

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

In the Matter of Transfer Application)
T-6918, to Change the Point of Diversion)
Linn County, Oregon) **FINAL ORDER APPROVING A
TRANSFER**

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

Gary J. Kropf
30659 Wyatt Dr.
Harrisburg, OR 97446

Findings of Fact

1. Mark Whitham filed an application to transfer the point of appropriation under Certificate 44312. The Department assigned the application number T-6918. The transfer application was assigned on March 12, 2004 to Gary J. Kropf.

2. The right to be transferred is as follows:

Certificate: 44312 in the name of Kendall S. and Sharon K. Smith
Use: Irrigation
Priority Date: March 8, 1972
Quantity: 0.59 cubic foot per second (cfs)
Rate/Duty: 1/80 cfs per acre, not to exceed 2.5 acre-feet per acre
Acres: 46.9
Source: Smith Well No. 5 in the Willamette River Basin

Authorized Point of Appropriation:

Township		Range		Meridian	Sec	¼ ¼	Lot	DLC	Location
16	S	4	W	W.M.	2	NW SW			3680' S and 780' E from the NE corner of Section 3

NOTICE OF RIGHT TO PETITION FOR RECONSIDERATION OR JUDICIAL REVIEW

This is an order 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

Authorized Place of Use:

Township		Range		Meridian	Sec	¼ ¼	Lot	DLC	Acres
16	S	4	W	W.M.	2	NW SW			31.6
16	S	4	W	W.M.	2	SW SW			14.6
16	S	4	W	W.M.	3	NE SE			0.2
16	S	4	W	W.M.	3	SE SE			0.5

- Application T-6918 proposes to move the authorized point of appropriation approximately ¼ mile from the existing point of appropriation in the Willamette River basin to a sump pit well:

Township		Range		Meridian	Sec	¼ ¼	Lot	DLC	Location
16	S	4	W	W.M.	3	NE SE			3000' S and 120' W from the NE corner of Section 3

- 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 five-year period prior to the filing of the application 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.
- The proposed change would not result in enlargement of the right.
- The proposed change would not result in injury to other water rights.
- Notice of the Preliminary Determination was published as per ORS 540.520 and OAR 690-380-4020. No protests were filed pursuant to OAR 690-380-4030.

Conclusions Of Law

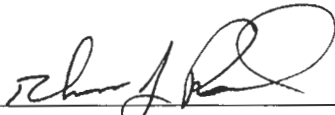
The change in point of appropriation proposed in application T-6918 is consistent with the requirements of ORS 537.705 and 540.505 to 540.580.

Now, therefore, it is ORDERED:

- The change in point of appropriation proposed in application T-6918 is approved.
- Water right certificate 44312 is cancelled.
- 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 44312 and any related decree.
- Water shall be acquired from the same aquifer as the original point of appropriation.

5. The proposed change shall be completed on or before October 1, 2005.
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, 2006.
7. The quantity of water diverted at the new point of appropriation shall not exceed the quantity of water lawfully available at the original point of appropriation.
8. 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.
9. When satisfactory proof of the completed change is received, a new certificate confirming the water right shall be issued.

Dated at Salem, Oregon this 25th day of JUNE, 2004.



Phillip C. Ward
Acting Director

Mailing date: JUL 02 2004