

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

In the Matter of Transfer Application)
T-8536, Klamath County)
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)

PRELIMINARY DETERMINATION
PROPOSING APPROVAL OF
ADDITIONAL POINTS OF
APPROPRIATION AND A CHANGE
IN PLACE OF USE

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 MALIN
PO BOX 61
MALIN, OREGON 97632

Findings of Fact

1. On May 31, 2000, the City of Malin filed an application for two additional points of appropriation and a change in place of use under Certificate 37291. The Department assigned the application number T-8536.
2. The applicant submitted the required Land Use Information forms to the Department on September 22, 2006, which were necessary in order to complete the transfer application.
3. The right to be transferred is as follows:

Certificate: 37291 in the name of MALIN MUNICIPAL WATER SYSTEM (perfected under Permit G-1107)

Use: MUNICIPAL USE

Priority Date: AUGUST 4, 1958

Rate: 0.84 CUBIC FOOT PER SECOND

Source: A WELL in the "D" CANAL (LOST RIVER) BASIN

Authorized Point of Appropriation:

Twp	Rng	Mer	Sec	Q-Q	GLot	Lot /Block	Survey Coordinates
41 S	12 E	WM	15	NW SW	1	Lot 11 Block C Malin City	SOUTH 73° 25' EAST 501 FEET 7 INCHES FROM THE WEST 1/4 CORNER OF SECTION 15.

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
41 S	12 E	WM	15	SW NW
41 S	12 E	WM	15	NW SW
41 S	12 E	WM	16	SE NE
41 S	12 E	WM	16	NE SE

- The point described in Certificate 37291 (South 73° 25' East 501 feet 7 inches from the West ¼ Corner of Section 15, T. 41 S, R. 12 E, W.M.), the point described in Transfer Application T-8536 (South 73° 25' East 501.58 feet from the West ¼ of Section 15) and the point shown on the map for Transfer Application T-8536 (South 72° 44' East 503 feet from the East ¼ corner of Section 16), all describe the same authorized point of appropriation.
- Transfer Application T-8536 proposes two additional points of appropriation located between approximately 0.27 and 0.42 mile from the existing point of appropriation as follows:

Twp	Rng	Mer	Sec	Q-Q	Survey Coordinates
41 S	12 E	WM	16	NE NE	WELL 4 - SOUTH 32° 23' 18" WEST 1254 FEET FROM THE NE CORNER OF SECTION 16.
41 S	12 E	WM	16	NE SE	WELL 3 - SOUTH 63° 38' WEST 945 FEET FROM THE EAST 1/4 CORNER OF SECTION 16.

- Transfer Application T-8536 also proposes to change the place of use of the right to:

MUNICIPAL USE				
Twp	Rng	Mer	Sec	Q-Q
41 S	12 E	WM	9	SE SE
41 S	12 E	WM	10	SW SW
41 S	12 E	WM	15	NW NW
41 S	12 E	WM	15	SW NW
41 S	12 E	WM	15	SE NW
41 S	12 E	WM	15	NE SW
41 S	12 E	WM	15	NW SW
41 S	12 E	WM	15	SW SW
41 S	12 E	WM	15	SW SE
41 S	12 E	WM	16	NE NE
41 S	12 E	WM	16	SW NE
41 S	12 E	WM	16	SE NE
41 S	12 E	WM	16	NE SW
41 S	12 E	WM	16	SE SW
41 S	12 E	WM	16	NE SE
41 S	12 E	WM	16	NW SE
41 S	12 E	WM	16	SW SE
41 S	12 E	WM	16	SE SE
41 S	12 E	WM	21	NE NE
41 S	12 E	WM	21	NW NE
41 S	12 E	WM	21	SW NE
41 S	12 E	WM	21	NE NW
41 S	12 E	WM	21	NW SE

7. Notice of the application for transfer was published on June 13, 2000, pursuant to ORS 540.520 and OAR 690-380-4000. No comments were filed in response to the notice.
8. Pursuant to ORS 540.610(2)(a), the use of water under Certificate 37291 was acquired for reasonable and usual municipal purposes by the City of Malin, and therefore is not subject to forfeiture.
9. A pump, pipeline, and municipal delivery system sufficient to use the full amount of water allowed under the existing right is present.
10. The transfer application includes evidence demonstrating that Land Use approval has been obtained.
11. The proposed change would not result in enlargement of the right.
12. The proposed change would not result in injury to other water rights.

Determination and Proposed Action

The additional points of appropriation and change in place of use proposed in application T-8536 appear to be consistent with the requirements of ORS 537.705 and 540.505 to 540.580, and OAR 690-380-5000, and will be approved provided that protests are not filed pursuant to OAR 690-380-4030.

If approved, the change and subsequent use of water shall be subject to the following conditions:

1. The right to 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 37291 and any related decree.
2. Water Right Certificate 37291 will be cancelled.
3. Water shall be acquired from the same aquifer (water source) as the original point of appropriation.
4. 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 Rights 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.
5. The quantity of water diverted at the additional points 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.
6. Prior to diverting water at the new points of appropriation, the water user shall equip and maintain all wells (being the authorized and new points of appropriation) with an in-line flow meter or other suitable device for measuring and recording the quantity of water

appropriated. The type and plans of the measuring device must be approved by the Department prior to beginning construction and shall be installed under the general supervision of the Department.

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

Dated at Salem, Oregon this 23rd day of October 2006.



FOI Phillip C. Ward, Director

This Preliminary Determination was prepared by Lisa Jaramillo. If you have questions about the information in this document, you may reach me at 503-986-0858 or Lisa.J.Jaramillo@wrdd.state.or.us.

Protests should be addressed to the attention of Field Services Division, Water Resources Department, 725 Summer Street NE, Salem, OR 97301-1271.