

5. The entirety of the first right to be transferred is as follows:

Certificate: 2728 in the name of W. D. Hunt (confirmed by Illinois River Decree) and reflecting changes confirmed by Transfer Application M-56 approving a change in point of diversion recorded in Special Order Volume 5 Page 561

Use: IRRIGATION of 40 ACRES

Priority Date: 1900

Source: ALTHOUSE CREEK, tributary to ILLINOIS RIVER

Authorized Place of Use:

IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
39 S	8 W	WM	27	SW SE	20
39 S	8 W	WM	27	SE SE	5
39 S	8 W	WM	34	NE NE	5
39 S	8 W	WM	34	NW NE	10

6. Certificate 2728 does not describe the location of the point of diversion, however information is available from Special Order Volume 5 Page 561 that indicates the point of diversion is located as follows:

Authorized Point of Diversion:

Twp	Rng	Mer	Sec	Q-Q	Survey Coordinates
39 S	8 W	WM	35	NE SW	1660 FEET NORTH AND 510 FEET WEST FROM THE S¼ CORNER OF SECTION 35

7. Transfer Application T-8126 proposes to move the authorized point of diversion to a reach on the East Fork of the Illinois River approximately 0.27 to 0.75 mile downstream from the authorized point of diversion. The point of diversion reach extends between the following points:

Twp	Rng	Mer	Sec	Q-Q	Survey Coordinates
39 S	8 W	WM	27	SE SE	350 FEET NORTH AND 75 FEED WEST FROM THE SE CORNER OF SECTION 27
39 S	8 W	WM	35	NW NW	1300 FEET SOUTH AND 280 FEET EAST FROM THE SE CORNER OF SECTION 27

8. The portion of the second right to be transferred is as follows

Certificate: 6113 in the name of W. A. Mack (perfected under Permit S-4453)

Use: IRRIGATION of 20 ACRES

Priority Date: FEBRUARY 20, 1920

Rate: 0.25 CUBIC FOOT PER SECOND (CFS)

Limit/Duty: ONE-EIGHTIETH cfs per acre

Source: ALTHOUSE CREEK (through Hunt and Lishen Ditch), tributary to EAST FORK ILLINOIS RIVER

Authorized Point of Diversion:

Ditch Name
HUNT AND LISCHEN DITCH

Authorized Place of Use:

IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
39 S	8 W	WM	34	NE NW	20

9. Transfer Application T-8126 proposes to move the authorized point of diversion to a reach on the East Fork of the Illinois River approximately 0.27 to 0.75 mile downstream from the authorized point of diversion. The point of diversion reach extends between the following points:

Twp	Rng	Mer	Sec	Q-Q	Survey Coordinates
39 S	8 W	WM	27	SE SE	350 FEET NORTH AND 75 FEED WEST FROM THE SE CORNER OF SECTION 27
39 S	8 W	WM	35	NW NW	1300 FEET SOUTH AND 280 FEET EAST FROM THE SE CORNER OF SECTION 27

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

Certificate: 10110 in the name of Joel K. Brown (perfected under Permit S-9359)

Use: IRRIGATION of 10 ACRES

Priority Date: OCTOBER 31, 1929

Rate: 0.13 CUBIC FOOT PER SECOND (CFS)

Limit/Duty: ONE-EIGHTIETH cfs per acre

Source: ALTHOUSE CREEK, tributary to ILLINOIS RIVER

Authorized Point of Diversion:

Twp	Rng	Mer	Sec	Q-Q
39 S	8 W	WM	35	SW SE

Authorized Place of Use:

IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
39 S	8 W	WM	34	SW NW	10

11. Certificate 10110 describes the authorized place of use as 10.0 acres in the SW $\frac{1}{4}$ NW $\frac{1}{4}$ of Section 34, Township 39 South, Range 8 West, WM, Josephine County, Oregon.

