

STATE OF OREGON  
COUNTY OF UMATILLA

ORDER APPROVING A CHANGE IN POINTS OF DIVERSION

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 7766 submitted by

DARWIN NETHERDA  
32679 NETHERDA ROAD  
STANFIELD, OREGON 97875-5027.

The right to be modified was confirmed by a portion of the decree of the Circuit Court of the State of Oregon for UMATILLA County, in the name of Pioneer Irrigation Company, tabulated in the names of C.J. Ward and G.J. Newman. The decrees are recorded in the Order Record of the Water Resources Director in Volume 3, at Page 127, and in Volume 16, Page 457. The date of priority is JANUARY 9, 1900.

The right allows the use of the UMATILLA RIVER, a tributary of the COLUMBIA RIVER, for IRRIGATION OF 27.0 ACRES. The amount of water to which this right is entitled is limited to an amount actually beneficially used and shall not exceed 0.34 cubic foot per second, subject to the provisions of paragraph 33 of said decree, if available at the authorized point of diversion: WESTLAND CANAL, SW $\frac{1}{4}$  NE $\frac{1}{4}$ , SECTION 21, T 3 N, R 29 E, WM, 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:

NE $\frac{1}{4}$ SW $\frac{1}{4}$	18.0 ACRES
NW $\frac{1}{4}$ SE $\frac{1}{4}$	4.0 ACRES
SW $\frac{1}{4}$ SE $\frac{1}{4}$	5.0 ACRES

SECTION 5  
TOWNSHIP 3 NORTH, RANGE 29 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 applicant proposes to add additional points of diversion located as follows:

NE $\frac{1}{4}$  SW $\frac{1}{4}$ , SECTION 5, T 3 N, R 29 E, WM; SHALLOW WELL - 1580 FEET NORTH AND 1510 FEET EAST; GRAVEL PIT - 1760 FEET NORTH AND 1650 FEET EAST; BOTH FROM THE SW CORNER, SECTION 5.

An affidavit was received from Darwin G. and Barbara A. Netherda, the owners of certain land and the water right appurtenant to it. The water right has been abandoned and is requested to be canceled.

The abandoned water right is a portion of the decrees of the Circuit Court of the State of Oregon for UMATILLA County, recorded in the Order Record of the Water Resources Director in Volume 3, at Page 127, and in Volume 16, Page 457, in the name of Pioneer Irrigation Company, tabulated in the names of C.J. Ward and G.J. Newman. The abandoned water right is for the use of 0.08 cubic foot per second, subject to the provisions of paragraph 33 of said decree, from the Umatilla River, a tributary of the Columbia River. The date of priority is January 9, 1900. The abandoned water right is for Irrigation of 6.0 acres.

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

NE $\frac{1}{4}$  SW $\frac{1}{4}$             3.0 ACRES  
NW $\frac{1}{4}$  SE $\frac{1}{4}$             3.0 ACRES  
                         SECTION 5  
                         TOWNSHIP 3 NORTH, RANGE 29 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, 1999.
2. The quantity of water diverted at the new points of diversion, together with that diverted at the old diversion, shall not exceed the quantity of water lawfully available at the original point of diversion.

3. The water user shall install and maintain headgates, in-line flow meters, weirs, or other suitable devices 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.

The water right requested to be cancelled is cancelled. A new certificate will be issued to confirm that portion of the right NOT involved in this transfer and partial cancellation. 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 10/3/97.

  
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Martha O. Pagel, Director