

**BEFORE THE WATER RESOURCES DEPARTMENT OF THE  
STATE OF OREGON**

In the Matter of the Proposed Allocation	)	CORRECTING FINAL ORDER
of Conserved Water, Previously Numbered	)	
9804, Renumbered 6, for Certificates	)	
32772, 68497, 76182, and Associated	)	
Application for Change in Point of	)	
Diversion for Certificate 49039	)	

Jerry N. Hilger, Gary and Alice Teague, Linda Lance, G.L. and Gwen Scott, Dorothy H. Berry, Robert and Eleanor Burton, Jakob Jauker, Dora M. Baines, John W. and Irene E. Loper and the Oregon Water Trust submitted a conserved water application and associated change in the point of diversion dated September 1, 1998. The Department issued an order approving the allocation of conserved water for Certificates 32772, 68497, 76182, and approving the associated change in the point of diversion for Certificate 49039 on June 10, 1999. The order was filed as Special Order Volume 53, pages 870-873.

Subsequent to issuance of the order, the Department has identified clerical errors in the assignment of irrigated acreage, the rates and duties, and priority dates of the associated rights established under the order.

The following information summarizes the results of the conserved water project. For each certificate involved in the application, a summary by quarter quarter section describes what acreage is part of the conserved water application, what acreage is not part of it, and what acreage will be canceled. A table then describes the irrigated acreage by landowner, the rate before and after the conserved water application, and the instream contribution.

*(Special Order Volume 53, p. 870 listed Certificate 49038 as part of the Conserved Water Application. This was a clerical error and should not have been included. Certificate 76182 was erroneously omitted from Special Order Volume 53, p. 870.)*

This is a final order in other than 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 690-001-005 you may either petition for judicial review or petition the Director for reconsideration of this order.

# Summary of Conserved Water Application Water Rights Changes

## Certificate 32772

SE $\frac{1}{4}$  SW $\frac{1}{4}$  10.00 acres  
 (4.96 acres - part of Conserved Water Application)  
 (3.72 acres Lance)  
 (1.24 acres Scott)  
 (4.04 acres - not part of Conserved Water Application)  
 (4.04 acres Purrier)  
 (1.00 acres to be canceled)

### Section 1

NE $\frac{1}{4}$  NW $\frac{1}{4}$  7.6 acres  
 (4.58 acres Scott)  
 (1.24 acres Lance)  
 (0.60 acres Berry)  
 (1.18 acres to be canceled)

NW $\frac{1}{4}$  NW $\frac{1}{4}$  11.9 acres  
 (2.90 acres Berry)  
 (4.64 acres Burton)  
 (2.54 acres Jauker)  
 (1.82 acres to be canceled)

### Section 12

T 35 S, R 4 W, W.M.

<b>Certificate 32772</b>	<b>Acres Irrigated</b>	<b>Rate Before CWA for Acres Irrigated (cfs) (1/59 cfs/acre)  <i>Priority Date of 1896</i></b>	<b>Rate After CWA (cfs) †(1/80 cfs/acre) *(1/59 cfs/acre)  <i>Priority Date of 1896</i></b>	<b>Instream Contribution After CWA (cfs)  <i>Priority Date of 1896 + one minute</i></b>
Purrier	4.04	0.068	0.068*	0
Lance	4.96	0.084	0.062†	0.022
Scott	5.82	0.099	0.073†	0.026
Berry	3.50	0.059	0.044†	0.015
Burton	4.64	0.079	0.058†	0.021
Jauker	2.54	0.043	0.032†	0.011

Canceled	4.00	0.068	0	0
C-32772 (Total)	29.5	0.50	-	-
New Certificates	25.5	-	0.337	0.095

**Certificate 68497 (supercedes C-16115 in combination with C-72139 and C-72140)**

SE¼ SE¼            2.86 acres  
                               (2.05 acres - part of Conserved Water Application)  
                                   (1.12 acres Hilger)  
                                   (0.93 acres Teague)  
                               (0.53 acres - not part of conserved water application)  
                                   (0.37 acres Hilger)  
                                   (0.16 acres Tax Lot 108)  
                               (0.28 acres to be canceled)

Section 1

NE¼ NE¼            3.06 acres  
                               (1.82 acres - part of Conserved Water Application)  
                                   (0.74 acres Hilger)  
                                   (1.08 acres Teague)  
                               (0.23 acres - not part of conserved water application)  
                                   (0.23 acre Tax Lot 108)  
                               (1.01 acres to be canceled)

Section 12

T 35 S, R 4 W, W.M.

