

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

In the Matter of Transfer Application            )  
T-8915, Marion County                            )     FINAL ORDER  
  )

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**

Allen Kraxberger Jr.  
9646 South Gribble Road  
Canby, Oregon 97013

**Findings of Fact**

1. Allen Kraxberger Jr., filed an application for an additional point of appropriation under Certificate 28245. The Department assigned the application number T-8915.
2. The right to be transferred is as follows:

**Certificate:** 28245 in the name of Alfred and Mary E. Aicher  
**Use:** Irrigation  
**Priority Date:** June 16, 1959  
**Quantity:** 0.32 cubic foot per second  
**Rate/Duty:** 1/80 cfs per acre, not to exceed 2.5 acre-feet per acre  
**Acres:** 30.0 acres  
**Source:** A well in the Butte Creek Basin

**Authorized Point of Appropriation:**

Township		Range		Meridian	Sec	¼ ¼		Lot	Survey Coordinates
5	S	1	W	W.M.	22	NE	NW	1	630 feet South and 1460 feet East from the NW Corner of Section 22.

This is a final order in other than contested case. This order is subject to judicial review under ORS 183.484. Any petition for judicial review must be filed within the 60 day time period specified by ORS 183.484(2). Pursuant to ORS 536.075 and OAR 137-004-080 and OAR 690-01-005 you may either petition for judicial review or petition the Director for reconsideration of this order.

**Authorized Place of Use:**

Township		Range		Meridian	Sec	¼ ¼		Lot	Acres
5	S	1	W	W.M.	22	NE	NW	1	16.9
5	S	1	W	W.M.	22	NW	NW		13.1

- Application T-8915 proposes to add a authorized point of appropriation approximately 520 feet from the existing point of appropriation in the Butte Creek basin to:

Township		Range		Meridian	Sec	¼ ¼		Survey Coordinates
5	S	1	W	W.M.	22	NW	NW	496 feet South and 888 feet East from the NW Corner of Section 22

- Notice of the application for transfer was published pursuant to ORS 540.520 and OAR 690-380-4000. No comments were filed in response to the notice.
- Water has been used within the last five years according to the terms and conditions of the right, and no evidence is available that would demonstrate that the right is subject to forfeiture under ORS 540.610.
- A pump, pipeline, and sprinkler system sufficient to use the full amount of water allowed under the existing right is present.
- The proposed change would not result in enlargement of the right.
- The proposed change would not result in injury to other water rights.

**Determination and Proposed Action**

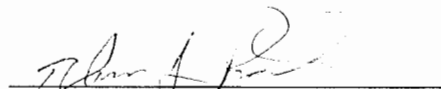
The additional point of appropriation proposed in application T-8915 appears to be consistent with the requirements of ORS 537.705 and 540.505 to 540.580, and OAR 690-380-5000, and will be approved provided that protests are not filed pursuant to OAR 690-380-4030.

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

- 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 28245 and any related decree.
- Water shall be acquired from the same aquifer (water source) as the original point of appropriation.
- The proposed change shall be completed on or before October 1, 2006.
- A Claim of Beneficial Use prepared by a Certified Water Rights Examiner shall be submitted by the applicant to the Department by October 1, 2007.

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. When required by the Department, the water user shall install and maintain 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.

Dated at Salem, Oregon this 28<sup>th</sup> day of JANUARY, 2005.

  
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Phillip C. Ward  
Director

Mailing Date: FEB 01 2005