



Oregon

John A. Kitzhaber, MD, Governor

Water Resources Department
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Salem, OR 97301-1271
503-986-0900
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August 28, 2014

VIA E-MAIL

Applicant

CITY OF ISLAND CITY
ATTN JUDY RYGG
10605 ISLAND AVE
LA GRANDE OR 97850
E-MAIL: judy@islandcityhall.com

Agent

ANDERSON PERRY AND ASSOC INC
ATTN MIKE POSADA
1901 N FIR STREET
LA GRANDE OR 97850
E-MAIL: mposada@andersonperry.com

SUBJECT: Water Right Transfer Application T-11760

Please find enclosed the Preliminary Determination indicating that, based on the information available, the Department intends to approve application T-11760. 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 La Grande Observer 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 503-986-0886 or Patrick.K.Starnes@ wrd.state.or.us if I may be of assistance.

Sincerely,

Kelly Starnes
Transfer Program Analyst
Transfer and Conservation Section

cc: Transfer application file T-11760
Shad L. Hattan, District 6 Watermaster (*via e-mail*)
Michael Posada, Agent/CWRE for the applicant (*via e-mail*)

encs

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

In the Matter of Transfer Application)	PRELIMINARY DETERMINATION
T-11760, Union County)	PROPOSING APPROVAL OF
)	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.

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Findings of Fact

1. On March 13, 2014, CITY OF ISLAND CITY filed an application for additional points of appropriation under Certificate 62005. The Department assigned the application number T-11760.
2. Notice of the application for transfer was published on March 25, 2014, pursuant to OAR 690-380-4000. No comments were filed in response to the notice.
3. On June 19, 2014, the applicant amended the application to include Certificate 89288 for additional points of appropriation.
4. On July 28, 2014, the applicant requested that the completion date be moved to October 1, 2024.
5. On July 28, 2014, the Department sent a copy of the draft Preliminary Determination proposing to approve Transfer Application T-11760 to the applicant. The draft Preliminary Determination cover letter set forth a deadline of August 28, 2014, for the applicant to respond. The applicant requested that the Department proceed with issuance of a Preliminary Determination.

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.

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

Certificate: 62005 in the name of CITY OF ISLAND CITY (perfected under Permit G-7224)

Use: MUNICIPAL USES

Priority Date: FEBRUARY 24, 1977

Rate: 1.0 CUBIC FOOT PER SECOND

Source: TWO WELLS within the GRANDE RONDE RIVER BASIN

Authorized Points of Appropriation:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
2 S	38 E	WM	34	SE SW	WELL NO. 1 - 90 FEET NORTH AND 2240 FEET EAST FROM THE SW CORNER OF SECTION 34
3 S	38 E	WM	3	NW NE	WELL NO. 2 - 970 FEET SOUTH AND 2050 FEET WEST FROM THE NE CORNER OF SECTION 3

Authorized Place of Use:

MUNICIPAL USES				
Twp	Rng	Mer	Sec	Q-Q
2 S	38 E	WM	34	NW NE
2 S	38 E	WM	34	NE SW
2 S	38 E	WM	34	SW SW
2 S	38 E	WM	34	SE SW
2 S	38 E	WM	34	SW SE
3 S	38 E	WM	3	NW NE
3 S	38 E	WM	3	NE NW
3 S	38 E	WM	3	SE NW
3 S	38 E	WM	3	NE SW

7. Certificate 62005 does not accurately describe the location of the appurtenancy of water within the municipal water system. Pursuant to 540.510 the place of use within the city of Island City is as follows:

MUNICIPAL USES				
Twp	Rng	Mer	Sec	Q-Q
2 S	38 E	WM	33	SE SE
2 S	38 E	WM	34	NE NE
2 S	38 E	WM	34	NW NE
2 S	38 E	WM	34	SE NE
2 S	38 E	WM	34	NE NW
2 S	38 E	WM	34	NW NW
2 S	38 E	WM	34	SW NW
2 S	38 E	WM	34	SE NW
3 S	38 E	WM	3	NE NE
3 S	38 E	WM	3	SE NE
3 S	38 E	WM	3	NE NW
3 S	38 E	WM	3	NW NW
3 S	38 E	WM	3	SW NW
3 S	38 E	WM	3	SE NW
3 S	38 E	WM	3	NE SW
3 S	38 E	WM	3	NW SW
3 S	38 E	WM	3	SW SW
3 S	38 E	WM	3	SE SW

MUNICIPAL USES				
Twp	Rng	Mer	Sec	Q-Q
3 S	38 E	WM	3	NE SE
3 S	38 E	WM	3	SE SE
3 S	38 E	WM	4	NW NE
3 S	38 E	WM	4	SW NE
3 S	38 E	WM	4	NE SE
3 S	38 E	WM	4	SE SE
3 S	38 E	WM	10	NW NE

