

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

In the Matter of Transfer Application) FINAL ORDER APPROVING
T-8862, Marion County) CHANGES IN POINT OF
) APPROPRIATION

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

Blaine Grassman
12783 River Road NE
Gervais, OR 97026

Findings of Fact

1. Blaine Grassman filed an application on July 19, 2001, to transfer the point of appropriation under Certificate 47844. The Department assigned the application number T-8862.
2. On August 6, 2001, Blaine Grassman amended T-8862 to include an additional point of appropriation under Certificate 45074.
3. Additional information documenting evidence of use and landowner consent to the proposed transfer was received on July 11, 2006, and August 9, 2006.
4. The portion of the first right to be transferred is as follows:

Certificate: 47844 in the name of ROGER R. WELTY (perfected under Permit G-6335)
Use: IRRIGATION of 48.0 ACRES
Priority Date: MARCH 13, 1975
Rate: 0.6 CUBIC FOOT PER SECOND (cfs)
Limit/Duty: ONE-EIGHTIETH of one cfs per acre, not to exceed 2.5 acre feet per acre per year
Source: A WELL in the EAST CHAMPOEG CREEK BASIN

NOTICE OF RIGHT TO PETITION FOR RECONSIDERATION OR JUDICIAL REVIEW

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 137-004-0080, you may either petition for judicial review or petition the Director for reconsideration of this order. A petition for reconsideration may be granted or denied by the Director, and if no action is taken within 60 days following the date the petition was filed, the petition shall be deemed denied.

Authorized Point of Appropriation:

Twp	Rng	Mer	Sec	Q-Q	DLC	Survey Coordinates
5 S	2 W	WM	32	NE NW	52	720 feet south and 320 feet west from the north 1/4 corner of Section 32

Authorized Place of Use:

IRRIGATION						
Twp	Rng	Mer	Sec	Q-Q	DLC	Acres
5 S	2 W	WM	29	SW SW	69	15.0
5 S	2 W	WM	29	SE SW	69	15.7
5 S	2 W	WM	29	SW SE	69	3.0
5 S	2 W	WM	30	SE SE	69	14.3
TOTAL:						48.0

5. Application T-8862 proposes to move the authorized point of appropriation approximately 2/3 mile from the existing point of appropriation to:

Twp	Rng	Mer	Sec	Q-Q	DLC	Survey Coordinates
5 S	2 W	WM	29	NW SW	69	30 feet south and 2030 feet west from the northeast corner of Hagey DLC 69

6. The second right to be transferred in its entirety is as follows:

Certificate: 45074 in the name of EDWARD D. GRASSMAN (perfected under Permit G-5187)
Use: IRRIGATION of 100.4 ACRES
Priority Date: JANUARY 11, 1973 FOR 0.89 CFS, AND DECEMBER 17, 1973 FOR 0.37 CFS
Rate: 1.26 CUBIC FEET PER SECOND (cfs)
Limit/Duty: ONE-EIGHTIETH of one cfs per acre, not to exceed 2.5 acre feet per acre per year
Source: A WELL in the WILLAMETTE RIVER BASIN

Authorized Point of Appropriation:

Twp	Rng	Mer	Sec	Q-Q	DLC	Survey Coordinates
5 S	2 W	WM	29	NW SW	69	30 feet south and 2030 feet west from the northeast corner of Hagey DLC 69

Authorized Place of Use:

IRRIGATION						
Twp	Rng	Mer	Sec	Q-Q	DLC	Acres
5 S	2 W	WM	29	NE SW	69	27.0
5 S	2 W	WM	29	NW SW	69	27.0
5 S	2 W	WM	29	SW SW	69	6.1
5 S	2 W	WM	29	SE SW	69	6.1
5 S	2 W	WM	29	NW SE	69	6.0
5 S	2 W	WM	29	SW SE	69	1.3
5 S	2 W	WM	30	NE SE	69	21.9
5 S	2 W	WM	30	SE SE	69	5.0
TOTAL:						100.4

- Application T-8862 proposes to add a point of appropriation approximately 2/3 mile from the existing point of appropriation to:

Twp	Rng	Mer	Sec	Q-Q	DLC	Survey Coordinates
5 S	2 W	WM	30	NW SE	69	1350 feet east from the southwest corner of DLC 92

- Notice of the application for transfer was published on July 30, 2001, pursuant to ORS 540.520 and OAR 690-380-4000. No comments were filed in response to the notice.
- On August 22, 2006, the Department issued a preliminary determination proposing to approve Transfer Application T-8862 and mailed a copy to the applicant. Additionally, notice of the preliminary determination for the transfer application was published on the Department's weekly notice on August 29, 2006, and in a local newspaper on September 13, 20, and 27, 2006, pursuant to ORS 540.520 and OAR 690-380-4020. No protests were filed in response to the Department's weekly notice or to the newspaper notice.
- Water has been used within the last five years according to the terms and conditions of the rights, and no evidence is available that would demonstrate that the rights are 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 rights are present.
- The proposed change would not result in enlargement of the rights.
- The proposed change would not result in injury to other water rights.

Conclusions of Law

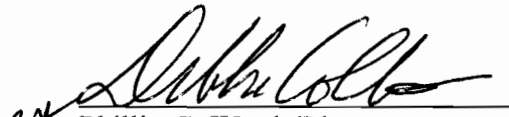
The changes in point of appropriation proposed in application T-8862 are consistent with the requirements of ORS 537.705, 540.505 to 540.580, and OAR 690-380-5000.

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

- The changes proposed in Transfer Application T-8862 are approved.
- 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 47844 and 45074 and any related decree
- Water Right Certificates 47844 and 45074 are cancelled. A new certificate will be issued describing that portion of the right evidenced by Certificate 47844 not involved in this transfer.
- Water shall be acquired from the same aquifer (water source) as the original points of appropriation.

5. The approved changes shall be completed and full beneficial use of the water shall be made on or before **October 1, 2008**. A Claim of Beneficial Use prepared by a Certified Water Rights Examiner shall be submitted by the applicant to the Department within one year after the deadline for completion of the changes and full beneficial use of the water.
6. The quantity of water diverted at the new point of appropriation under the right evidenced by Certificate 47844 shall not exceed the quantity of water lawfully available at the original point of appropriation.
7. The quantity of water diverted at the additional point of appropriation under the right evidenced by Certificate 45074, 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. 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 changes is received, new certificates will be issued confirming the rights transferred.

Dated at Salem, Oregon this 31st day of October 2006.


Phillip C. Ward, Director

Mailing Date: NOV 06 2006