

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

In the Matter of Transfer Application            )     FINAL ORDER  
T-10420, Polk County                                )     APPROVING A CHANGE IN  
  )     PLACE OF USE

**Authority**

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**

Western Mennonite School  
9045 Wallace Road NW  
Salem, Oregon 97304

**Findings of Fact**

**Background**

1. On June 28, 2007, Western Mennonite School filed an application to change the place of use under Certificate 24227. The Department assigned the application number T-10420.
2. The right to be transferred is as follows:

**Certificate:** 24227 in the names of Marcus and Leah Kauffman Lind (perfected under Permit S-20989)

**Use:** Irrigation of 1.4 acres

**Priority Date:** July 3, 1951

**Rate:** 0.02 cubic foot per second (cfs)

**Limit/Duty:** One-eightieth of one cfs per acre, not to exceed 2.5 acre-feet per acre for each acre irrigated during the irrigation season of each year

**Source:** King Creek, tributary to the Willamette River

**Authorized Point of Diversion:**

Twp	Rng	Mer	Sec	Q-Q	DLC
6 S	3 W	WM	8	NE NE	58

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 Place of Use:**

IRRIGATION						
Twp	Rng	Mer	Sec	Q-Q	DLC	Acres
6 S	3 W	WM	8	NE NE	58	1.1
6 S	3 W	WM	8	SE NE	58	0.3

3. Application T-10420 proposes to change the place of use of the right to:

IRRIGATION						
Twp	Rng	Mer	Sec	Q-Q	DLC	Acres
6 S	3 W	WM	8	NW NE	58	0.8
6 S	3 W	WM	8	SW NE	58	0.6

4. Notice of the application for transfer was published on July 3, 2007, pursuant to OAR 690-380-4000. No comments were filed in response to the notice.
5. The Oregon Department of Fish and Wildlife (ODFW) determined that a fish screening and/or by-pass device is necessary at the point of diversion. However, since no change in the point of diversion is being proposed for this transfer this condition cannot be imposed by the Department.
6. On September 21, 2007, the Department mailed a copy of the draft Preliminary Determination proposing to approve Transfer Application T-10420 to the applicant. The draft Preliminary Determination set forth a deadline of October 24, 2007, for the applicant to respond.
7. On October 4, 2007, the applicant requested that the Department proceed with issuance of a Preliminary Determination and provided the necessary information to demonstrate that the applicant is authorized to pursue the transfer.
8. On October 17, 2007, the Department issued a Preliminary Determination proposing to approve Transfer T-10420 and mailed a copy to the applicant. Additionally, notice of the Preliminary Determination for the transfer application was published in the Department's weekly notice on October 23, 2007, pursuant to ORS 540.520 and OAR 690-380-4020. No protests were filed in response to the notice.

***Transfer Review Criteria [OAR 690-380-4010(2)]***

9. Water has been used within the last five years according to the terms and conditions of the right, and there is no information in the record that would demonstrate that the right are 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 were present within the five-year period prior to submittal of Application T-10420.
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.

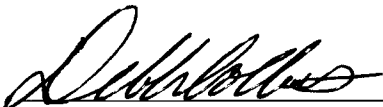
**Determination and Proposed Action**

The change in place of use proposed in application T-10420 is consistent with the requirements of ORS 540.505 to 540.580 and OAR 690-380-5000.

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

1. The change in place of use proposed in application T-10420 is approved.
2. Water right certificate 24227 is cancelled.
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 24227 and any related decree.
4. The former place of use of the transferred right shall no longer receive water under the right.
5. The approved change shall be completed and full beneficial use of the water shall be made on or before October 1, 2009. 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. When satisfactory proof of the completed change is received, a new certificate confirming the right transferred will be issued.

Dated at Salem, Oregon this 28 day of November 2007.

  
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Phillip C. Ward, Director

Mailing Date: NOV 29 2007 .