

STATE OF OREGON

COUNTY OF UMATILLA

ORDER APPROVING A CHANGE IN POINT OF DIVERSION
AND PARTIAL CANCELLATION OF A WATER RIGHT

Pursuant to ORS 540.510 to 540.530, after notice was given and no objections were filed, and finding that no injury to existing water rights would result, this order approves, as conditioned or limited herein, TRANSFER 7837 submitted by

NELS R. NELSON, DMD
72521 TUTUILLA CREEK ROAD
PENDLETON, OREGON 97801.

The FIRST right to be modified, as evidenced by a PORTION of Certificate 75447, was perfected under Permit 5996 with a date of priority of AUGUST 16, 1923. The right allows the use of McKAY CREEK, a tributary of the UMATILLA RIVER, for IRRIGATION OF 2.41 ACRES. The amount of water to which this right is entitled is limited to an amount actually beneficially used and shall not exceed 0.03 cubic foot per second, if available at the original point of diversion: MARION JACK DITCH, SW¼ SE¼, SECTION 34, TOWNSHIP 2 NORTH, RANGE 32 EAST, W.M. or its equivalent in case of rotation, measured at the points of diversion from the source.

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 137-004-080 and OAR 690-01-005 you may either petition for judicial review or petition the Director for reconsideration of this order.

The authorized points of diversion are located as described below.

The amount of water used for irrigation, together with the amount secured under any other right existing for the same lands, is limited to ONE-EIGHTIETH of one cubic foot per second per acre for each acre irrigated during the irrigation season of each year.

The use shall conform to any reasonable rotation system ordered by the proper state officer.

The authorized points of diversion and places of use to which this right is appurtenant are as follows:

Original Point of Diversion: MARION JACK DITCH, SW $\frac{1}{4}$ SE $\frac{1}{4}$, SECTION 34, TOWNSHIP 2 NORTH, RANGE 32 EAST, W.M..

SE $\frac{1}{4}$ NE $\frac{1}{4}$ 0.94 ACRE
SECTION 28
TOWNSHIP 2 NORTH, RANGE 32 EAST, W.M.

Transfer R-52: SE $\frac{1}{4}$ NE $\frac{1}{4}$, SECTION 28, T 2 N, R 32 E, W.M.; 815 FEET NORTH AND 465 FEET WEST FROM THE E $\frac{1}{4}$ CORNER, SECTION 28

SE $\frac{1}{4}$ NE $\frac{1}{4}$ 1.47 ACRES
SECTION 28
TOWNSHIP 2 NORTH, RANGE 32 EAST, W.M.

The SECOND right to be modified, was perfected under Permit 7400 with a date of priority of JULY 1, 1924. The right allows the use of MCKAY RESERVOIR, a tributary of the UMATILLA RIVER, for SUPPLEMENTAL IRRIGATION OF 2.41 ACRES. The amount of water to which this right is entitled is limited to an amount actually beneficially used and shall not exceed ONE-EIGHTIETH of one cubic foot per second, if available at the authorized point of diversion: NW $\frac{1}{4}$ SE $\frac{1}{4}$, SECTION 34, T 2 N, R 32 E, W.M..

The use shall conform to any reasonable rotation system ordered by the proper state officer.

The authorized place of use is located as follows:

SE $\frac{1}{4}$ NE $\frac{1}{4}$ 2.41 ACRES
SECTION 28
TOWNSHIP 2 NORTH, RANGE 32 EAST, W.M.

The right to use the water for the above purpose is restricted to beneficial use on the lands or place of use described.

The applicant proposes to change the points of diversion to a hydraulically connected well located as follows:

SE $\frac{1}{4}$ NE $\frac{1}{4}$, SECTION 28, T 2 N, R 32 E, W.M.; HYDRAULICALLY CONNECTED WELL - 540 FEET NORTH AND 410 FEET WEST FROM THE EAST $\frac{1}{4}$ CORNER OF SECTION 28.

On July 25, 2001, the Department received an affidavit from Nels and Barbara Nelson, owners of certain lands to which the primary water right is appurtenant to. A portion of this surface water right has been abandoned and is requested to be canceled.

The abandoned water right is a portion of the right described by Certificate 75447, State Record of Water Right Certificates. The abandoned water right is for the use of 0.007 cubic foot per second from McKay Creek, a tributary of the Umatilla River. The date of priority is August 16, 1923. The abandoned portion of this right is for the irrigation of 0.59 acre.

A description of the place of use of the portion of the abandoned right is as follows:

SE $\frac{1}{4}$ NE $\frac{1}{4}$ 0.59 ACRE
SECTION 28
TOWNSHIP 2 NORTH, RANGE 32 EAST, W.M.

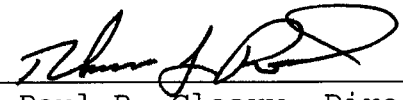
ORS 540.621 provides: "Whenever the owner of a perfected and developed water right certifies under oath to the Water Resources Commission that the water right has been abandoned by the owner and that the owner desires cancellation thereof, the commission shall enter and order canceling the water right."

THIS CHANGE TO AN EXISTING WATER RIGHT MAY BE MADE PROVIDED THE FOLLOWING CONDITIONS ARE MET BY THE WATER USER:

1. The proposed changes shall be completed on or before October 1, 2003.
2. The quantity of water diverted at the new point of diversion, together with that diverted at the old point of diversion, shall not exceed the quantity of water lawfully available at the original point of diversion.
3. Prior to diverting water at the new point of diversion, the user shall install and maintain a headgate, an in-line flow meter, weir, or other suitable device for measuring and recording the quantity of water diverted. The type and plans of the headgate and measuring device must be approved by the Department prior to beginning construction and shall be installed under the general supervision of the Department.
4. Water shall be acquired from the same surface water source as the original point of diversion.

Certificate 75447 is canceled. A new certificate will be issued to confirm that portion of the right NOT involved in this transfer or requested to be canceled. When satisfactory proof of the completed change is received, a new certificate confirming this water right will be issued.

WITNESS the signature of the Water Resources
Director, affixed SEP 30 2002.


For Paul R. Cleary, Director