

STATE OF OREGON

COUNTY OF UMATILLA

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

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 8248, submitted by

WILLIAM L. AND ANNE C. MILLER GIVENS  
84462 RINGER ROAD  
MILTON-FREEWATER, OREGON 97862.

The 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 75425. The decree is recorded in the Order Record of the Water Resources Director in Volume 3, at Page 321. The date of priority is 1890 for 7.68 ACRES, 1894 FOR 6.98 ACRES, 1908 FOR 3.57 ACRES, AND 1900 FOR 1.05 ACRES.

The right allows the use of DUGGER CREEK, a tributary of PINE CREEK, for IRRIGATION OF 19.28 ACRES AND STOCK USE. The amount of water to which this right is entitled is limited to an amount actually beneficially used and shall not exceed a rate of flow of 0.24 cubic foot per second from May 1 to September 1 of each year, if available at the authorized point of diversion: SE¼ NE¼, SECTION 25, T 6 N, R 34 E, W.M., or its equivalent in case of

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.

rotation, measured at the point of diversion from the source. The total quantity diverted during each irrigation season not to exceed 57.8 acre-feet.

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 (or it's equivalent) and not more than 3.0 ACRE-FEET per acre shall be applied during the season from MAY 1 to SEPTEMBER 1 of each year.

The authorized place of use is located as follows:

	<u>1890</u>	<u>1894</u>	<u>1900</u>	<u>1908</u>	
SW¼ NE¼				1.53	ACRES
SE¼ NE¼	7.68	6.98	1.05	2.04	ACRES

SECTION 25

TOWNSHIP 6 NORTH, RANGE 34 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 two proposed diversion points along Dugger Creek:

**POD 1** - NW¼ SE¼, SECTION 30, T 6 N, R 35 E, W.M.; 420 FEET NORTH AND 500 FEET EAST FROM THE SW CORNER OF THE NW¼ SE¼, SECTION 30; and

**POD 2** - SE¼ NE¼, SECTION 25, T 6 N, R 34 E, W.M.; 1792 FEET SOUTH AND 737 FEET WEST FROM THE NE CORNER, SECTION 25.

An affidavit was received from Larry & Anne Givens, owners of certain lands and the water rights appurtenant to. A portion of the water right has been abandoned and is requested to be canceled.

The abandoned water right is a portion of Certificate 75425, State Record of Water Right Certificates. The abandoned portion of the water right is for domestic use on 19.28 acres. There is no rate associated with this use from Dugger Creek. The dates of priority are 1890 for 7.68 acres, 1894 for 6.98 acres, 1908 for 3.57 acres, and 1900 for 1.05 acres. The domestic portion, requested to be canceled, is located as follows:

SE¼ NE¼ DOMESTIC USE (TAXLOT 1801)  
SECTION 25  
TOWNSHIP 6 NORTH, RANGE 34 EAST, W.M.

An affidavit was received from the Larry & Anne Givens, the owners of certain land and the water rights appurtenant to it. The water rights have been abandoned and are requested to be canceled.

The abandoned water right is a portion of the right described by Certificate 10520, State Record of Water Right Certificates. The abandoned water right is for the use of 0.23 cubic foot per second of water from a well in the Dugger Creek Basin. The date of priority is May 2, 1931. The abandoned water right is for irrigation of 18.65 acres and located as follows:

SE¼ NE¼ 18.65 ACRES  
SECTION 25  
TOWNSHIP 6 NORTH, RANGE 34 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, 2003.

2. The quantity of water diverted at the new points 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. The quantity of water delivered downstream from the original point of diversion will have to sustain the delivery loss. Delivery loss is identified as the amount of water lost by seepage and or evaporation for the period of time and distance extended to reach the new point of diversion.
3. The Department requires the water user to 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.

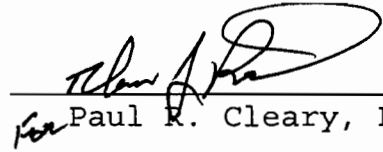
The water user may participate in the Oregon Department of Fish and Wildlife's cost sharing program for installation of screening and by-pass devices in accordance with ORS 540.525.

Certificates 75425 and 10520 are canceled. New certificates will be issued to confirm that portion of the rights NOT involved in this cancellation proceeding.

Certificate 75425 is canceled. A new certificate will be issued to confirm that portion of the right NOT involved in this transfer. 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 DEC 12 2001.

  
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for Paul R. Cleary, Director