

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

In the Matter of Transfer Application)	PRELIMINARY DETERMINATION
T-10135, Washington County)	PROPOSING APPROVAL OF A
)	CHANGE IN POINTS OF
)	APPROPRIATION AND 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

HORIZON COMMUNITY CHURCH
P.O. BOX 2690
TUALATIN, OREGON 97062

Findings of Fact

1. Grace Community Church of the Assemblies of God Inc. (now known as Horizon Community Church) filed an application to transfer the place of use and points of appropriation under Certificates 30844 and 64616. The Department assigned the application number T-10135. Pacific Hydro-Geology, Inc. is the agent authorized to act on behalf of the applicant.
2. On May 22, 2006, Malia Kupillas, of Pacific Hydro-Geology Inc., the applicant's agent, amended the application to revise the locations of proposed wells, and submitted a revised map.
3. On August 21, 2006 the applicant's agent requested that the time for completion of the changes be extended to three years following the date of the order approving the transfer. The additional time is necessary because the development at the proposed place of use is planned to take place in several phases over a period of years. Therefore, full beneficial use will not be possible within one year of approval of the changes.

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

Certificate: 30844 in the name of CLOYD EDWARD WILLEY (perfected under Permit G-1925)

Use: IRRIGATION of 2.8 ACRES

Priority Date: AUGUST 14, 1961

Rate: 0.04 CUBIC FOOT PER SECOND

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.

Limit/Duty: ONE-EIGHTIETH cfs per acre, not to exceed 2.5 acre-feet per acre per year
Source: A WELL in the TUALATIN RIVER BASIN

Authorized Point of Appropriation:

Twp	Rng	Mer	Sec	Q-Q	Survey Coordinates
2 S	1 W	WM	35	SW SE	6 CHAINS NORTH AND 33.5 CHAINS WEST FROM THE SE CORNER OF SECTION 35

Authorized Place of Use:

IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
2 S	1 W	WM	35	SW SE	2.8

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

Certificate: 64616 in the name of CLOYD EDWARD WILLEY (perfected under Permit G-9092)

Use: IRRIGATION of 5.0 ACRES

Priority Date: SEPTEMBER 3, 1980

Rate: 0.06 CUBIC FOOT PER SECOND

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

Source: A WELL in the TUALATIN RIVER BASIN

Authorized Point of Appropriation:

Twp	Rng	Mer	Sec	Q-Q	Survey Coordinates
2 S	1 W	WM	35	SW SE	580 FEET NORTH AND 2100 FEET WEST FROM THE SE CORNER OF SECTION 35

Authorized Place of Use:

IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
2 S	1 W	WM	35	SW SE	5.0

6. Application T-10135 proposes to move the authorized points of appropriation less than ¼ mile from the existing points of appropriation to:

Twp	Rng	Mer	Sec	Q-Q	Survey Coordinates
2 S	1 W	WM	35	SW SE	Well 1 - 1160 NORTH AND 1980 WEST FROM THE SE CORNER OF SECTION 35
2 S	1 W	WM	35	SW SE	Well 2 - 1230 NORTH AND 1400 WEST FROM THE SE CORNER OF SECTION 35
2 S	1 W	WM	35	SW SE	Well 3 - 1165 NORTH AND 1290 WEST FROM THE SE CORNER OF SECTION 35

7. Application T-10135 proposes to change the place of use of the right evidenced by Certificate 30844 (with a priority date of August 14, 1961) to:

IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
2 S	1 W	WM	35	NW SE	2.8

8. Application T-10135 proposes to change the place of use of the right evidenced by Certificate 64616 (with a priority date of September 3, 1980) to:

IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
2 S	1 W	WM	35	NW SE	1.5
2 S	1 W	WM	35	SW SE	3.5

9. Notice of the application for transfer was published on April 18, 2006, pursuant to ORS 540.520 and OAR 690-380-4000. No comments were filed in response to the notice.
10. On July 26, 2006, the Department mailed a copy of the draft Preliminary Determination proposing to approve Transfer Application T-10135 to the applicant. The draft Preliminary Determination set forth a deadline of August 28, 2006, for the applicant to respond. The applicant requested the Department to modify the draft to allow at least three years for completion of the changes, but to proceed with issuance of a Preliminary Determination. On August 16, 2006, September 8, 2006, March 7, 2007 and September 21, 2007, the applicant provided the necessary information to demonstrate that the applicant is authorized to pursue the transfer.
11. Water has been used within the last five years according to the terms and conditions of the rights, and no evidence is available that would demonstrate that the rights are subject to forfeiture under ORS 540.610.
12. A pump, pipeline, and sprinkler system sufficient to use the full amount of water allowed under the existing rights are present.
13. The Department does not have information to determine whether wells constructed in the proposed locations designated as Well 2 and Well 3 would access the same aquifer as the original wells (WASH 12242 and WASH 12246). However, the well report for proposed Well 1 (WASH 52021), indicates a static water level fairly consistent with water level data from the original wells on a similar date. To help determine whether all three proposed points of appropriation are in the same aquifer, the Department will require the water users to make and report annual static water level measurements.
14. Provided the proposed wells are completed so as to access the same aquifer as the original wells, the proposed changes would not result in enlargement of the rights.
15. Provided the proposed wells are completed so as to access the same aquifer as the original wells, the proposed changes would not result in injury to other water rights.

16. The applicant has requested a three-year development time for completing beneficial use as proposed in T-10135, since development is planned to proceed by stages over an extended period of time.

Determination and Proposed Action


The changes in place of use and points of appropriation proposed in application T-10135, as conditioned below, appear to be consistent with the requirements of ORS 537.705, 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 application T-10135 is approved, the final order will include the following:

1. *The changes in place of use proposed in Application T-10135 are approved.*
2. *Water Right Certificates 30844 and 64616 are cancelled.*
3. *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 Certificates 30844 and 64616 and any related decree.*
4. *To ensure that water shall be acquired from the same aquifer (water source) as the original points of appropriation, Well 2 and Well 3 shall be completed in the same aquifer as the wells described by well logs WASH 12242 and WASH 12246.*
5. *The Department will determine if the new wells are in the same aquifer. Once that determination is made, the wells cannot be altered or deepened in such a way that the wells tap a different aquifer. The water users shall make and report annual static water level measurements. The static water levels shall be measured in the month of March. Reports shall be submitted to the Department within 30 days of measurement.*
6. *The quantity of water diverted at the new points of appropriation shall not exceed the quantity of water lawfully available at the original points of appropriation.*
7. *The former place of use of the transferred water shall no longer receive water as part of these rights.*
8. *Prior to diverting water at the new points of appropriation, the water user shall install and maintain an in-line flow meter or other suitable device(s) for measuring and recording the quantity of water appropriated. The type and plans of the measuring device(s) must be approved by the Department prior to beginning construction and shall be installed under the general supervision of the Department.*
9. *The approved changes shall be completed and full beneficial use of the water shall be made on or before **October 1, 2011**. 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.*

10. *When satisfactory proof of the completed changes is received, new certificates confirming the rights transferred will be issued.*

Dated at Salem, Oregon this 5th day of October 2007.



pw 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@wrд.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.

