

STATE OF OREGON

COUNTY OF HARNEY

ORDER APPROVING A CHANGE IN POINT OF DIVERSION
TO REFLECT HISTORICAL USE

Pursuant to ORS 540.532, 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 8922 submitted by

DEAN and BARBARA BOLSTAD
987 NORTH DATE AVE
BURNS, OREGON 97720.

The PORTION of the inchoate right to be modified was confirmed by decree of the Circuit Court of the State of Oregon for HARNEY County. The right is adjudicated in the name of J.C. Oliver and Sons. The decree is recorded in the Order Record of the Water Resources Director in Volume 9, at Page 176. The date of priority is 1877.

The right allows the use of the SILVIES RIVER, a tributary of the MALHEUR LAKE, for IRRIGATION OF 9.84 ACRES.

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 amount of water used for irrigation, together with the amount secured under any other right for the same lands, is limited to ONE-EIGHTIETH of one cubic foot per second per acre, or its equivalent for each acre irrigated and shall be further limited to a diversion of not to exceed 3.0 acre-feet for each acre irrigated during the irrigation season of each year.

The decree further states that during the spring and early summer if there is a large flow of water in the Silvies River and it's tributaries, and that heretofore the water uses have used a large head of water during such time and should be permitted to continue the use of more than one-eightieth of a cubic foot per acre in order to approximate the quantity to which they are entitled for the irrigation season; therefore, the right to the use of water from Silvies River and it's tributaries, except modified by special findings herein, shall be limited to the diversion of not to exceed 1½ acre feet per acre during any period of thirty days, prior to June first of each year, and thereafter not to exceed 1.0 acre foot per acre during any period of thirty days, provided that the total quantity of water diverted during the irrigation season shall not exceed 3.0 acre feet per acre, and that the rate of flow shall not exceed ONE-FORTIETH of a cubic foot per second per acre, except where rotation is practiced

The authorized place of use is located as follows:

SW¼ NE¼ 9.84 ACRES
SECTION 7
TOWNSHIP 23 SOUTH, RANGE 31 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 change the point of diversion to accurately reflect the historical point of diversion used as follows:

SW¼ NE¼, SECTION 7, T 23 S, R 31 E, W.M.; 950 FEET NORTH AND 710 FEET EAST FROM THE CENTER ¼ OF SECTION 7.

The applicant provided evidence that the proposed point of diversion has been in use for more than ten years.

The applicant provided notice to affected water rights as determined by the Department.

The Watermaster provided information that there have been no claims of injury due to use of water from the proposed point of diversion.

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

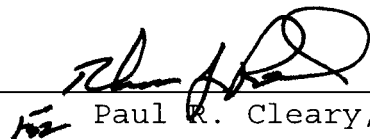
1. The change is effective immediately.
2. The quantity of water diverted at the new point of diversion, shall not exceed the quantity of water lawfully available at the original point of diversion.
3. Water shall be acquired from the same surface water source as the original point of diversion.
4. The 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.

This order approves an application submitted for a change in POINT OF DIVERSION TO REFLECT HISTORICAL USE and modifies the decree of the Circuit Court of the State of Oregon for HARNEY County. The inchoate right is adjudicated in the name of J.C. Oliver and Sons. The decree is recorded in the Order Record of the Water Resources Director in Volume 9, at Page 176.

WITNESS the signature of the Water Resources

Director, affixed JUL 31 2003.


Paul R. Cleary, Director