

4. The portion of the right to be transferred is as follows:

Certificate: 13240 in the name of TASSEY STEWART (confirmed by Walla Walla River (F) decree)

Use: IRRIGATION of 4.28 ACRES

Priority Date: 1880

Limit/Duty: ONE AND ONE-HALF MINER'S INCHES per acre

Source: LITTLE WALLA WALLA RIVER, tributary to the WALLA WALLA RIVER

Authorized Place of Use:

IRRIGATION					
Twp	Rng	Mer	Sec	Q - Q	Acres
6 N	35 E	WM	35	SW SE	4.28

5. Certificate 13240 does not describe the location of the point of diversion, however information is available from the Walla Walla River Decree and associated adjudication map, the tabulation describing the right recognizes and identifies a ditch and dam located:

Authorized Point of Diversion:

Twp	Rng	Mer	Sec	Q - Q	Survey Coordinates
6 N	35 E	WM	35	SW SE	Hudson Bay Ditch

6. Application T-10430 proposes to change the place of use of the above described water right to:

IRRIGATION					
Twp	Rng	Mer	Sec	Q - Q	Acres
6 N	35 E	WM	35	SE SW	4.28

7. There are five existing water rights within the proposed place of use lands described in Finding of Fact #6. Three of these underlying rights will be canceled upon approval of T-10430. These rights consist of one water right for primary irrigation and four water rights for supplemental irrigation. The following table describes these rights:

"TO" Lands (SE¼ SW¼, Sec. 35)				
<i>water right</i>	<i>priority date</i>	<i>source</i>	<i>type of use</i>	<i>water right holder</i>
C# 3547 ¹	1915	L.Walla Walla R.	primary irrigation	Pleasantview Irr. Co.
GR-3733 ¹	1908	a well	suppl. irrigation	Alex LeFore
C# 65390 ¹	1983	waste water	suppl. irrigation	Alex LeFore
C# 84160 ²	1959	L.Walla Walla R.	suppl. irrigation	Pleasant View ID c/o Walla Walla River ID
per G-13075 ²	1994	Well #1A	suppl. irrigation	Alex LeFore & John LeFore

¹ Cancellation affidavits have been submitted to cancel all or portions of these rights. -see Findings of Fact #13, 15 & 16.

² These two water rights will continue to be exercised.

8. Consistent with OAR 690-380-2240(5), the priority dates and sources for the primary irrigation rights located at the proposed place of use (Certificate 13240) are similar in reliability to those of the primary irrigation rights currently located at the proposed place of use (Certificate 3547) and will be canceled in exchange for the like primary irrigation right.

Cancellation of Certain Water Rights

9. On July 2, 2007, John A. LeFore, owner of the property appurtenant to the following water rights, has submitted two voluntary cancellation affidavits meeting the requirements of ORS 540.621.

10. The portion of the FIRST water right to be cancelled is described as follows:

Certificate: 10103 in the name of TASSEY STEWART (perfected under Per S-7931)

Use: IRRIGATION of 4.28 ACRES

Priority Date: May 11, 1927

Amount: 0.05 cubic foot per second (cfs)

Rate/Duty: ONE-EIGHTIETH of one cubic foot per second per acre

Source: WASTE WATER, within the LITTLE WALLA WALLA RIVER BASIN

Authorized Point of Diversion:

Twp	Rng	Mer	Sec	Q - Q	Survey Coordinates
6 N	35 E	WM	35	SW SE	Stewart waste ditch

Place of Use to be cancelled: ("FROM" lands)					
Twp	Rng	Mer	Sec	Q - Q	Acres
6 N	35 E	WM	35	SW SE	4.28

11. The portion of the SECOND water right to be cancelled is described as follows:

Certificate: 3547 in the name of Pleasantview Irrigation Company, Inc. (perfected under Permit E-241)

Use: IRRIGATION of 4.28 ACRES

Priority Date: June 24, 1915

Amount: 0.05 cfs

Source: LITTLE WALLA WALLA RIVER, tributary to WALLA WALLA RIVER

Authorized Point of Diversion: Based upon the application/permit map for Pleasantview Irrigation Company, Inc., the ditch and diversion dam structure is located:

Twp	Rng	Mer	Sec	Q - Q	Survey Coordinates
5 N	35 E	WM	2	NE NE	M.F. & H.B. Company Canal

Place of Use to be cancelled: ("TO" lands)					
Twp	Rng	Mer	Sec	Q - Q	Acres
6 N	35 E	WM	35	SE SW	4.28

12. On December 23, 2008, John A. and Barbara LeFore also submitted two additional voluntary cancellation affidavits meeting the requirements of ORS 540.621 for the entire cancellation of Groundwater Certificate of Registration GR-3733 (Registration number GR-4168) and water right Certificate number 65390.