<b>Certificate 68497</b>	Acres Irrigated	Rate Before CWA for Acres Irrigated (cfs) (1/42 cfs/acre)  <i>Priority Date of 1896</i>	Rate After CWA (cfs) †(1/80 cfs/acre) *(1/42 cfs/acre) <i>Priority Date of 1896 (1/42 cfs/acre)</i>	Instream Contribution After CWA (cfs)  <i>Priority Date of 1896 + one minute</i>
Hilger (part of CWP)	1.86	0.044	0.023†	0.021
Hilger (not part of CWP)	0.37	0.009	0.009*	0
Teague	2.01	0.048	0.025†	0.023
Tax Lot 108 (not part of CWP)	0.39	0.009	0.009*	0

Canceled	1.29	0.030	0	0
C-68497 (Total)	5.92	0.14	-	-
New Certificates	4.63	-	0.066	0.044

**Certificate 76182 (supercedes C-42921, which superceded C-32767)**

NE¼ NE¼ 1.50 acres  
(1.50 acres Baines)  
SE¼ NE¼ 1.50 acres  
(0.30 acres Baines)  
(1.20 acres Loper)

Section 11  
T 35 S, R 4 W, W.M.

<b>Certificate 76182</b> (Supercedes Certificate 42921)	Acres Irrigated	Rate Before CWA for Acres Irrigated (cfs) (1/60 cfs/acre)  <i>Priority Date of 1896</i>	Rate After CWA (cfs) (1/80 cfs/acre)  <i>Priority Date of 1896</i>	Instream Contribution After CWA (cfs)  <i>Priority Date of 1896 + one minute</i>
Baines	1.8	0.03	0.022	0.008
Loper	1.2	0.02	0.015	0.005
C-76182 (Total)	3.0	0.05	-	-
New Certificates	3.0	-	0.037	0.013

**Certificate 49039 (after point of diversion change)**

NW¼ NW¼ 1.70 acres  
(1.50 acres Burton)  
(0.20 acres to be canceled)

Section 12  
T 35 S, R 4 W, W.M.

<b>Certificate 49039</b>	<b>Acres Irrigated</b>	<b>Rate Before POD for Acres Irrigated (cfs)</b>	<b>Rate After POD (cfs)</b>	<b>Instream Contribution After POD (cfs)</b>
		<i>Priority Date of May 15, 1975</i>	<i>Priority Date of May 15, 1975</i>	<i>Priority Date of May 15, 1975</i>
Burton	1.5	0.018	0.018	0
Canceled	0.2	0.002	0	0
C-49039 (Total)	1.7	0.02	-	-
New Certificate	1.5	-	0.018	0

**Now, Therefore, It Is Ordered:** (*numbering corresponds to the numbering used in Special Order Volume 53, pages 872 - 873.*)

1. Certificate 32772 is hereby canceled. (*No significant changes from Special Order Vol. 53, page 872.*)
2. The Department shall issue a superseding Certificate with a priority date of 1896 for diversion and use of 0.062 cfs, from Evans Creek, for domestic, stock and irrigation of 4.96 acres, at a reduced rate of 1/80 cfs/acre, all lands lying north of Evans Creek, as follows:

SE $\frac{1}{4}$  SW $\frac{1}{4}$       3.72 ACRES  
SECTION 1  
NE $\frac{1}{4}$  NW $\frac{1}{4}$       1.24 ACRES  
SECTION 12  
TOWNSHIP 35 SOUTH, RANGE 4 WEST, W.M.

