

BEFORE THE WATER RESOURCES DEPARTMENT
OF THE
STATE OF OREGON

In the Matter of Transfer Application)	FINAL ORDER
T-14205, Marion County)	APPROVING ADDITIONAL POINTS OF
)	APPROPRIATION

Authority

Oregon Revised Statutes (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 Rules (OAR) Chapter 690, Division 380 implement the statutes and provides the Department's procedures and criteria for evaluating transfer applications.

Applicant

CITY OF AURORA
ATTN: MARK GUNTER
21420 MAIN ST
AURORA, OR 97002

Findings of Fact

1. On March 29, 2023, The City of Aurora, Attn: Mark Gunter, filed an application for additional points of appropriation under Certificates 87380 and 87381. The Department assigned the application number T-14205.
2. Notice of the application for transfer was published on April 4, 2023, pursuant to OAR 690-380-4000. No comments were filed in response to the notice.
3. On October 2, 2023, the applicant's agent was notified that the location of the proposed wells under Certificates 87380 and 87381 described in Table 1 of the application, did not match the location of proposed wells on the application map.
4. On October 2, 2023, the applicant's agent submitted revised transfer application pages, correcting the location descriptions of the proposed wells for Certificates 87380 and 87381. On October 10, 2023, the Department mailed a copy of the draft Preliminary Determination proposing to approve Transfer Application T-13831 to the applicant. The

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.

draft Preliminary Determination cover letter set forth a deadline of November 9, 2023, 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.

6. On December 27, 2023, the Department issued a Preliminary Determination proposing to approve Transfer Application T-14205 and sent a copy to the applicant. Additionally, notice of the Preliminary Determination for the transfer application was published in the Department's weekly notice on January 2, 2024, and published in the Wilsonville Spokesman on December 28, 2023, pursuant to ORS 540.520 and OAR 690-380-4020. No protests were filed in response to the notice.

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

Certificate: 87380 in the name of CITY OF AURORA (perfected under Permit G-9890)
Use: MUNICIPAL USE
Priority Date: MAY 19, 1982
Rate: 0.56 CUBIC FOOT PER SECOND
Source: THREE WELLS in the WILLAMETTE BASIN

Authorized Points of Appropriation:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
4 S	1 W	WM	13	SE NW	WELL 4 - 1840 FEET SOUTH AND 2515 FEET EAST FROM THE NW CORNER OF SECTION 13
4 S	1 W	WM	13	SE NW	WELL 3 - 810 FEET NORTH AND 430 FEET WEST FROM THE CENTER OF SECTION 13
4 S	1 W	WM	13	NE SW	WELL 5 - 966 FEET SOUTH AND 410 FEET WEST FROM THE CENTER OF SECTION 13

Authorized Place of Use:

MUNICIPAL USE				
Twp	Rng	Mer	Sec	Q-Q
4 S	1 W	WM	12	NE SW
4 S	1 W	WM	12	NW SW
4 S	1 W	WM	12	SW SW
4 S	1 W	WM	12	SE SW
4 S	1 W	WM	12	NW SE
4 S	1 W	WM	12	SW SE
4 S	1 W	WM	13	NW NE
4 S	1 W	WM	13	SW NE
4 S	1 W	WM	13	NE NW
4 S	1 W	WM	13	NW NW
4 S	1 W	WM	13	SW NW
4 S	1 W	WM	13	SE NW
4 S	1 W	WM	13	NE SW
4 S	1 W	WM	13	NW SW
4 S	1 W	WM	13	NW SE
4 S	1 W	WM	14	NE SE

8. Transfer Application T-14205 proposes additional points of appropriation located as follows:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances	Approximate distance from authorized points of appropriation		
						Well 3	Well 4	Well 5
4 S	1 W	WM	11	NE SE	WELL 6A- 1945 FEET NORTH AND 55 FEET WEST FROM THE NW CORNER OF SECTION 13	4,250 FEET	4,650 FEET	5,700 FEET
4 S	1 W	WM	12	NW SW	WELL 6B- 2065 FEET NORTH AND 80 FEET EAST FROM THE NW CORNER OF SECTION 13	4,350 FEET	4,750 FEET	5,800 FEET
4 S	1 W	WM	13	SE NW	WELL 3R- 1935 FEET SOUTH AND 2210 FEET EAST FROM THE NW CORNER OF SECTION 13	100 FEET	200 FEET	1,800 FEET

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

Certificate: 87381 in the name of CITY OF AURORA (perfected under Permit G-3526)
Use: MUNICIPAL USE
Priority Date: NOVEMBER 25, 1966
Rate: 0.5 CUBIC FOOT PER SECOND
Source: THREE WELLS, TRIBUTARIES OF PUDDING RIVER

