# BEFORE THE WATER RESOURCES DEPARTMENT OF THE STATE OF OREGON

In the Matter of Transfer Application	)	PRELIMINARY DETERMINATION
T-10355, Multnomah County	)	PROPOSING APPROVAL OF AN
	)	ADDITIONAL POINT 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.

#### Applicant

CITY OF PORTLAND; PARKS AND RECREATION 6437 SE DIVISION ST., BUILDING 416 PORTLAND, OR 97206

### **Findings of Fact**

#### Background

- 1. On March 30, 2007, Dan Butts, for the City of Portland; Parks and Recreation, filed an application to add a point of appropriation under Certificate 44646. The Department assigned the application number T-10355.
- 2. The portion of the right to be transferred is as follows:

Certificate: 44646 in the name of PORTLAND BUREAU OF PARKS (perfected under

Permit G-4601)

Use: IRRIGATION of 109.8 ACRES

Priority Date: MAY 20, 1969

Rate: 1.37 CUBIC FEET PER SECOND (CFS)

Limit/Duty: ONE-EIGHTIETH cfs per acre, not to exceed 2.5 acre-feet per acre per year

Source: WELL #2 in the COLUMBIA RIVER BASIN

**Authorized Point of Appropriation:** 

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Twp	Rng	Mer	Sec	Q-Q	DLC	Survey Coordinates	
1 N	1 E	WM	5	SE NE	67	1540 FEET SOUTH AND 190 FEET WEST FROM THE NE CORNER	
						OF SECTION 5	

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:

IRRIGATION								
Twp	Rng	Mer	Sec Q-Q		GLot	DLC	Acres	
1 N	1 E	WM	4	NE NW		67	2.5	
1 N	1 E	WM	4	NW NW		67	3.4	
1 N	1 E	WM	5	NE NE		67	16.5	
1 N	1 E	WM	5	NW NE		67	22.7	
1 N	1 E	WM	5	SW NE		67	11.8	
I N	1 E	WM	5	SE NE		67	11.7	
2 N	1 E	WM	32	SW SE	5		5.2	
2 N	1 E	WM	32	SE SE	5		23.1	
2 N	1 E	WM	33	SW SW	1		10.9	
2 N	1 E	WM	33	SE SW	2		2.0	

3. Application T-10355 proposes to add an authorized point of appropriation approximately 0.16 mile from the existing point of appropriation to:

Twp	Rng	Mer	Sec	Q-Q	DLC	Survey Coordinates
1 N	1 E	WM	4	SW NW	67	1469 FEET SOUTH AND 651 FEET EAST
						FROM THE NW CORNER OF SECTION 4

- 4. Notice of the application for transfer was published on April 10, 2007, pursuant to OAR 690-380-4000. No comments were filed in response to the notice.
- 5. On August 31, 2007, the Department mailed a copy of the draft Preliminary Determination proposing to approve Transfer Application T-10355 to the applicant. The draft Preliminary Determination set forth a deadline of October 1, 2007, 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)

- 6. Water has been used within the last five years according to the terms and conditions of the right, and there is no information in the record that would demonstrate that the right is subject to forfeiture under ORS 540.610.
- 7. A pump, pipeline, and sprinkler system sufficient to use the full amount of water allowed under the existing right were present within the five-year period prior to submittal of Application T-10355.
- 8. The proposed change would not result in enlargement of the right.
- 9. The proposed change would not result in injury to other water rights.

#### **Determination and Proposed Action**

The additional point of appropriation proposed in application T-10355 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 application T-10355 is approved, the final order will include the following:* 

- 1. The additional point of appropriation proposed in application T-10355 is approved.
- 2. Water right certificate 44646 is cancelled. A new certificate will be issued describing that portion of the right not affected by this transfer.
- 3. 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 Certificate 44646 and any related decree.
- 4. Water shall be acquired from the same aquifer (water source) as the original point of appropriation.
- 5. 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.
- 6. The water user shall maintain and operate the existing measurement device and shall make such improvements as may be required by the Department.
- 7. The approved change shall be completed and full beneficial use of the water shall be made on or before **October 1, 2009**. 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 change and full beneficial use of the water.
- 8. When satisfactory proof of the completed change is received, a new certificate confirming the right transferred will be issued.

Dated at Salem, Oregon this 13day of September 2007.

Phillip C. Ward, Director

This Preliminary Determination was prepared by a Reimbursement Authority contractor. If you have questions about the information in this document, you may reach Dorothy Pedersen at 503-986-0890 or Dorothy.I.Pedersen@wrd.state.or.us.

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