

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

In the Matter of Transfer Application)
T-7446, to Change a Point of Diversion to)
a Groundwater Point of Appropriation)
Lane County, Oregon) **FINAL ORDER APPROVING A
TRANSFER**

ORS 540.505 to 540.580 establishes the process in which a water right holder may submit a request to transfer the point of diversion, 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

Wallace Glen Detering
31085 Wyatt Drive
Harrisburg, Oregon 97446

Findings of Fact

1. Wallace Glen Detering filed an application to transfer the point of diversion under Certificate(s) 27677 and 76691. The Department assigned the application number T-7446.
2. The source of water under Certificate 76691 is the McKenzie River. The well is not hydraulically connected to the McKenzie River. Therefore the right under Certificate 76691 does not qualify for a change from a surface water point of diversion to a groundwater appropriation through the transfer process.
3. A draft of the Preliminary Determination was issued July 23, 2004 indicating that the changes could be approved for the right under Certificate 27677, but not for the right under Certificate 76691. Therefore T-7446 could be approved if amended to delete reference to the right under Certificate 76691. August 10, 2004 the Department received a letter from Wallace Glen Detering, agreeing to amend the application as proposed.

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

Certificate: 27677 in the name of Ralph Detering
Use: Irrigation
Priority Date: July 1, 1957
Quantity: 0.16 cfs
Rate/Duty: 1/80 cfs per acre, not to exceed 2½ acre-feet per acre per year
Acres: 12.8
Source: Spring Creek, tributary to Willamette River

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 Diversion:

Township		Range		Meridian	Sec	¼ ¼	Lot	DLC	Location
16	S	4	W	W.M.	11	SE NE		53	

Authorized Place of Use:

Township		Range		Meridian	Sec	¼ ¼	Lot	DLC	Acres
16	S	4	W	W.M.	11	NE NE		53	5.1
16	S	4	W	W.M.	11	SE NE		53	7.7

- Application T-7446 proposes to move the authorized point of diversion from the authorized pumping station on Spring Creek to a well 491 feet east of Spring Creek and approximately 650 feet downstream, located:

Township		Range		Meridian	Sec	¼ ¼	Lot	DLC	Location
16	S	4	W	W.M.	11	SE NE		53	1154' S and 3511' E from the SW corner of the J. Ingraham DLC 56

- 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 years prior to filing the transfer according to the terms and conditions of Certificate 27677 and no evidence is available that would demonstrate that the right is 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 right are present.
- Department hydrogeologists have determined that the well appropriates groundwater from an unconfined aquifer that is hydraulically connected to Spring Creek and will affect the surface water source similarly to the authorized point of diversion.
- The proposed change would not result in enlargement of the right.
- The proposed change would not result in injury to other water rights.

Conclusions of Law

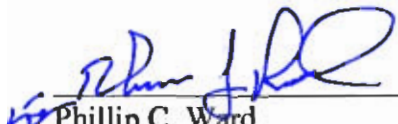
The change in point of diversion proposed in application T-7446, as amended to include only the right under Certificate 27677, is consistent with the requirements of ORS 537.705 and 540.505 to 540.580 and OAR 690-380-5000.

Now, therefore, it is ORDERED:

- The change in point of diversion proposed in application T-7446 is approved.

2. Water right certificate 27677 is cancelled. A new certificate will be issued describing that portion of the right not involved in this transfer.
3. The right to the 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 27677 and any related decree.
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. Water shall be acquired from the same water source as the original point of diversion.
7. The quantity of water appropriated from the well shall not exceed the quantity of water lawfully available at the original point of diversion.
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. The original point of diversion of surface water shall not be retained as an additional or supplemental point of diversion. However, if within five years after the Department approves the transfer, the Department receives a transfer application to return to the last authorized surface water point of diversion, the application shall be approved.
10. If, within five years after approving the transfer, the Department finds that the transfer results in substantial or undue interference with an existing ground water right that would not have occurred in the absence of the transfer, the new point of diversion shall be subordinate to the existing right injured by the transfer. This provision applies only to wells with rights existing at the time the transfer was approved.
11. When satisfactory proof of the completed changes is received, a new certificate confirming the right transferred will be issued.

Dated at Salem, Oregon this 4th day of October, 2004.



Phillip C. Ward
Acting Director

Mailing date: OCT 08 2004