The point of diversion is located as follows:

NE $\frac{1}{4}$  NW $\frac{1}{4}$ , SECTION 12, TOWNSHIP 35 SOUTH, RANGE 4 WEST, W.M.;  
SOUTH 77 DEGREES 40 MINUTES EAST 1997 FEET FROM THE NW CORNER,  
SECTION 12.

The Department shall issue a superseding Certificate with a priority date of 1896 for diversion and use of 0.073 cfs, from Evans Creek, for domestic, stock and irrigation of 5.82 acres, at a reduced rate of 1/80 cfs/acre, all lands lying north of Evans Creek, as follows:

SE¼ SW¼ 1.24 ACRES  
SECTION 1  
NE¼ NW¼ 4.58 ACRES  
SECTION 12  
TOWNSHIP 35 SOUTH, RANGE 4 WEST, W.M.

The point of diversion is located as follows:

NE¼ NW¼, SECTION 12, TOWNSHIP 35 SOUTH, RANGE 4 WEST, W.M.;  
SOUTH 63 DEGREES 47 MINUTES EAST 1832 FEET FROM THE NW CORNER,  
SECTION 12.

The Department shall issue a superseding Certificate with a priority date of 1896 for diversion and use of 0.044 cfs, from Evans Creek, for domestic, stock and irrigation of 3.50 acres, at a reduced rate of 1/80 cfs/acre, all lands lying north of Evans Creek, as follows:

NE¼ NW¼ 0.60 ACRES  
NW¼ NW¼ 2.90 ACRES  
SECTION 12  
TOWNSHIP 35 SOUTH, RANGE 4 WEST, W.M.

The point of diversion is located as follows:

NE¼ NW¼, SECTION 12, TOWNSHIP 35 SOUTH, RANGE 4 WEST, W.M.;  
SOUTH 54 DEGREES 23 MINUTES EAST 1766 FEET FROM THE NW CORNER,  
SECTION 12.

The Department shall issue a superseding Certificate with a priority date of 1896 for diversion and use of 0.058 cfs, from Evans Creek, for domestic, stock and irrigation of 4.64 acres, at a reduced rate of 1/80 cfs/acre, all lands lying north of Evans Creek, as follows:

NW¼ NW¼ 4.64 ACRES  
SECTION 12  
TOWNSHIP 35 SOUTH, RANGE 4 WEST, W.M.

The point of diversion is located as follows:

NW¼ NW¼, SECTION 12, TOWNSHIP 35 SOUTH, RANGE 4 WEST, W.M.;  
SOUTH 38 DEGREES 13 MINUTES EAST 1405 FEET FROM THE NW CORNER,  
SECTION 12.

The Department shall issue a superseding Certificate with a priority date of 1896 for diversion and use of 0.032 cfs, from Evans Creek, for domestic, stock and irrigation of 2.54 acres, at a reduced rate of 1/80 cfs/acre, all lands lying north of Evans Creek, as follows:

The Department shall issue a superseding Certificate with a priority date of 1896 for diversion and use of 0.023 cfs from Evans Creek, for irrigation of 1.86 acres, domestic, and stock use at a reduced rate of 1/80 cfs/acres, all lands lying north of Evans Creek, as follows:

SE¼ SE¼        1.12 ACRES  
SECTION 1  
NE¼ NE¼        0.74 ACRES  
SECTION 12  
TOWNSHIP 35 SOUTH, RANGE 4 WEST, W.M.

The point of diversion is located as follows:

NE¼ NE¼, SECTION 12, TOWNSHIP 35 SOUTH, RANGE 4 WEST, W.M.;  
SOUTH 63 DEGREES 57 MINUTES WEST 461 FEET FROM THE NE CORNER,  
SECTION 12.

