

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

In the Matter of Transfer Application)
T-9375, Lake County, Oregon)

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

Cornell Brothers Inc.
PO Box 533
Christmas Valley OR 97641

Agent

Dennis R. Glender
93921 Pike Lane
Lakeview OR 97630

Findings of Fact

1. Cornell Brothers Inc. filed an application to transfer the point of appropriation and place of use under Certificates 75660 and 75802. The Department assigned the application number T-9375.
2. Dennis R. Glender is the agent authorized to act on behalf of the applicant.
3. The portion of the first right to be transferred is as follows:
Certificate: 75660 in the name of Marion Otto Huebner
Use: Irrigation
Priority Date: January 23, 1981
Quantity: 0.33 cfs
Rate/Duty: 1/80 cfs per acre, not to exceed 3 acre-feet per acre
Acres: 26.42
Source: Well in the Fort Rock Basin

Authorized Point of Appropriation:

Township		Range		Meridian	Sec	¼ ¼	Location
27	S	17	E	W.M.	7	NE SW	1360' N & 1220' E of SW corner, Section 7

NOTICE OF RIGHT TO PETITION FOR RECONSIDERATION OR JUDICIAL REVIEW

This is an order in an uncontested 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
27	S	17	E	W.M.	7	NE SW		6.40
27	S	17	E	W.M.	7	NW SW	3	6.70
27	S	17	E	W.M.	7	SW SW	4	7.10
27	S	17	E	W.M.	7	SE SW		6.22

4. Application T-9375 proposes to move the authorized point of appropriation approximately seven miles from the existing point of appropriation to:

Township		Range		Meridian	Sec	¼ ¼	Location
27	S	16	E	W.M.	5	SW SW	1316' N & 1304' E of the SW corner, Section 5

5. Application T-9375 proposes to change the place of use of the right to:

Township		Range		Meridian	Sec	¼ ¼	Acres
27	S	16	E	W.M.	5	NE SW	2.90
27	S	16	E	W.M.	5	SE SW	23.52

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

Certificate: 75802 in the name of Kathleen Kelly and William Frank Cornell
Use: Irrigation
Priority Date: April 4, 1989
Quantity: 0.096 cfs
Rate/Duty: 1/80 cfs per acre, not to exceed 3 acre-feet per acre
Acres: 7.68
Source: Well in the Fort Rock Basin

Authorized Point of Appropriation:

Township		Range		Meridian	Sec	¼ ¼	Location
27	S	16	E	W.M.	5	SW SW	1320' N & 1320' E of the SW corner, Section 5

Authorized Place of Use:

Township		Range		Meridian	Sec	¼ ¼	Acres
27	S	16	E	W.M.	7	SW SW	7.68

7. Application T-9375 proposes to change the place of use of the right to:

Township		Range		Meridian	Sec	¼ ¼	Acres
27	S	16	E	W.M.	5	SE SW	7.68

8. 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.
9. 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.
10. A pump, pipeline, and sprinkler system sufficient to use the full amount of water allowed under the existing right is present.
11. The proposed change would not result in enlargement of the right.
12. The proposed change would not result in injury to other water rights.

Conclusions of Law

The changes in point of appropriation and place of use proposed in application T-9375 appear to be consistent with the requirements of ORS 537.705 and 540.505 to 540.580, and OAR 690-380-5000.

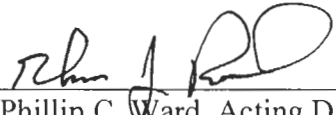
Now, therefore, it is ORDERED:

T-9375 is approved, subject to the following conditions:

1. 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 75660, 75802, and any related decree.
2. Water shall be acquired from the same aquifer (water source) as the original point of appropriation.
3. The quantity of water diverted at the new point of appropriation shall not exceed the quantity of water lawfully available for this portion of the right at the original point of appropriation.
4. The proposed change shall be completed on or before October 1, 2005.
5. A Claim of Beneficial Use prepared by a Certified Water Rights Examiner shall be submitted by the applicant to the Department by October 1, 2006.
6. Prior to diverting water at the new point of appropriation, 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.
7. Certificates 75660 and 75802 are cancelled; Certificates 80662 and 80663, respectively, shall be issued to confirm the remaining rights.

8. When satisfactory proof of the completed change is received, a new certificate confirming the transferred water rights shall be issued.

Dated at Salem, Oregon this 14th day of June, 2004.

For 
Phillip C. Ward, Acting Director

Mailing date: JUN 18 2004