13. The FIRST water right to be cancelled is described as follows:

Certificate of Registration No. : GR-3733 in the name of ALEX LeFORE (groundwater registration #GR-4168)

Use: SUPPLEMENTAL IRRIGATION of 19.5 ACRES

Priority Date: 1908

Amount: 450 Gallons Per Minute

Source: a Well, within the LITTLE WALLA WALLA RIVER BASIN

Authorized Point of Appropriation:

Twp	Rng	Mer	Sec	Q - Q	Survey Coordinates
6 N	35 E	WM	35	SE SW	50 Feet West from the SE Corner of the NE¼ of the SE¼ of the SW¼, of Section 35

Place of Use to be cancelled:					
Twp	Rng	Mer	Sec	Q - Q	Acres
6 N	35 E	WM	35	N½ SE SW	19.5

14. The SECOND water right to be cancelled is described as follows:

Certificate: 65390 in the name of Alex LeFore (perfected under Permit 48067)

Use: SUPPLEMENTAL IRRIGATION of 18.4 ACRES

Priority Date: November 16, 1983

Amount: 0.49 cubic foot per second

Source: WASTE WATER ORIGINATING IN THE SW¼ SE¼, SECTION 35,
a tributary of the LITTLE WALLA WALLA RIVER

Authorized Point of Diversion:

Twp	Rng	Mer	Sec	Q - Q	Survey Coordinates
6 N	35 E	WM	35	SW SE	800 Feet North and 300 Feet East from the S¼ Corner of Section 35

Place of Use to be cancelled:					
Twp	Rng	Mer	Sec	Q - Q	Acres
6 N	35 E	WM	35	SE SW	18.4

15. Notice of the application for transfer was published on July 17, 2007, pursuant to OAR 690-380-4000. No comments were filed in response to the notice.
16. On January 16, 2009, the Department mailed a copy of the draft Preliminary Determination proposing to approve Transfer Application T-10430 to the applicants. The draft Preliminary Determination set forth a deadline of February 15, 2009, for the applicants to respond. The letter mailed with the draft of the Preliminary Determination also required land ownership and lien information reports be submitted for the timeframes in which each parcel of land involved in the transfer had the water right conveyance agreement recorded with the office of the Umatilla County records. On July 16th and July 30th, 2009, the Department received the appropriate reports prepared by a title company and subsequent written authorization from a landowner listed in the report who was not the applicant.
17. On August 6, 2009, the Department received from the applicants a statement requesting that the Department proceed with issuance of a Preliminary Determination and provided the necessary information to demonstrate that the applicants are authorized to pursue the transfer.

18. On August 27, 2009, the Department issued a Preliminary Determination proposing to approve Transfer T-10301 and mailed a copy to the applicant. Additionally, notice of the Preliminary Determination for the transfer application was published on the Department's weekly notice on August 21, 2007, pursuant to ORS 540.520 and OAR 690-380-4020. No protests were filed in response to the notice.

Transfer Review Criteria [OAR 690-380-4010(2)]

19. Water has been used within the last five years according to the terms and conditions of the right and there is no information in the record that would demonstrate that the right is subject to forfeiture under ORS 540.610.
20. A diversion structure, pipeline, and sprinkler system sufficient to use the full amount of water allowed under the existing right were present within the five-year period prior to submittal of Application T-10430.
21. The proposed change would not result in enlargement of the right.
22. The proposed change would not result in injury to other water rights.

Conclusions of Law


The change in place of use proposed in application T-10430 appears to be consistent with the requirements of ORS 540.505 to 540.580 and OAR 690-380-5000 and the abandoned rights should be cancelled. If protests are not filed pursuant to OAR 690-380-4030, the application will be approved and the abandoned rights will be cancelled.

Now, therefore, it is ORDERED:

1. The change in place of use proposed in application T-10430 is approved. The portions of the rights that have been abandoned are cancelled.
2. Water right certificates 13240, 3547, 10103, 65390 and Certificate of Registration GR-3733 are cancelled. New certificates will be issued describing those portions of the Certificate 13240, 10103 and 3547 rights not affected by the cancellations and this transfer.
3. The right to the use of the water is restricted to beneficial use at the place of use described, and is subject to all other conditions and limitations contained in Certificate 13240 and any related decree.
4. The former place of use of the transferred right shall no longer receive water under the right.
5. The water user shall maintain and operate the existing measurement device and shall make such improvements as may be required by the Department.
6. The water user shall maintain the existing headgate and shall make such improvements as may be required by the Department.

7. The approved change shall be completed and full beneficial use of the water shall be made on or before **October 1, 2011**. A Claim of Beneficial Use prepared by a Certified Water Rights Examiner shall be submitted by the applicant to the Department within one year after the deadline for completion of the change and full beneficial use of the water.
8. When satisfactory proof of the completed change is received, a new certificate confirming the right transferred will be issued.

Dated at Salem, Oregon this 5th day of October 2009.


Phillip C. Ward, Director 