*(Duty limitation which was not on the original water right, but was included in Special Order Vol. 53, page 872 was dropped and the acreage has been changed. Two certificates for conserved water, with different points of diversion, shall be issued instead of one certificate.)*

5. The Department shall issue a remaining right Certificate with a priority date of 1896 for diversion and use of 0.018 cfs from Evans Creek, for irrigation of 0.76 acre, at a rate of 1/42 cfs/acre, all lands lying north of Evans Creek, as follows:

SE¼ SE¼        0.53 ACRE  
SECTION 1  
NE¼ NE¼        0.23 ACRE  
SECTION 12  
TOWNSHIP 35 SOUTH, RANGE 4 WEST, W.M.

The Department shall cancel 1.29 acres of water rights as follows:

SE¼ SE¼        0.28 ACRE  
SECTION 1  
NE¼ NE¼        1.01 ACRES  
SECTION 12  
TOWNSHIP 35 SOUTH, RANGE 4 WEST, W.M.

*(Duty limitation which was not on the original water right, but was included in Special Order Vol. 53, page 872 was dropped; the rate was changed; and the cancellation of water rights was added.)*

NW¼ NW¼     2.54 ACRES  
SECTION 12  
TOWNSHIP 35 SOUTH, RANGE 4 WEST, W.M.

The point of diversion is located as follows:

NW¼ NW¼, SECTION 12, TOWNSHIP 35 SOUTH, RANGE 4 WEST, W.M.;  
SOUTH 23 DEGREES 23 MINUTES EAST 1246 FEET FROM THE NW CORNER,  
SECTION 12.

The Department shall issue a remaining right certificate with a priority date of 1896 for diversion and use of 0.068 cfs, from Evans creek for irrigation of 4.04 acres, at a rate of 1/59 cfs/acre, all lands lying north of Evans Creek, as follows:

SE¼ SW¼     4.04 Acres  
Section 1  
Township 35 South, Range 4 West, W.M.

The Department shall cancel 4.00 acres of water rights.

*(Duty limitation which was not on the original water right, but was included in Special Order Vol. 53, page 872 was dropped, the rate was changed and the issuance of a remaining right certificate for 4.04 acres is added. Five certificates for conserved water, with different points of diversion, shall be issued instead of one certificate.)*

3. It is further ordered that Certificate 68497 is hereby canceled. *(No significant changes from Special Order Vol. 53, page 872.)*
4. The Department shall issue a superseding Certificate with a priority date of 1896 for diversion and use of 0.025 cfs from Evans Creek, for irrigation of 2.01 acres, domestic, and stock use at a reduced rate of 1/80 cfs/acres, all lands lying north of Evans Creek, as follows:

SE¼ SE¼     0.93 ACRES  
SECTION 1  
NE¼ NE¼     1.08 ACRES  
SECTION 12  
TOWNSHIP 35 SOUTH, RANGE 4 WEST, W.M.

The point of diversion is located as follows:

NE¼ NE¼, SECTION 12, TOWNSHIP 35 SOUTH, RANGE 4 WEST, W.M.;  
SOUTH 33 DEGREES 05 MINUTES WEST 318 FEET FROM THE NE CORNER,  
SECTION 12.

6. It is further ordered that Certificate 76182 is hereby canceled. *(No significant changes from Special Order Vol. 53, page 873.)*
7. The Department shall issue a superseding Certificate with a priority date of 1896 for diversion and use of 0.022 cfs from Evans Creek, for irrigation of 1.80 acres, domestic, and stock use, at a rate of 1/80 cfs/acres, all lands lying north of Evans Creek as follows:

NE<sup>1</sup>/<sub>4</sub> NE<sup>1</sup>/<sub>4</sub>      1.50 ACRES  
SE<sup>1</sup>/<sub>4</sub> NE<sup>1</sup>/<sub>4</sub>      0.30 ACRES

SECTION 11

TOWNSHIP 35 SOUTH, RANGE 4 WEST, W.M.

