

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 9121 submitted by

J. FRANK SCHMIDT AND SON
P.O. BOX 189
BORING, OREGON 97009.

The FIRST right to be modified was confirmed by decree of the Circuit Court of the State of Oregon for UMATILLA County as evidenced by a PORTION of Certificate 13084. The decree is recorded in the Order Record of the Water Resources Director in Volume 12, at Page 9. The date of priority is 1897.

The right allows the use of the WALLA WALLA RIVER, a tributary of the COLUMBIA RIVER, for IRRIGATION OF 80.09 ACRES. The amount of water to which this right is entitled is limited to an amount actually beneficially used and shall not exceed 21.66 MINER'S

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.

INCHES, if available at the authorized point of diversion:
NE $\frac{1}{4}$ SW $\frac{1}{4}$, SECTION 1, T 5 N, R 35 E, W.M., or its equivalent in
case of rotation, measured at the point of diversion from the
source.

The authorized place of use is located as follows:

NW $\frac{1}{4}$ NE $\frac{1}{4}$	30.20 ACRES
SW $\frac{1}{4}$ NE $\frac{1}{4}$	39.90 ACRES
NE $\frac{1}{4}$ NW $\frac{1}{4}$	2.80 ACRES
SE $\frac{1}{4}$ NW $\frac{1}{4}$	7.19 ACRES

SECTION 1
TOWNSHIP 5 NORTH, RANGE 35 EAST, W.M.

The right to use water for the above purpose is restricted to
beneficial use on the lands or place of use described and is
subject to all other conditions and limitations contained in the
decree.

The SECOND right to be modified, as evidenced by Certificate
26675, was perfected under Permit 1303 with a date of priority of
JULY 24, 1912. The right allows the use of the WALLA WALLA
RIVER, a tributary of the COLUMBIA RIVER, for IRRIGATION OF 93.0
ACRES. The amount of water to which this right is entitled is
limited to an amount actually beneficially used and shall not
exceed 1.16 cubic feet per second, if available at the authorized
point of diversion: NE $\frac{1}{4}$ SW $\frac{1}{4}$, SECTION 1, T 5 N, R 35 E, W.M., or
its equivalent in case of rotation, measured at the point of
diversion from the source.

The amount of water used for irrigation, together with the amount
secured under an other right existing for the same lands, is
limited to ONE-EIGHTIETH of one cubic foot per second per acre,
or its equivalent in case of rotation.

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 $\frac{1}{4}$ SE $\frac{1}{4}$ 13.0 ACRES
SECTION 36
TOWNSHIP 6 NORTH, RANGE 35 EAST, W.M.

NE $\frac{1}{4}$ NE $\frac{1}{4}$ 40.0 ACRES
SE $\frac{1}{4}$ NE $\frac{1}{4}$ 40.0 ACRES
SECTION 1
TOWNSHIP 5 NORTH, RANGE 35 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 point of diversion to:

NE $\frac{1}{4}$ NW $\frac{1}{4}$, SECTION 1, T 5 N, R 35 E, W.M.; SOUTH 25° 40' WEST 1155 FEET FROM THE SE CORNER OF THE SW $\frac{1}{4}$, SECTION 36, TOWNSHIP 6 NORTH, RANGE 35 EAST, W.M..

An affidavit was received on June 25, 2002, from J. Frank Schmidt and Son, owners of certain land and the water right appurtenant to it. A portion of the water right has been abandoned and is requested to be canceled.

The abandoned portion is described by Certificate 13084, State Record of Water Right Certificates. The date of priority is 1897. The water use was for irrigation of 2.1 acres from the Walla Walla River, tributary of the Columbia River. The amount used was 0.57 miner's inch.

NW $\frac{1}{4}$ NE $\frac{1}{4}$ 0.20 ACRE
SW $\frac{1}{4}$ NE $\frac{1}{4}$ 0.10 ACRE
NE $\frac{1}{4}$ NW $\frac{1}{4}$ 1.80 ACRES
SECTION 1
TOWNSHIP 5 NORTH, RANGE 35 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 an 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 change shall be completed on or before October 1, 2004.
2. The quantity of water diverted at the new point of diversion, shall not exceed the quantity of water lawfully available at the original point of diversion.
3. Prior to diverting water from the new point of diversion, the water 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.
5. The water user shall install and maintain a fish screen or fish by-pass device. The type and plans of the screen or by-pass device must be approved by the Oregon Department of Fish and Wildlife prior to beginning of construction and shall be installed under the supervision of the Department of Fish and Wildlife.

The water user may participate in the Oregon Department of Fish and Wildlife's cost sharing program for installation of screening and by-pass devices in accordance with ORS 540.525.

The abandoned portion of the water right evidenced by Certificate 13084 requested to be canceled is canceled.

Certificates 13084 and 26675 are canceled. When satisfactory proof of the completed change is received, new certificates confirming these water rights will be issued.

WITNESS the signature of the Water Resources

Director, affixed OCT 04 2002.



Paul R. Cleary, Director