

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

In the Matter of Transfer Application)
T-9274, 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

Koellmann Enterprises
Ted Koellmann
14535 Spenner Road SE
Stayton, Oregon 97383

Findings of Fact

1. Koellmann Enterprises filed an application to add additional points of appropriation and to change the place of use under a portion of Certificate 28361. The Department assigned the application number T-9274.

2. The portion of the right to be transferred is as follows:

Certificate: 28361 in the name of Alois Hassler
Use: Irrigation
Priority Date: March 4, 1957
Quantity: 0.25 cubic foot per second
Rate/Duty: 1/80 cfs per acre, not to exceed 2.5 acre-feet per acre during the irrigation season of each year.
Acres: 20.0 acres
Source: Hassler Well 2 in the Mill Creek Basin

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 Point of Appropriation:

Township		Range		Meridian	Sec	¼ ¼		Lot	DLC	Survey Coordinates
9	S	1	W	W.M.	2	SE	NE	3		200 feet North and 1430 feet East from the Center ¼ Corner of Section 2.

Authorized Place of Use:

Township		Range		Meridian	Sec	¼ ¼		Lot	DLC	Acres
9	S	1	W	W.M.	2	SE	NE	3		3.9
9	S	1	W	W.M.	2	NE	SE			9.1
9	S	1	W	W.M.	2	NW	SE			7.0

3. Application T-9274 proposes to add additional points of appropriation approximately 700 and 900 feet from the existing point of appropriation in the Mill Creek basin to:

Township		Range		Meridian	Sec	¼ ¼		Lot	DLC	Survey Coordinates
9	S	1	W	W.M.	2	SE	NE		44	Well 1 – 800 feet North and 2080 feet East from the Center ¼ Corner of Section 2.
9	S	1	W	W.M.	2	SE	NE		44	Well 2 – 350 feet North and 2080 feet East from the Center ¼ Corner of Section 2.

4. Application T-9274 proposes to change the place of use of the right to:

Township		Range		Meridian	Sec	¼ ¼		Lot	DLC	Acres
9	S	1	W	W.M.	1	NW	NW		44	0.3
9	S	1	W	W.M.	1	SW	NW		44	4.7
9	S	1	W	W.M.	2	NE	NE		44	0.9
9	S	1	W	W.M.	2	SE	NE		44	14.1

5. 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.
6. 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.
7. The applicant has submitted a complete description of the water delivery system from the authorized point of appropriation per OAR 690-380-3000 (10).
8. On October 21, 2004, the applicant amended the transfer application from a change in point of appropriation and change in place of use to add additional points of appropriation and a change in place of use.

9. The water right holder has given permission for the transfer to take place.
10. The proposed change would not result in enlargement of the right.
11. The proposed change would not result in injury to other water rights.

Conclusions of Law


The additional points of appropriation and change in place of use proposed in application T-9247 are consistent with the requirements of ORS 537.705 and 540.505 to 540.580, and OAR 690-380-5000.

Now, therefore, it is ORDERED:

1. The additional points of appropriation and change in place of use proposed in application T-9274 are approved.
2. Water right certificate 28361 is cancelled. A new certificate will be issued describing that portion of the right not involved in this transfer.
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 Certificate 28361 and any related decree.
4. Water shall be acquired from the same aquifer (water source) as the original point of appropriation.
5. The proposed changes shall be completed on or before October 1, 2006.
6. 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.
7. 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.
8. The former place of use shall no longer be irrigated as part of this water right.
9. When required by the Department, the water user shall install and maintain in-line flow meters or other suitable devices for measuring and recording the quantity of water appropriated. 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.

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

Dated at Salem, Oregon this 29th day of NOVEMBER, 2004.



Ward
Phillip C. Ward
Director

Mailing date: DEC 06 2004