

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

In the Matter of Transfer Application )  
T-7632, Marion 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**

Bob Fessler  
11796 McKee Road NE  
Woodburn, Oregon 97071

**Findings of Fact**

1. Bob Fessler filed an application to transfer the point of appropriation under Certificate 80661. The Department assigned the application number T-7632.
2. The portion of the right to be transferred is as follows:

**Certificate:** 80661 in the names of Carl I. Vistica and Bob Fessler  
**Use:** Irrigation  
**Priority Date:** July 19, 1990  
**Quantity:** 0.18 cubic foot per second  
**Rate/Duty:** 1/80 cfs per acre, not to exceed 2.5 acre-feet per acre  
**Acres:** 14.0  
**Source:** A well in the Pudding River Basin

**Authorized Point of Appropriation:**

Township		Range		Meridian	Sec	¼ ¼		Lot	DLC	Location
5	S	1	W	W.M.	21	NW	SE			2500 feet North and 2000 feet West from the SE Corner of Section 21.

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 Place of Use:**

Township		Range		Meridian	Sec	¼ ¼		Lot	DLC	Acres
5	S	1	W	W.M.	21	NW	SE			12.6
5	S	1	W	W.M.	21	SW	SE			1.4

3. Application T-7632 proposes to move the authorized point of appropriation approximately 1120 feet from the existing point of appropriation in the Pudding River basin to:

Township		Range		Meridian	Sec	¼ ¼		Lot	DLC	Location
5	S	1	W	W.M.	21	NW	SE			1530 feet North and 1430 feet West of the SE Corner of Section 21.

4. 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.
5. 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.
6. A pump, pipeline, and sprinkler system sufficient to use the full amount of water allowed under the existing right is present.
7. The proposed change would not result in enlargement of the right.
8. The proposed change would not result in injury to other water rights.

**Conclusions of Law**

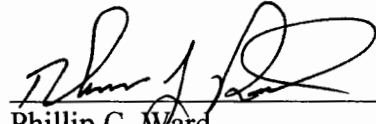
The change in point of appropriation proposed in application T-7632 is consistent with the requirements of ORS 537.705 and 540.505 to 540.580, and OAR 690-380-5000.

**Now, therefore, it is ORDERED:**

1. The change in point of appropriation proposed in application T-7632 is approved.
2. Water Right Certificate 80661 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 80661 and any related decree.
4. Water shall be acquired from the same aquifer (water source) as the original point of appropriation.

5. The proposed change 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 new point of appropriation, together with that diverted at the original point of appropriation, shall not exceed the quantity of water lawfully available under Certificate 80661.
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, a new certificate confirming the right transferred will be issued.

Dated at Salem, Oregon this 18<sup>th</sup> day of October, 2004.

  
Phillip C. Ward  
Acting Director

Mailing Date: OCT 21 2004