Authorized Points of Appropriation:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
4 S	1 W	WM	13	SE NW	WELL 4 - 1840 FEET SOUTH AND 2515 FEET EAST FROM THE NW CORNER OF SECTION 13
4 S	1 W	WM	13	NE SW	WELL 5 - 966 FEET SOUTH AND 410 FEET WEST FROM THE CENTER OF SECTION 13
4 S	1 W	WM	13	SE NW	WELL 3 - 810 FEET NORTH AND 430 FEET WEST FROM THE CENTER OF SECTION 13

Authorized Place of Use:

MUNICIPAL USE				
Twp	Rng	Mer	Sec	Q-Q
4 S	1 W	WM	12	NE SW
4 S	1 W	WM	12	NW SW
4 S	1 W	WM	12	SW SW
4 S	1 W	WM	12	SE SW
4 S	1 W	WM	12	NW SE
4 S	1 W	WM	12	SW SE
4 S	1 W	WM	13	NW NE
4 S	1 W	WM	13	SW NE
4 S	1 W	WM	13	NE NW
4 S	1 W	WM	13	NW NW
4 S	1 W	WM	13	SW NW
4 S	1 W	WM	13	SE NW

MUNICIPAL USE				
Twp	Rng	Mer	Sec	Q-Q
4 S	1 W	WM	13	NE SW
4 S	1 W	WM	13	NW SW
4 S	1 W	WM	13	NW SE
4 S	1 W	WM	14	NE SE

10. Transfer Application T-14205 proposes additional points of appropriation to:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances	Approximate distance from authorized points of appropriation		
						Well 3	Well 4	Well 5
4 S	1 W	WM	11	NE SE	WELL 6A- 1945 FEET NORTH AND 55 FEET WEST FROM THE NW CORNER OF SECTION 13	4,250 FEET	4,650 FEET	5,700 FEET
4 S	1 W	WM	12	NW SW	WELL 6B- 2065 FEET NORTH AND 80 FEET EAST FROM THE NW CORNER OF SECTION 13	4,350 FEET	4,750 FEET	5,800 FEET
4 S	1 W	WM	13	SE NW	WELL 3R- 1935 FEET SOUTH AND 2210 FEET EAST FROM THE NW CORNER OF SECTION 13	100 FEET	200 FEET	1,800 FEET

Transfer Review Criteria [OAR 690-380-0100(14), 690-380-4010(2) and OAR 690-380-2110(2)]

11. Water has been used within the last 5 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.
12. A water delivery system sufficient to use the full amount of water allowed under the existing rights was present within the five-year period prior to submittal of Transfer Application T-14205.
13. The water rights are subject to transfer as defined in ORS 540.505(4) and OAR 690-380-0100(14).
14. The proposed points of appropriation develop groundwater from the same aquifer as the authorized points of appropriation, as required by OAR 690-380-2110(2).
15. The proposed change, as conditioned, would not result in enlargement of the rights.
16. The proposed change, as conditioned, would not result in injury to other existing water rights.
17. All other application requirements are met.

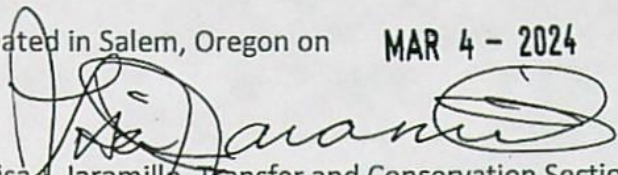
Conclusions of Law:

The additional points of appropriation proposed in Transfer Application T-14205 appear to be 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 additional points of appropriation proposed in Transfer Application T-14205 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 Certificates 87380, 87381 and any related decree.
3. Approval of this transfer application does not constitute nor grant legal access onto or through another person's property for purposes of accessing the new points of appropriation.
4. Water right Certificates 87380 and 87381 are cancelled.
5. The quantity of water diverted at the new additional points of appropriation (Well 3R, Well 6A, and Well 6B), together with that diverted at the original points of appropriation (Well 3, Well 4, and Well 5), shall not exceed the quantity of water lawfully available at the original points of appropriation (Well 3, Well 4, and Well 5).
6. Water shall be acquired from the same aquifer (water source) as the original points of appropriation.
7. 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 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.
8. Full beneficial use of the water shall be made, consistent with the terms of this order, on or before **October 1, 2045**. 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 change and full beneficial use of the water.
9. After satisfactory proof of beneficial use is received, a new certificate confirming the rights transferred will be issued.

