

STATE OF OREGON

COUNTY OF CLACKAMAS

ORDER APPROVING A CHANGE IN PLACE OF USE,
A CHANGE IN CHARACTER OF USE,
AN ADDITIONAL POINT OF APPROPRIATION,
AND PARTIAL CANCELLATION OF A WATER RIGHT

Pursuant to ORS 537.705, after notice was given, one protest was filed in a timely manner, however, the protestant submitted a letter dated November 7, 2002, stating that they did not object to the transfer as conditioned in this order.

The Water Resources Department's hydrogeologist conducted a technical analysis of the protest transfer and determined that 1) The existing and proposed wells, shall be reconstructed to develop the water from the confined deep Troutdale aquifer; 2) Ground water in the deep Troutdale aquifer is available in storage on a continuous basis and therefore water not pumped from the aquifer during one time of the year is left in "storage" for use in another time of year; 3) The subject aquifer does not have the potential for substantial interference with surface water; and 4) No injury to existing water rights would result because of this transfer.

This order approves, as conditioned or limited herein, TRANSFER 7026 submitted by

KELSO WATER ASSOCIATION
P.O. BOX 835
BORING, OREGON 97009.

This is an order in other than a 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.

The right is evidenced by Certificate 42888, and was perfected under Permit G-3407 with a date of priority of AUGUST 17, 1966. The right allows the use of A WELL, in the NORTH FORK DEEP CREEK BASIN, for IRRIGATION OF 64.6 ACRES. The amount of water to which this right is entitled is limited to an amount actually beneficially used and shall not exceed 0.72 cubic foot per second, if available at the original well; SE $\frac{1}{4}$ SW $\frac{1}{4}$, SECTION 3, T 2 S, R 4 E, W.M.; WELL 1 - 250 FEET NORTH AND 1560 FEET EAST FROM THE SW CORNER OF SECTION 3, or its equivalent in case of rotation, measured at the well.

The PORTION of the right to be modified, as evidenced by a PORTION of Certificate 42888, was perfected under Permit G-3407 with a date of priority of AUGUST 17, 1966. The right allows the use of A WELL, in the NORTH FORK DEEP CREEK BASIN, for IRRIGATION OF 47.16 ACRES. The amount of water to which this right is entitled is limited to an amount actually beneficially used and shall not exceed 0.53 cubic foot per second, if available at the original well; SE $\frac{1}{4}$ SW $\frac{1}{4}$, SECTION 3, T 2 S, R 4 E, W.M.; WELL 1 - 250 FEET NORTH AND 1560 FEET EAST FROM THE SW CORNER OF SECTION 3, or its equivalent in case of rotation, measured at the well.

The amount of water used for irrigation, together with the amount secured under any other right existing on the same lands, is 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 $\frac{1}{2}$ acre-feet per acre for each acre irrigated during the irrigation season of each year.

The use shall conform to any reasonable rotation system ordered by the proper state officer.

The authorized place of use is as follows:

NE $\frac{1}{4}$ SW $\frac{1}{4}$ 18.71 ACRES
SE $\frac{1}{4}$ SW $\frac{1}{4}$ 28.45 ACRES
SECTION 3

TOWNSHIP 2 SOUTH, RANGE 4 EAST, W.M.

The right to use water for the above purpose is restricted to beneficial use on the lands or place of use described.

The applicant proposes to change the place of use to:

NE $\frac{1}{4}$ SW $\frac{1}{4}$
SE $\frac{1}{4}$ SW $\frac{1}{4}$
SECTION 3

NW $\frac{1}{4}$ NE $\frac{1}{4}$
SECTION 10

TOWNSHIP 2 SOUTH, RANGE 4 EAST, W.M.

The applicant proposes to change the character of use from IRRIGATION OF 47.16 ACRES during the irrigation season of March 1 to October 31 to QUASI-MUNICIPAL USE during the entire year.

The applicant proposes an additional point of appropriation located:

WELL 2 - SE $\frac{1}{4}$ SW $\frac{1}{4}$, SECTION 3, T 2 S, R 4 E, W.M.;
260 FEET NORTH AND 1610 FEET EAST FROM THE SE CORNER OF SECTION 3.

An affidavit was received from Donald J. Branton, agent for the landowners of certain lands and the water right appurtenant to them. A PORTION of the water right has been abandoned and is requested to be cancelled.

