BEFORE THE WATER RESOURCES DEPARTMENT OF THE STATE OF OREGON

In the Matter of Transfer Application)	PRELIMINARY DETERMINATION
T-10827, Marion and Polk County)	PROPOSING APPROVAL OF
)	CHANGES IN POINTS OF
)	APPROPRIATION, PLACE OF USE,
)	AND CHARACTER OF USE

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 INDEPENDENCE PO BOX 7 INDEPENDENCE, OR 97351

Findings of Fact

Background

- 1. On March 19, 2009, the CITY OF INDEPENDENCE filed an application to change the points of appropriation under Certificate 83231. The Department assigned the application number T-10827.
- 2. On March 15, 2010, the application was amended to change the use from quasi-municipal to municipal.
- 3. On June 6, 2011, the application was amended to change the place of use to within the service boundaries of the City of Independence.
- 4. On June 6, 14, and 15, 2011, the applicant submitted amended maps clarifying the original points of appropriation.
- 5. The right to be transferred is as follows:

Certificate:83231 in the name of CITY OF INDEPENDENCE (perfected under Permit
G-10375)Use:QUASI-MUNICIPAL USESPriority Date:MARCH 8, 1984

Pursuant to OAR 690-380-4030, any person may file a protest or standing statement within 30 days after the last date of publication of notice of this preliminary determination.

Rate:0.94 CUBIC FOOT PER SECONDSource:TWO WELLS within the WILLAMETTE RIVER BASIN

Authorized Point of Appropriation:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
8 S	4 W	WM	28	SW NE	795.5 FEET SOUTH AND 2270.6 FEET EAST
					FROM NE CORNER OF DLC 44
8 S	4 W	WM	28	SW NE	861.4 FEET SOUTH AND 2249.6 FEET EAST
					FROM NE CORNER OF DLC 44

Authorized Place of Use:

QUASI-MUNICIPAL USES				
Twp	Rng	Mer	Sec	Q-Q
8 S	4 W	WM	16	NE SW
8 S	4 W	WM	16	NWSW
8 S	4 W	WM	16	SW SW
8 S	4 W	WM	16	SE SW
8 S	4 W	WM	17	SE SE
8 S	4 W	WM	20	NE NE
8 S	4 W	WM	20	SW NE
8 S	4 W	WM	20	SE NE
8 S	4 W	WM	20	SE NW
8 S	4 W	WM	20	NE SW
8 S	4 W	WM	20	NW SW
8 S	4 W	WM	20	SW SW
8 S	4 W	WM	20	SE SW
8 S	4 W	WM	20	NE SE
8 S	4 W	WM	20	NW SE
8 S	4 W	WM	20	SW SE
8 S	4 W	WM	20	SE SE
8 S	4 W	WM	21	SW NE
8 S	4 W	WM	21	SE NE
8 S	4 W	WM	21	NE NW
8 S	4 W	WM	21	NWNW
8 S	4 W	WM	21	SWNW
8 S	4 W	WM	21	SE NW
8 S	4 W	WM	21	NE SW
8 S	4 W	WM	21	NWSW
8 S	4 W	WM	21	SW SW
8 S	4 W	WM	21	SE SW
8 S	4 W	WM	21	NE SE
8 S	4 W	WM	21	NW SE
8 S	4 W	WM	21	SW SE
8 S	4 W	WM	28	NW NE
8 S	4 W	WM	28	SW NE