Dated in Salem, Oregon on **MAR 4 - 2024**



Lisa J. Jaramillo, Transfer and Conservation Section Manager, for
DOUGLAS E. WOODCOCK, ACTING DIRECTOR
Oregon Water Resources Department

STATE OF OREGON

COUNTY OF CLACKAMAS

CERTIFICATE OF WATER RIGHT

This Is to Certify, That Ernest H. Peter
8330 S. Lone Elder Rd, State of Oregon, has made proof
 of Route 3, Box 215, Canby, to the satisfaction of the STATE ENGINEER of Oregon, of a right to the use of the waters of

Gribble Creek

a tributary of

Molalla River

for the purpose of

irrigation of 67.8 acres

under Permit No. 27794 of the State Engineer, and that said right to the use of said waters has been perfected in accordance with the laws of Oregon; that the priority of the right hereby confirmed dates from January 16, 1962,

that the amount of water to which such right is entitled and hereby confirmed, for the purposes aforesaid, is limited to an amount actually beneficially used for said purposes, and shall not exceed

0.75 cubic foot per second, if available at the original point of diversion;
SW NW Sec 16 T4S R1E W. M., 1725' S & 1000' E from NW cor Sec 16
 or its equivalent in case of rotation, measured at the point of diversion from the stream.
 The point of diversion is located in the SW 1/4 NW 1/4, Section 16, T. 4 S., R. 1 E., W. M.

Loc 1228 S & 1180 W fr. NW cor Sec 16

The amount of water used for irrigation, together with the amount secured under any other right existing for the same lands, shall be limited to one-eightieth of one cubic foot per second per acre, or its equivalent for each acre irrigated and shall be further limited to a diversion of not to exceed 2 1/2 acre feet per acre for each acre irrigated during the irrigation season of each year,

and shall

conform to such reasonable rotation system as may be ordered by the proper state officer.

A description of the place of use under the right hereby confirmed, and to which such right is appurtenant, is as follows:

33.2 acres NE 1/4 NW 1/4
34.6 acres SE 1/4 NW 1/4
Section 16
T. 4 S., R. 1 E., W. M.

This certificate is issued to confirm a change in point of diversion approved by an order of the WRD entered Oct 28 '77 and supersedes certificate of water right recorded at page 31027 Vol. 23 SRWRC.

The issuance of this superseding certificate does not confirm the status of the water right in reference to ORS 540.610.

use herein described.

WITNESS the signature of the State Engineer, affixed

this date. JULY 1 - 1963

CHRIS L. WHEELER

State Engineer

Recorded in State Record of Water Right Certificates, Volume 23, page 31027

BEFORE THE WATER RESOURCES DIRECTOR OF OREGON

CLACKAMAS COUNTY

IN THE MATTER OF THE APPLICATION)
OF ERNEST H. PETER FOR APPROVAL)
OF A CHANGE IN POINT OF DIVER-)
SION OF WATER FROM GRIBBLE CREEK)

ORDER APPROVING
TRANSFER NO. 3732

On July 18, 1977, an application was filed in the office of the Water Resources Director by Ernest H. Peter for a change in point of diversion under an existing water right of record, pursuant to the provisions of ORS 540.510 to 540.530.

The certificate recorded at page 31027, Volume 23, State Record of Water Right Certificates, in the name of A. E. Harms, describes a right for the use of not to exceed 0.75 cubic foot per second from Gribble Creek for irrigation of 33.2 acres in NE $\frac{1}{4}$ NW $\frac{1}{4}$ and 34.6 acres in SE $\frac{1}{4}$ NW $\frac{1}{4}$ of Section 16, Township 4 South, Range 1 East, W.M., with a date of priority of January 16, 1962.

Water for the said right is diverted from a point located 1725 feet South and 1000 feet East from the Northwest corner of Section 16, being within the SW $\frac{1}{4}$ NW $\frac{1}{4}$ of Section 16, Township 4 South, Range 1 East, W.M.

The applicant herein, owner of the lands above described, proposes to change the point of diversion therefrom, without loss of priority, to a point located 1300 feet South and 1410 feet East from the Northwest corner of Section 16, being within the NE $\frac{1}{4}$ NW $\frac{1}{4}$ of Section 16, Township 4 South, Range 1 East, W.M.

Notice of the application, pursuant to ORS 540.510, was published in the Canby Herald, a newspaper printed and having general circulation in Clackamas County, Oregon, for a period of three weeks in the issues of July 27, August 3 and 10, 1977.

Mr. Keith Palmer, Watermaster, has filed a statement to the effect that the proposed change in point of diversion may be made without injury to existing rights.