8. Transfer Application T-11760 proposes additional points of appropriation. Proposed Well No. 4 is approximately 0.6 mile from authorized Well No. 2 and 0.75 mile from authorized Well No. 1. Proposed Well No. 5 is approximately 0.55 mile from authorized Well No. 2 and approximately 0.8 mile from authorized Well No. 1. The location for the proposed wells are as follows:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
3 S	38 E	WM	3	NW SW	WELL NO. 4 (AKA APOA 3) - 530 FEET SOUTH AND 100 FEET EAST FROM THE W¼ CORNER OF SECTION 3
3 S	38 E	WM	3	SW SE	WELL NO. 5 (AKA APOA 4) - 920 FEET NORTH AND 90 FEET EAST FROM THE S¼ CORNER OF SECTION 3

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

Certificate: 89288 in the name of CITY OF ISLAND CITY (perfected under Permit G-11683)

Use: MUNICIPAL USE

Priority Date: JUNE 21, 1993

Rate: 2.67 CUBIC FEET PER SECOND

Source: A WELL (WELL 4) within the GRANDE RONDE RIVER BASIN

Authorized Point of Appropriation:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
3 S	38 E	WM	3	NW SW	WELL NO. 4 (AKA POA 1) - 530 FEET SOUTH AND 100 FEET EAST FROM THE W¼ CORNER OF SECTION 3

Authorized Place of Use:

MUNICIPAL USE				
Twp	Rng	Mer	Sec	Q-Q
2 S	38 E	WM	34	NE SW
2 S	38 E	WM	34	SW SW
2 S	38 E	WM	34	SE SW
2 S	38 E	WM	34	NW SE
2 S	38 E	WM	34	SW SE
3 S	38 E	WM	3	NW NE
3 S	38 E	WM	3	NE NW
3 S	38 E	WM	3	NW NW
3 S	38 E	WM	3	SW NW
3 S	38 E	WM	3	SE NW
3 S	38 E	WM	3	NE SW

MUNICIPAL USE				
Twp	Rng	Mer	Sec	Q-Q
3 S	38 E	WM	3	SE SW
3 S	38 E	WM	4	NE NE
3 S	38 E	WM	4	SE NE

10. Certificate 89288 does not accurately describe the location of the appurtenancy of water within the municipal water system. Pursuant to 540.510 the place of use within the city of Island City is as follows:

MUNICIPAL USE				
Twp	Rng	Mer	Sec	Q-Q
2 S	38 E	WM	33	SE SE
2 S	38 E	WM	34	NE NE
2 S	38 E	WM	34	NW NE
2 S	38 E	WM	34	SE NE
2 S	38 E	WM	34	NE NW
2 S	38 E	WM	34	NW NW
2 S	38 E	WM	34	SW NW
2 S	38 E	WM	34	SE NW
3 S	38 E	WM	3	NE NE
3 S	38 E	WM	3	SE NE
3 S	38 E	WM	3	NE NW
3 S	38 E	WM	3	NW NW
3 S	38 E	WM	3	SW NW
3 S	38 E	WM	3	SE NW
3 S	38 E	WM	3	NE SW
3 S	38 E	WM	3	NW SW
3 S	38 E	WM	3	SW SW
3 S	38 E	WM	3	SE SW
3 S	38 E	WM	3	NE SE
3 S	38 E	WM	3	SE SE
3 S	38 E	WM	4	NW NE
3 S	38 E	WM	4	SW NE
3 S	38 E	WM	4	NE SE
3 S	38 E	WM	4	SE SE
3 S	38 E	WM	10	NW NE

11. Transfer Application T-11760 proposes additional points of appropriation. Proposed Well No. 5 is approximately 0.5 miles from authorized Well No. 4. The proposed location for Well No. 5 is as follows:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
3 S	38 E	WM	3	SW SE	WELL NO. 5 (AKA APOA 2) - 920 FEET NORTH AND 90 FEET EAST FROM THE S¼ CORNER OF SECTION 3

Transfer Review Criteria (OAR 690-380-4010)

12. 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.

13. The groundwater section of the department has determined that the proposed points of appropriation meet all of the requirements of ORS 540.531 and OAR 690-280-2130(3) and (4).
14. A pump, pipeline, and steel tank reservoirs sufficient to use the full amount of water allowed under the existing rights were present within the five-year period prior to submittal of Transfer Application T-11760.

Determination and Proposed Action


The additional points of appropriation proposed in Transfer Application T-11760 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-11760 is approved, the final order will include the following:

15. *The additional points of appropriation proposed in Transfer Application T-11760 are approved.*
16. *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 62005, 89288 and any related decree.*
17. *Water right certificates 62005 and 89288 are cancelled.*
18. *The quantity of water diverted at the additional points of appropriation, together with that diverted at the original points of appropriation, shall not exceed the quantity of water lawfully available at the original points of appropriation.*
19. *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 in good working order.*
 - c. *The water user shall allow the Watermaster access to the meters; provided however, where the meters are located within a private structure, the Watermaster shall request access upon reasonable notice.*
20. *Water shall be acquired from the same aquifer (water source) as the original point of appropriation.*
21. *Full beneficial use of the water shall be made, consistent with the terms of this order, on or before **October 1, 2024**. 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.*

22. *After satisfactory proof of beneficial use is received, new certificates confirming the rights transferred will be issued.*

Dated at Salem, Oregon this 29 day of August 2014.



Dwight French
Water Right Services Division Administrator, for
Director
Oregon Water Resources Department

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