The portion is described by Certificate 42888, State Record of Water Right Certificates. The date of priority is August 17, 1966. The water use was for irrigation of 17.44 acres from a well, in the North Fork Deep Creek Basin. The amount used was 0.19 cubic foot per second.

The abandoned portion is located as follows:

NE $\frac{1}{4}$ SW $\frac{1}{4}$ 6.49 ACRES
SE $\frac{1}{4}$ SW $\frac{1}{4}$ 10.95 ACRES
SECTION 3

TOWNSHIP 2 SOUTH, RANGE 4 EAST, W.M.

ORS 540.610 provides: "Whenever the owner of a perfected and developed water right certifies under oath to the Water Resources Commission that the water right has been abandoned by the owner and that the owner desires cancellation thereof, the commission shall enter an order cancelling the water right."

THESE CHANGES TO AN EXISTING WATER RIGHT MAY BE MADE PROVIDED THE FOLLOWING CONDITIONS ARE MET BY THE WATER USER:

1. The proposed changes shall be completed on or before October 1, 2008.
2. The quantity of water diverted at the new point of appropriation (Well 2), together with the quantity diverted at the original point of appropriation (Well 1), shall not exceed the quantity of water lawfully authorized under the right.
3. Prior to the use of water under the proposed quasi-municipal purpose, the water user shall install and maintain totalizing in-line flow meters for measuring and recording the quantity of water used from both Well 1 and Well 2. The type and plans of the measuring devices must be approved by the Department prior to beginning construction and shall be installed under the general supervision of the Department.

The water user shall submit a monthly record of the quantity of water diverted to the Watermaster. The report is due on the 15th of each month on a form provided by the Department. The report shall contain the maximum rate and total volume of water diverted for the previous month.

4. The authorized well (Well 1) and proposed well (Well 2) shall be reconstructed so as to only acquire water from the deep Troutdale aquifer. Well 1 shall be reconstructed on or before June 30, 2004, and Well 2 shall be reconstructed on or before October 1, 2005.

5. The water user shall, after reconstruction of Well 1 is complete, and the construction of Well 2 is complete, obtain annual static water level measurements for a period of seven consecutive years. The annual static water level measurements shall be made in the month of March. The first annual measurement shall be used to establish the reference level against which future measurements shall be compared. The results of the static level measurement shall be reported to the Department within 30 days of measurement.

Based on the analysis of the data collected, the Director may require that the user obtain and report additional annual static water level measurements beyond the seven year minimum reporting period. The additional measurements may be required in a different month. If the measurement requirement is stopped, the Director may restart it at any time.

All measurements shall be made by a certified water rights examiner, registered professional geologist, registered professional engineer, licensed well constructor or pump installer licensed by the Construction Contractors Board and be submitted to the Department on forms provided by the Department. The Department requires the individual performing the measurement to:

- (A) Identify each well with its associated measurement; and
- (B) Measure and report water levels to the nearest tenth of a foot as depth-to-water below ground surface; and
- (C) Specify the method used to obtain each well measurement; and
- (D) Certify the accuracy of all measurements and calculations submitted to the Department.

The water user shall discontinue use of, or reduce the rate or volume of withdrawal from the well(s) if annual water level measurements reveal any of the following events:

- (A) An average water level decline of 3 or more feet per year for five consecutive years; or
- (B) A water level decline of 15 or more feet in fewer than five consecutive years; or
- (C) A water level decline of 25 or more feet; or
- (D) Hydraulic interference leading to a decline of 25 or more feet in any neighboring well with senior priority.

The period of non or restricted use shall continue until the annual water level rises above the decline level which triggered the action or until the Department determines, based on the water user's and/or the Department's data and analysis, that no action is necessary because the aquifer in question can sustain the observed declines without adversely impacting the resource or senior water rights. The water user shall in no instance allow excessive decline, as defined by Commission rules, to occur within the aquifer as a result of use under this permit. If more than one well is involved, the water user may submit an alternative measurement and reporting plan for review and approval by the Department.

6. The use of water for quasi-municipal purposes shall be limited to a rate of diversion not to exceed 0.53 cubic foot per second and the total volume diverted for this use shall not exceed 117.9 acre feet during the calender year.
7. The former place of use shall no longer be irrigated as part of this water right.

The portion of the water right evidenced by Certificate 42888 requested to be cancelled is cancelled.

Certificate 42888 is cancelled. When satisfactory proof of the completed changes is received, a new certificate confirming this water right will be issued.

WITNESS the signature of the Water Resources

Director, affixed NOV 18 2002.



Paul R. Cleary, Director