No objections having been filed and it appearing that the proposed change in point of diversion may be made without injury to existing rights, the application

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877-500

should be approved.

NOW, THEREFORE, it hereby is ORDERED that the requested change in point of diversion from Gribble Creek, as described herein, without loss of priority, is approved.

It is FURTHER ORDERED that the quantity of water diverted at the new point of diversion shall not exceed the quantity of water available at the old point of diversion under the subject right, and shall not exceed 0.75 cubic foot per second.

It is FURTHER ORDERED that the following provisions shall be effective when in the judgement of the watermaster it becomes necessary to install head-gates and measuring devices:

That the diversion works shall include an in line flow meter, a weir, or other suitable device for measuring the water to which the applicant is entitled;

That the type and plans of the measuring device be approved by the watermaster before the beginning of construction work and that the weir or measuring device be installed under the general supervision of said watermaster.

It is FURTHER ORDERED that the construction work shall be completed and the change in point of diversion of water made on or before October 1, 1979.

It is FURTHER ORDERED that upon proof satisfactory to the Water Resources Director of completion of works and beneficial use of water to the extent intended under the provisions of this order the certificate of water right heretofore issued to A. E. Harms and recorded at page 31027, Volume 23, State Record of Water Right Certificates, be canceled, and in lieu thereof a new confirming certificate of water right be issued to the applicant herein.

Dated at Salem, Oregon, this 28th day of October, 1977.

/s/ James E. Sexson
Director

RECEIVED

SEP 29 1977

WATER RESOURCES DEPT
SALEM, OREGON

NOTICE OF WATER RIGHT
TRANSFER APPLICATION
NO. 3732

Notice is given hereby that an application has been filed in the office of the Water Resources Director by Ernest H. Peter for approval of a change in point of diversion from Gribble Creek.

The certificate recorded at page 31027, Volume 23, State Record of Water Right Certificates, in the name of A.E. Harms, describes a right for the use of not to exceed 0.75 cubic foot per second from Gribble Creek for irrigation of 33.2 acres in NE $\frac{1}{4}$ NW $\frac{1}{4}$ and 34.6 acres in SE $\frac{1}{4}$ NW $\frac{1}{4}$ of Section 16, T 4 S, R 1 E, W.M., with a date of priority of January 16, 1962.

Water for the said right is diverted from a point located 1725 ft. S and 1000 ft. E from the NW corner of Section 16, being within the SW $\frac{1}{4}$ NW $\frac{1}{4}$ of Section 16, T 4 S, R 1 E, W.M.

The application herein, owner of the lands above described, proposes to change the point of diversion therefrom, without loss of priority, to a point located 1300 ft. S and 1410 ft. E from the NW corner of Section 16, being within the NE $\frac{1}{4}$ NW $\frac{1}{4}$ of Section 16, T 4 S, R 1 E, W.M.

All persons interested are notified hereby that a hearing will be held at the county courthouse at Oregon City, Oregon, on September 20, 1977, at 9:30 a.m. All objections to the proposed change, if any there are, will be heard at said time and place. Any and all objections shall be prepared in writing, one copy to be served on Ernest H. Peter, 8330 S. Lone Elder Rd., Canby, OR 97013 and one copy filed with the Water Resources Department, Salem, Oregon 97310, together with a \$10 filing fee, at least 10 days prior to the date set for hearing. IF NO OBJECTIONS ARE FILED, THE APPLICATION MAY BE APPROVED BY THE WATER RESOURCES DIRECTOR WITHOUT A HEARING. Administrative rules pertaining to the filing of a protest will be furnished by the Water Resources Department upon request.

Date at Salem, Oregon, this 19th day of July 1977.
James E. Sexson
Director

Published July 28, 1977, August 4, 1977 and August 11, 1977.

Affidavit of Publication

STATE OF OREGON

COUNTY OF CLACKAMAS

SS

I, THOMAS R. DILLON, being first duly sworn, depose and say that I am the publisher of the Canby Herald, a newspaper of general circulation as defined by ORS 193.010 and 193.020; printed and published at Canby in the aforesaid county and state;

that the NOTICE OF WATER RIGHT TRANSFER APPLICATION

a printed copy of which is hereto annexed, was published in the entire issue of said newspaper for three (3) successive and consecutive weeks in the following issues: July 27, 1977; August 3, 1977 and August 10, 1977

Thomas R. Dillon

Subscribed and sworn to before me this 27th day of Sept., 1977

Nancy Jo Colvin

Notary Public for Oregon

(My Commission Expires 5/13/80)