QUASI-MUNICIPAL USES				
Twp	Rng	Mer	Sec	Q-Q
8 S	4 W	WM	28	NE NW
8 S	4 W	WM	28	NWNW
8 S	4 W	WM	28	SW NW
8 S	4 W	WM	28	SE NW
8 S	4 W	WM	28	NE SW
8 S	4 W	WM	28	NW SW
8 S	4 W	WM	28	SW SW
8 S ·	4 W	WM	28	SE SW
8 S	4 W	WM	28	NW SE
8 S	4 W	WM	28	SW SE
8 S	4 W	WM	29	NE NE
8 S	4 W	WM	29	NW NE
8 S	4 W	WM	29	SW NE
8 S	4 W	WM	29	SE NE
8 S	4 W	WM	29	NE NW
8 S	4 W	WM	29	NWNW
8 S	4 W	WM	29	SWNW
8 S	4 W	WM	29	SENW
8 S	4 W	WM	29	NE SE
8 S	4 W	WM	29	NW SE

 Transfer Application T-10827 proposes to move the authorized points of appropriation approximately 4100 feet to the proposed River Well; 4150 feet to Well 1; 3825 feet to Well 2; and 3775 feet to Well 3 from the existing points of appropriation. The proposed points of appropriation are located:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
8 S	4 W	WM	21	NE SE	RIVER WELL: 2383 FEET NORTH AND 2437.5 FEET
					WEST OF THE SE CORNER OF SECTION 21
8 S	4 W	WM	21	NE SE	WELL #1: 2378.6 FEET NORTH AND 2003.2 FEET
					WEST OF THE SE CORNER OF SECTION 21
8 S	4 W	WM	21	NE SE	WELL #2: 2082.9 FEET NORTH AND 2039.7 FEET
					WEST OF THE SE CORNER OF SECTION 21
8 S	4 W	WM	21	NE SE	WELL #3: 2033.7 FEET NORTH AND 2221.2 FEET
					WEST OF THE SE CORNER OF SECTION 21

- 7. Transfer Application T-10827 proposes to change the character of use to municipal.
- 8. Transfer Application T-10827 also proposes to change the place of use of the right to:

MUNICIPAL USES
WITHIN THE SERVICE BOUNDARIES OF THE CITY OF INDEPENDENCE.

- Notice of the application for transfer was published on April 7, 2009, pursuant to OAR 690-380-4000. Notice of the amended application was published on June 14, 2011. No comments were filed in response to the notices.
- 10. On June 16, 2011, the Department mailed a copy of the draft Preliminary Determination proposing to approve Transfer Application T-10827 to the applicant. The draft Preliminary Determination cover letter set forth a deadline of July 18, 2011, 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.

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 right. There is no information in the record that would demonstrate that the right is subject to forfeiture under ORS 540.610.
- 12. A pump and pipelines sufficient to use the full amount of water allowed under the existing right were present within the five-year period prior to submittal of Transfer Application T-10827.
- 13. The proposed change would not result in enlargement of the right.
- 14. The proposed change would not result in injury to other water rights.

Determination and Proposed Action

The changes in points of appropriation, change in place of use, and change in character of use proposed in Transfer Application T-10827 appear to be consistent with the requirements of ORS 537.705 and 540.505 to 540.580 and OAR 690-380-5000. If protests are not filed pursuant to OAR 690-380-4030, the application will be approved.

If Transfer Application T-10827 is approved, the final order will include the following:

- 1. The change in points of appropriation, change in place of use, and change in character of use proposed in application T-10827 are 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 83231 and any related decree.
- 3. Water right certificate 83231 is cancelled.
- 4. The quantity of water diverted at the new points of appropriation shall not exceed the quantity of water lawfully available at the original points of appropriation.
- 5. The water user shall maintain and operate the existing measurement devices and shall make such improvements as may be required by the Department.

- 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, 2012**. 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. When satisfactory proof of the completed changes is received, a new certificate confirming the right transferred will be issued.

Dated at Salem, Oregon this $\underline{Z}($ day of July 2011.

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

This Preliminary Determination was prepared by Teri Hranac. If you have questions about the information in this document, you may reach me at 503-986-0881 or Teri.K.Hranac@wrd.state.or.us.

Protests should be addressed to the attention of Transfer and Conservation Section, Water Resources Department, 725 Summer St. NE, Suite A, Salem, OR 97301-1266.