FROM THE SW CORNER OF SECTION 19

**Authorized Place of Use:**

Twp	Rng	Mer	Sec	Q-Q
5 N	26E	WM	24	NE SE
5 N	26E	WM	24	NW SE
5 N	26E	WM	24	SW SE

Twp	Rng	Mer	Sec	Q-Q
5 N	26E	WM	24	SE SE
5 N	26E	WM	25	NE NE
5 N	26E	WM	25	NW NE
5 N	27E	WM	19	NE SW
5 N	27E	WM	19	NW SW
5 N	27E	WM	19	SW SW
5 N	27E	WM	19	SE SW
5 N	27E	WM	19	NE SE
5 N	27E	WM	19	NW SE
5 N	27E	WM	19	SW SE
5 N	27E	WM	19	SE SE
5 N	27E	WM	30	NE NE
5 N	27E	WM	30	NW NE
5 N	27E	WM	30	NE NW
5 N	27E	WM	30	NW NW

5. Transfer Application T-10470 proposes to add two new additional points of appropriation (wells) to the above described water right approximately 1½ miles west from the existing point of appropriation:

Twp	Rng	Mer	Sec	Q-Q	Survey Coordinates
5 N	26 E	WM	23	SE NE	WELL #3 - 700 FEET NORTH AND 545 FEET WEST FROM THE E¼ CORNER OF SECTION 23
5 N	26 E	WM	23	SW NE	WELL #4 - 870 FEET NORTH AND 1990 FEET WEST FROM THE E¼ CORNER OF SECTION 23

6. Notice of the application for transfer was published on October 23, 2007, pursuant to OAR 690-380-4000. No comments were filed in response to the notice.
7. On November 9, 2007, the Department mailed a copy of the draft Preliminary Determination proposing to approve Transfer Application T-10470 to the applicant. The draft Preliminary Determination set forth a deadline of December 10, 2007, for the applicant to respond. The applicant requested that the Department proceed with issuance of a Preliminary Determination and provided the necessary information to demonstrate that the applicant is authorized to pursue the transfer.
8. The cover letter that accompanied the draft Preliminary Determination noted that an agreement exists between the applicant and the Corps of Engineers who own the lands upon which the two new proposed wells will be located. The easement and pipeline right of way agreement for delivery of water to the City of Irrigon from the Corps was received by the Department on November 13, 2007 and satisfies the requirements for written authorization and proof of ownership. The agreement with the City of Irrigon is for a term of 25 years, commencing July 1, 2007, and ending June 30, 2032. The approval of the transfer in itself does not allow access to the Corps of Engineers land. The City of Irrigon will need to acquire modification and/or continuance of the easement to have legal access to use the wells after that period.

9. On December 13, 2007, the Department issued a Preliminary Determination proposing to approve Transfer Application T-10470 and mailed a copy to the applicants. Additionally, notice of the Preliminary Determination for the transfer application was published on the Department's weekly notice on December 18, 2007, and in the Hermiston Herald newspaper on December 28, 2007, January 4 and 11, 2008, pursuant to ORS 540.520 and OAR 690-380-4020. No protests were filed in response to the notice.
10. Water has been used within the last five years according to the terms and conditions of the rights, and there is no information in the record that would demonstrate that the rights are subject to forfeiture under ORS 540.610. The applicant is a municipality as defined under ORS 540.510(3)(b) and may rebut any presumption of forfeiture under ORS 540.610 (2).
11. A well, pump, pipeline, and delivery system sufficient to use the full amount of water allowed under the existing rights were present within the five-year period prior to submittal of Application T-10470.
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.

#### **Conclusions of Law**

The addition of points of appropriation as proposed in Transfer Application T-10470 is consistent with the requirements of ORS 537.705 and 540.505 to 540.580 and OAR 690-380-5000.

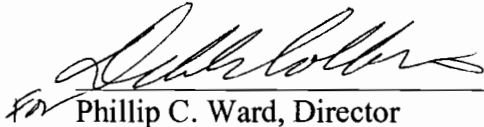
#### **Now, therefore, it is ORDERED:**

1. The addition of points of appropriation as proposed in Transfer Application T-10470 is approved.
2. Water right certificates 81677 and 81678 are cancelled.
3. 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 81677 and 81678 and any related decree.
4. Water shall be acquired from the same aquifer (water source) as the original point of appropriation.
5. 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.
6. Prior to diverting water, the water user shall install an in-line flow meter or other suitable device for measuring and recording the quantity of water diverted. The type and plans of the measuring device must be approved by the Department prior to beginning construction and

shall be installed under the general supervision of the Department. The water user shall maintain and operate the measuring device as required by the Department.

7. The approved changes shall be completed and full beneficial use of the water shall be made on or before October 1, 2013. 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 changes and full beneficial use of the water.
8. When satisfactory proof of the completed changes is received, new certificates confirming the rights transferred will be issued.

Dated at Salem, Oregon this 11<sup>th</sup> day of February, 2008.

  
Phillip C. Ward, Director

Mailing date: FEB 13 2008