



Oregon

John A. Kitzhaber, MD, Governor

Water Resources Department

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March 5, 2012

Applicant

CITY OF SISTERS

PO BOX 39

SISTERS, OR 97759

Agent

GSI WATER SOLUTIONS INC.

1600 WESTERN BLVD. SUITE 240

CORVALLIS, OR 97333

SUBJECT: Water Right Transfer Application T-11284

Please find enclosed the Preliminary Determination indicating that, based on the information available, the Department intends to approve application T-11284. This document is an intermediate step in the approval process; water may not be used legally as proposed in the transfer application until a Final Order has been issued by the Department. Please read this entire letter carefully to determine your responsibility for additional action.

A public notice is being published in the Department's weekly publication and in the Nugget newspaper, simultaneously with issuance of the Preliminary Determination. The notice initiates a period in which any person may file either a protest opposing the decision proposed by the Department in the Preliminary Determination or a standing statement supporting the Department's decision. The protest period will end 30 days after the last date of newspaper publication.

If no protest is filed, the Department will issue a Final Order consistent with the Preliminary Determination. You should receive a copy of the Final Order about 30 days after the close of the protest period.

If a protest is filed, the application may be referred to a contested case proceeding. A contested case provides an opportunity for the proponents and opponents of the decision proposed in the Preliminary Determination to present information and arguments supporting their position in a quasi-judicial proceeding.

Please do not hesitate to contact me at 503-986-0894 or Joel.M.Plahn@ wrd.state.or.us if I may be of assistance.

Sincerely,

Joel Plahn

Transfer Specialist

Transfer and Conservation Section

cc: T-11284

Jeremy T. Giffin, District 11 Watermaster (*via e-mail*)

GSI WATER SOLUTIONS INC., Agent for the applicant

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

In the Matter of Transfer Application)
T-11284, Deschutes County)
)
)
)
)

PRELIMINARY DETERMINATION
PROPOSING APPROVAL OF AN
ADDITIONAL POINT OF
APPROPRIATION AND CHANGE IN
PLACE 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.

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Findings of Fact

Background

1. On August 23, 2011, City of Sisters filed an application for an additional point of appropriation and to change the place of use under Certificate 66520. The Department assigned the application number T-11284.
2. The portion of the right to be transferred is as follows:

Certificate: 66520 in the name of City of Sisters (perfected under Permit G-9979)
Use: Municipal use
Priority Date: February 24, 1983
Rate: 1.78 cubic feet per second
Source: A well within the Deschutes River Basin

Authorized Point of Appropriation:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
15 S	10 E	WM	9	NW SW	481.87 FEET SOUTH AND 706.96 FEET EAST FROM THE W1/4 CORNER OF SECTION 9

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.

Authorized Place of Use:

MUNICIPAL USE				
Twp	Rng	Mer	Sec	Q-Q
15 S	10 E	WM	4	NE SW
15 S	10 E	WM	4	NW SW
15 S	10 E	WM	4	SW SW
15 S	10 E	WM	4	SE SW
15 S	10 E	WM	4	SW SE
15 S	10 E	WM	4	SE SE
15 S	10 E	WM	5	NE SW
15 S	10 E	WM	5	SE SW
15 S	10 E	WM	5	NE SE
15 S	10 E	WM	5	NW SE
15 S	10 E	WM	5	SW SE
15 S	10 E	WM	5	SE SE
15 S	10 E	WM	8	NE NE
15 S	10 E	WM	8	NW NE
15 S	10 E	WM	8	SE NE
15 S	10 E	WM	8	NE NW
15 S	10 E	WM	9	NE NE
15 S	10 E	WM	9	NW NE
15 S	10 E	WM	9	SW NE
15 S	10 E	WM	9	SE NE
15 S	10 E	WM	9	NE NW
15 S	10 E	WM	9	NW NW
15 S	10 E	WM	9	SW NW
15 S	10 E	WM	9	SE NW

3. Transfer Application T-11284 proposes an additional point of appropriation approximately 1.25 miles from the existing point of appropriation to:

WELL	Twp	Rng	Mer	Sec	Q-Q	Measured Distances
DESC 57902	15 S	10 E	WM	4	SE NW	1890 FEET SOUTH AND 2325 FEET EAST FROM THE NW CORNER OF SECTION 4

