



Oregon

Kate Brown, Governor

Water Resources Department

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August 4, 2015

VIA E-MAIL

Applicant

CITY OF TIGARD

13125 SW HALL BLVD

TIGARD, OR 97223

SUBJECT: Water Right Transfer Application T-11898

Please find enclosed the Preliminary Determination indicating that, based on the information available, the Department intends to approve application T-11898. 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 Tigard-Tualatin Times 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 Lanaya.F.Blakely@ wrd.state.or.us or (503) 986-0888, if I may be of assistance.

Sincerely,

Lanaya Blakely

Transfer Specialist

Transfer and Conservation Section

cc: Transfer Application file T-11898
Jake Constans, District 18 Watermaster (*via e-mail*)
Ted Ressler, Agent for the applicant (*via e-mail*)

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

In the Matter of Transfer Application)
T-11898, Washington County)
)
)
)

**PRELIMINARY DETERMINATION
PROPOSING APPROVAL OF AN
ADDITIONAL POINT OF
APPROPRIATION**

Authority

Oregon Revised Statute (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. Oregon Administrative Rule (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 BLVD
TIGARD, OR 97223

Findings of Fact

1. On September 29, 2014, the CITY OF TIGARD filed an application for an additional point of appropriation under Certificates 85870, 85871, and 85872. The Department assigned the application number T-11898.
2. Notice of the application for transfer was published on October 7, 2014, pursuant to OAR 690-380-4000. No comments were filed in response to the notice.
3. On June 29, 2015, the Department sent a copy of the draft Preliminary Determination proposing to approve Transfer Application T-11898.
4. After issuance of the draft Preliminary Determination, the Department determined that it was issued without describing the authorized place of use. The place of use has been described in finding of fact #8.

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

Certificate: 85870 in the name of CITY OF TIGARD (perfected under Permit G-3270)
Use: MUNICIPAL USES
Priority Date: APRIL 25, 1966
Rate: 0.67 cubic foot per second, if available at the original points of appropriation, or its equivalent in case of rotation, measured at the wells.
Source: THREE WELLS within the FANNO CREEK BASIN

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.
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Original Point of Appropriation:

Well	Twp	Rng	Mer	Sec	Q-Q	Measured Distances
Well 1	2 S	1 W	WM	10	SW NW	SOUTH 44' 37" WEST 1639 FEET FROM THE NW CORNER OF SECTION 10
ASR 1	2 S	1 W	WM	10	SW NW	SOUTH 3° 13' 22" EAST 1561 FEET FROM THE NW CORNER OF SECTION 11

Authorized Points of Appropriation:

Well	Twp	Rng	Mer	Sec	Q-Q	Measured Distances
Well 2	2 S	1 W	WM	10	NW NW	610 FEET SOUTH AND 1270 FEET EAST FROM THE NW CORNER OF SECTION 10
ASR 2	2 S	1 W	WM	10	SW NW	1750 FEET SOUTH AND 30 FEET EAST FROM THE NW CORNER OF SECTION 10
ASR 1	2 S	1 W	WM	11	SW NW	SOUTH 3° 13' 22" EAST 1561 FEET FROM THE NW CORNER OF SECTION 11

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

Certificate: 85871 in the name of CITY OF TIGARD (perfected under Permit G-2999)
Use: MUNICIPAL USES
Priority Date: NOVEMBER 19, 1965
Rate: 0.63 cubic foot per second, if available at the original point of appropriation, or its equivalent in case of rotation, measured at the well.
Source: THREE WELLS within the FANNO CREEK BASIN

Original Point of Appropriation:

Well	Twp	Rng	Mer	Sec	Q-Q	Measured Distances
Well 4	2 S	1 W	WM	10	NW SW	25 FEET SOUTH AND 500 FEET EAST FROM THE WEST 1/4 CORNER OF SECTION 10

Authorized Points of Appropriation:

Wells	Twp	Rng	Mer	Sec	Q-Q	GLot	Measured Distances
Well 2	2 S	1 W	WM	10	NW NW		610 FEET SOUTH AND 1270 FEET EAST FROM THE NW CORNER OF SECTION 10
ASR 2	2 S	1 W	WM	10	SW NW		1750 FEET SOUTH AND 30 FEET EAST FROM THE NW CORNER OF SECTION 10
ASR 1	2 S	1 W	WM	11	SW NW	2	SOUTH 3° 13' 22" EAST 1561 FEET FROM THE NW CORNER OF SECTION 11

7. The third right to be transferred is as follows:

Certificate: 85872 in the name of CITY OF TIGARD (perfected under Permit G-655)
Use: MUNICIPAL USES
Priority Date: SEPTEMBER 16, 1957
Rate: 0.78 cubic foot per second, if available at the original points of appropriation, or its equivalent in case of rotation, measured at the wells.
Source: THREE WELLS within the FANNO CREEK BASIN

Original Point of Appropriation:

Well	Twp	Rng	Mer	Sec	Q-Q	Measured Distances
Well 3	2 S	1 W	WM	4	SW NE	25 FEET SOUTH AND 50 FEET EAST FROM THE CENTER 1/4 CORNER OF SECTION 4

Authorized Points of Appropriation:

Twp	Rng	Mer	Sec	Q-Q	GLot	Measured Distances
2 S	1 W	WM	10	NW NW		610 FEET SOUTH AND 1270 FEET EAST FROM NW CORNER, SECTION 10
2 S	1 W	WM	10	SW NW		1750 FEET SOUTH AND 30 FEET EAST FROM NW CORNER, SECTION 10
2 S	1 W	WM	11	SW NW	2	SOUTH 3° 13' 22" EAST 1561 FEET FROM THE NW CORNER OF SECTION 11

8. Certificates 85870, 85871, and 85872 have the same authorized place of use, as follows:

MUNICIPAL				
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
1 S	1 W	WM	33	SE SE
1 S	1 W	WM	34	ALL
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

MUNICIPAL				
Twp	Rng	Mer	Sec	Q-Q
2 S	1 W	WM	2	ALL
2 S	1 W	WM	3	ALL
2 S	1 W	WM	4	ALL
2 S	1 W	WM	5	NE NE
2 S	1 W	WM	5	SW NE
2 S	1 W	WM	5	SE NE
2 S	1 W	WM	5	SW NW
2 S	1 W	WM	5	SE NW
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	6	SE NE
2 S	1 W	WM	6	NE SE
2 S	1 W	WM	6	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	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

MUNICIPAL				
Twp	Rng	Mer	Sec	Q-Q
2 S	1 W	WM	8	NE SE
2 S	1 W	WM	8	NW SE
2 S	1 W	WM	8	SE SE
2 S	1 W	WM	9	ALL
2 S	1 W	WM	10	ALL
2 S	1 W	WM	11	ALL
2 S	1 W	WM	12	NW NE
2 S	1 W	WM	12	SW NE
2 S	1 W	WM	12	NE NW
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	NE SE
2 S	1 W	WM	12	NW 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
2 S	1 W	WM	13	SW NE
2 S	1 W	WM	13	SE NE
2 S	1 W	WM	13	NE NW
2 S	1 W	WM	13	NW NW
2 S	1 W	WM	13	SW NW
2 S	1 W	WM	13	SE NW
2 S	1 W	WM	13	NE SW
2 S	1 W	WM	13	NW SW
2 S	1 W	WM	13	SW SW
2 S	1 W	WM	13	SE SW
2 S	1 W	WM	13	NE SE
2 S	1 W	WM	13	NW SE
2 S	1 W	WM	13	SW SE
2 S	1 W	WM	14	NE NE
2 S	1 W	WM	14	NW NE
2 S	1 W	WM	14	SW NE
2 S	1 W	WM	14	SE NE
2 S	1 W	WM	14	NE NW
2 S	1 W	WM	14	NW NW

MUNICIPAL				
Twp	Rng	Mer	Sec	Q-Q
2 S	1 W	WM	14	SW NW
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
2 S	1 W	WM	15	SW NE
2 S	1 W	WM	15	SE NE
2 S	1 W	WM	15	NE NW
2 S	1 W	WM	15	NW NW
2 S	1 W	WM	15	SW NW
2 S	1 W	WM	15	SE NW
2 S	1 W	WM	15	NE SW
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
2 S	1 W	WM	16	NE SW
2 S	1 W	WM	16	SE SW
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

9. Transfer Application T-11898 proposes an additional point of appropriation for Certificates 85870, 85871, and 85872:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances	Distance to existing points of appropriation in miles		
						Well 2	ASR 1	ASR 2
2 S	1 W	WM	9	SW NW	1770 FEET SOUTH AND 1500 FEET WEST FROM THE NE CORNER OF SECTION 9	0.55	1.29	0.28

Transfer Review Criteria (OAR 690-380-4010)

10. 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.
11. The proposed change would not result in enlargement of the rights.
12. The proposed change would not result in injury to other water rights.
13. All other application requirements are met.

Determination and Proposed Action

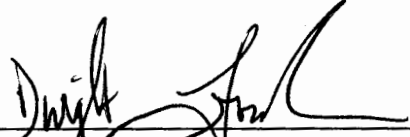
The additional point of appropriation proposed in Transfer Application T-11898 appears to be consistent with the requirements of ORS 537.705 and 540.505 to 540.580 and OAR 690-380-5000. If protests are not filed pursuant to OAR 690-380-4030, the application will be approved.

If Transfer Application T-11898 is approved, the final order will include the following:

1. *The additional point of appropriation proposed in Transfer Application T-11898 is 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 Certificates 85870, 85871, and 85872 and any related decree.*
3. *Water right Certificates 85870, 85871, and 85872 are cancelled.*
4. *The quantity of water diverted at the additional point of appropriation, shall not exceed the quantity of water lawfully available at the original points 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 (new and existing) 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. *Full beneficial use of the water shall be made, consistent with the terms of this order, on or before October 1, 2026. 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. *After satisfactory proof of beneficial use is received, new certificates confirming the rights transferred will be issued.*

Dated at Salem, Oregon this 4 day of August, 2015.



Dwight French, Water Right Services Administrator, for
Thomas M. Byler, Director
Oregon Water Resources Department

This Preliminary Determination was prepared by Lanaya Blakely. If you have question about the information in this document, you may reach me at (503) 986-0888 or Lanaya.F.Blakely@ wrd.state.or.us.

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