The point of diversion is located as follows:

NE<sup>1</sup>/<sub>4</sub> NE<sup>1</sup>/<sub>4</sub>, SECTION 11, TOWNSHIP 35 SOUTH, RANGE 4 WEST, W.M.;  
SOUTH 00 DEGREES 24 MINUTES WEST 1305 FEET FROM THE NW CORNER,  
SECTION 12.

The Department shall issue a superseding Certificate with a priority date of 1896 for diversion and use of 0.015 cfs from Evans Creek, for irrigation of 1.20 acres, domestic, and stock use, at a rate of 1/80 cfs/acres, all lands lying north of Evans Creek as follows:

SE<sup>1</sup>/<sub>4</sub> NE<sup>1</sup>/<sub>4</sub>      1.20 ACRES

SECTION 11

TOWNSHIP 35 SOUTH, RANGE 4 WEST, W.M.

The point of diversion is located as follows:

SE<sup>1</sup>/<sub>4</sub> NE<sup>1</sup>/<sub>4</sub>, SECTION 11, TOWNSHIP 35 SOUTH, RANGE 4 WEST, W.M.;  
SOUTH 12 DEGREES 09 MINUTES WEST 1772 FEET FROM THE NW CORNER,  
SECTION 12.

*(Duty limitation which was not on the original water right, but was included in Special Order Vol. 53, page 873 was dropped; the rate and legal description were amended.)*

8. It is further ordered that Certificate 49039 be canceled and a superseding certificate with a priority date of May 15, 1975, be issued showing the new point of diversion from Evans Creek as follows:

NW<sup>1</sup>/<sub>4</sub> NW<sup>1</sup>/<sub>4</sub>, SECTION 12, TOWNSHIP 35 SOUTH, RANGE 4 WEST, W.M.;  
SOUTH 38 DEGREES 13 MINUTES EAST 1405 FEET FROM THE NW CORNER,  
SECTION 12.

The new certificate allows the diversion and use of 0.018 cfs, not to exceed 4.5 acre feet per acre, for irrigation of 1.5 acres at a rate of 1/80 cfs/acre, all lands lying north of Evans Creek as follows:

NW¼ NW¼ 1.5 ACRES  
SECTION 12  
TOWNSHIP 35 SOUTH, RANGE 4 WEST, W.M.

The Department shall cancel 0.20 acres of water rights.

*(Priority date, acreage, point of diversion and legal description amended from Special Order Vol. 53, page 873.)*

9. The Department shall issue a Certificate for an instream water right for the State's portion of the water conserved under this application, with a priority date of 1896 plus one minute for use of 0.152 cfs, to an instream water right beginning at their respective points of diversion and ending at river mile 8 (Wimer Bridge) on Evans Creek. The instream rights portions come from the following certificates:

Certificate 32772	0.022 cfs	
	0.026 cfs	
	0.015 cfs	
	0.021 cfs	
	<u>0.011 cfs</u>	
		0.095 cfs
Certificate 68497	0.023 cfs	
	<u>0.021 cfs</u>	
		0.044 cfs
Certificate 76182	0.008 cfs	
	<u>0.005 cfs</u>	
		<u>0.013 cfs</u>
Total		0.152 cfs


The conserved water will be combined with the existing instream right for 0.055 cfs at this location, established under a related conservation project (Conserved Water Application # 1) completed in 1996 and evidenced by the Order recorded at Special Order Volume 50, page 853, with a priority date of 1896 plus one minute. The instream rights portions come from the following certificates:

Certificate 72139 0.025 cfs  
Certificate 72140 0.030 cfs

Within the designated reaches of these rights, this total instream right of 0.207 cfs shall replace a portion of the existing instream water right for Evans Creek, evidenced by Certificate 73027, during the period from April 1 to October 31, of each year.

*(Duty limitation which was not on the original water right, but was included in Special Order Vol. 53, page 873 was dropped; the rate and legal description were amended, clarifies that the right is not additive to the existing instream right.)*

WITNESS the signature of the Water Resources Director, affixed FEBRUARY 16, 2001.

  
\_\_\_\_\_  
FOR Paul R. Cleary