4. Transfer Application T-11284 also proposes to change the place of use of the right to:

MUNICIPAL USE					
Twp	Rng	Mer	Sec	Q-Q	GOV LOT
15 S	10 E	WM	4	NE NW	3
15 S	10 E	WM	4	SW NW	
15 S	10 E	WM	4	SE NW	
15 S	10 E	WM	4	NE SW	
15 S	10 E	WM	4	NW SW	
15 S	10 E	WM	4	SW SW	
15 S	10 E	WM	4	SE SW	
15 S	10 E	WM	4	SW SE	
15 S	10 E	WM	4	SE SE	
15 S	10 E	WM	5	NE SW	
15 S	10 E	WM	5	NW SW	
15 S	10 E	WM	5	SW SW	
15 S	10 E	WM	5	SE SW	

MUNICIPAL USE					
Twp	Rng	Mer	Sec	Q-Q	GOV LOT
15 S	10 E	WM	5	NE SE	
15 S	10 E	WM	5	NW SE	
15 S	10 E	WM	5	SW SE	
15 S	10 E	WM	5	SE SE	
15 S	10 E	WM	6	NE SE	
15 S	10 E	WM	6	NW SE	
15 S	10 E	WM	6	SW SE	
15 S	10 E	WM	6	SE SE	
15 S	10 E	WM	8	NE NE	
15 S	10 E	WM	8	NW NE	
15 S	10 E	WM	8	SE NE	
15 S	10 E	WM	8	NE NW	
15 S	10 E	WM	9	NE NE	
15 S	10 E	WM	9	NW NE	
15 S	10 E	WM	9	SW NE	
15 S	10 E	WM	9	SE NE	
15 S	10 E	WM	9	NE NW	
15 S	10 E	WM	9	NW NW	
15 S	10 E	WM	9	SW NW	
15 S	10 E	WM	9	SE NW	
15 S	10 E	WM	9	NE SE	
15 S	10 E	WM	9	NW SE	
15 S	10 E	WM	9	SW SE	
15 S	10 E	WM	9	SE SE	

5. Notice of the application for transfer was published on August 30, 2011, pursuant to OAR 690-380-4000. No comments were filed in response to the notice.
6. On February 15, 2012, the Department sent a copy of the draft Preliminary Determination proposing to approve Transfer Application T-11284 to the applicant. The draft Preliminary Determination cover letter set forth a deadline of March 16, 2012, 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)

7. Water has been used according to the terms and conditions of the right. The right is not subject to forfeiture under ORS 540.610 because it is a right held by a municipality.
8. A pump, pipelines, and a municipal system sufficient to use the full amount of water allowed under the existing right are present.
9. The proposed change would not result in enlargement of the right.
10. The proposed change would not result in injury to other water rights.

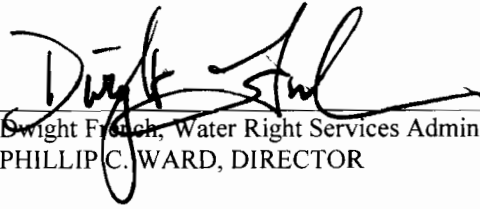
Determination and Proposed Action

The additional point of appropriation and change in place of use proposed in Transfer Application T-11284 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-11284 is approved, the final order will include the following:

- 1. The additional point of appropriation and change in place of use proposed in application T-11284 are approved.*
- 2. The right to the use of the water is restricted to beneficial use at the place of use described; however, because the right is for municipal use, water may be applied to lands which are not specifically described, provided the holder of the right complies with ORS 540.510(3). The right to the use of water is subject to all other conditions and limitations contained in Certificate 66520 and any related decree.*
- 3. Water right certificate 66520 is cancelled.*
- 4. The quantity of water diverted at the 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 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. The approved changes shall be completed and full beneficial use of the water shall be made on or before **October 1, 2017**. 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 2 day of March 2012.



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

This Preliminary Determination was prepared by Joel Plahn. If you have questions about the information in this document, you may reach me at 503-986-0894 or Joel.M.Plahn@wrds.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.