- a. This location is inconsistent with the original final proof map prepared by the State Engineer, leading the Department to conclude that the land to which the right has always been appurtenant was listed erroneously on Certificate 10110.
- b. The following table lists the place of use as described in the final proof survey and the correct location of the place of use:

Certificate	Original Description of Place of Use		Proposed Re-Description of Place of Use		
	$\frac{1}{4}$ - $\frac{1}{4}$	Acres	$\frac{1}{4}$ - $\frac{1}{4}$	Acres	Current Tax Lot
10110	SW $\frac{1}{4}$ NW $\frac{1}{4}$	10.0	SE $\frac{1}{4}$ NW $\frac{1}{4}$	10.0	300
Section 34, Township 39 South, Range 8 West, WM					

12. Transfer Application T-8126 proposes to move the authorized point of diversion to a reach on the East Fork of the Illinois River approximately 0.27 to 0.75 mile downstream from the authorized point of diversion. The point of diversion reach extends between the following points:

Twp	Rng	Mer	Sec	Q-Q	Survey Coordinates
39 S	8 W	WM	27	SE SE	350 FEET NORTH AND 75 FEED WEST FROM THE SE CORNER OF SECTION 27
39 S	8 W	WM	35	NW NW	1300 FEET SOUTH AND 280 FEET EAST FROM THE SE CORNER OF SECTION 27

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

Certificate: 19989 in the name of Geo. P. Martin (perfected under Permit S-17982)

Use: IRRIGATION OF 28.8 ACRES, SUPPLEMENTAL IRRIGATION OF 40.0 ACRES

Priority Date: SEPTEMBER 19, 1947

Rate: 1.38 CUBIC FEET PER SECOND (CFS)

Limit/Duty: ONE-FIFTIETH cfs per acre from APRIL 1 TO NOVEMBER 1 of each year.

Source: EAST FORK ILLINOIS RIVER, tributary to ROGUE RIVER

Authorized Point of Diversion:

Twp	Rng	Mer	Sec	Q-Q
39 S	8 W	WM	35	NE SW

Authorized Place of Use:

IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
39 S	8 W	WM	27	SW SE	5.0
39 S	8 W	WM	27	SE SE	8.8
39 S	8 W	WM	34	NE NE	15.0

SUPPLEMENTAL IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
39 S	8 W	WM	27	SW SE	20.0
39 S	8 W	WM	27	SE SE	5.0
39 S	8 W	WM	34	NE NE	5.0
39 S	8 W	WM	34	NW NE	10.0

14. Transfer Application T-8126 proposes to move the authorized point of diversion to a reach on the East Fork of the Illinois River approximately 0.27 to 0.75 mile downstream from the authorized point of diversion. The point of diversion reach extends between the following points:

Twp	Rng	Mer	Sec	Q-Q	Survey Coordinates
39 S	8 W	WM	27	SE SE	350 FEET NORTH AND 75 FEED WEST FROM THE SE CORNER OF SECTION 27
39 S	8 W	WM	35	NW NW	1300 FEET SOUTH AND 280 FEET EAST FROM THE SE CORNER OF SECTION 27

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

Certificate: 57716 in the name of J. L. Calvert and H. M. Yarbrough, (perfected under Permit S-1107)

Use: IRRIGATION of 125.2 ACRES

Priority Date: MARCH 5, 1912

Rate: 1.57 CUBIC FEET PER SECOND (CFS)

Source: THE WATERS OF THE JUNCTION OF ILLINOIS RIVER, SUCKER CREEK AND ALTHOUSE CREEK (A.K.A EAST FORK OF THE ILLINOIS RIVER) tributaries to ROGUE RIVER

Authorized Point of Diversion:

Twp	Rng	Mer	Sec	Q-Q
39 S	8 W	WM	35	NE SW

Authorized Place of Use:

IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
39 S	8 W	WM	27	SE NW	4.0
39 S	8 W	WM	27	NE SW	39.0
39 S	8 W	WM	27	NW SW	3.0
39 S	8 W	WM	27	SW SW	16.2
39 S	8 W	WM	27	SE SW	37.0
39 S	8 W	WM	27	NW SE	26.0

16. Transfer Application T-8126 proposes to move the authorized point of diversion to a reach on the East Fork of the Illinois River approximately 0.27 to 0.75 mile downstream from the authorized point of diversion. The point of diversion reach extends between the following points:

Twp	Rng	Mer	Sec	Q-Q	Survey Coordinates
39 S	8 W	WM	27	SE SE	350 FEET NORTH AND 75 FEET WEST FROM THE SE CORNER OF SECTION 27
39 S	8 W	WM	35	NW NW	1300 FEET SOUTH AND 280 FEET EAST FROM THE SE CORNER OF SECTION 27

17. The entirety of the sixth right to be transferred is as follows

Certificate: 79469 in the name of Larry and Sheila Winn (perfected under Permit S-1107)

Use: IRRIGATION of 54.0 ACRES

Priority Date: MARCH 5, 1912

Rate: 0.67 CUBIC FOOT PER SECOND (CFS)

Source: SUCKER CREEK AND ALTHOUSE CREEK, tributaries to EAST FORK ILLINOIS RIVER

Authorized Point of Diversion:

Twp	Rng	Mer	Sec	Q-Q
39 S	8 W	WM	35	NE SW

Authorized Place of Use:

IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
39 S	8 W	WM	27	NE SE	1.0
39 S	8 W	WM	27	SW SE	15.0
39 S	8 W	WM	34	NE NE	5.0
39 S	8 W	WM	34	NW NE	26.0
39 S	8 W	WM	34	SE NW	7.0

18. Transfer Application T-8126 proposes to move the authorized point of diversion to a reach on the East Fork of the Illinois River approximately 0.27 to 0.75 mile downstream from the authorized point of diversion. The point of diversion reach extends between the following points:

Twp	Rng	Mer	Sec	Q-Q	Survey Coordinates
39 S	8 W	WM	27	SE SE	350 FEET NORTH AND 75 FEET WEST FROM THE SE CORNER OF SECTION 27
39 S	8 W	WM	35	NW NW	1300 FEET SOUTH AND 280 FEET EAST FROM THE SE CORNER OF SECTION 27

19. Notice of the application for transfer was published on, December 15, 1998, pursuant to OAR 690-015-080. No comments were filed in response to the notice.
20. On May 15, 2007, the Department mailed a copy of the draft Preliminary Determination proposing to approve Transfer Application T-8126 to the applicant and the applicant's agent. The cover letter that accompanied the draft Preliminary Determination set forth a deadline of June 15, 2007, for the applicant to respond. The applicant's agent requested that the Department proceed with issuance of a Preliminary Determination and provided the necessary information to demonstrate that the applicant is authorized to pursue the transfer.
21. On June 20, 2007, the Department issued a Preliminary Determination proposing to approve Transfer Application T-8126 and mailed a copy to the applicant and the applicant's agent. Additionally, notice of the Preliminary Determination for the transfer application was published on the Department's weekly notice on June 26, 2007 as per OAR 690-380-4020. Notice of the proposed transfer has been previously published in the Illinois Valley News newspaper on February 17, 24 and March 3, 1999, pursuant to ORS 540.520 and OAR 690-380-0090(5). No protests were filed in response to the notices.
22. The Oregon Department of Fish and Wildlife (ODFW) has determined that a fish screening and/or by-pass device is necessary at the new point of diversion to prevent fish from entering the diversion and/or safely transport fish back to the body of water from which the fish were diverted and that the diversion is not currently equipped with an appropriate fish screening and/or by-pass device. This diversion may be eligible for screening cost share funds.

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

- 23. Water has been used within the last five years according to the terms and conditions of the rights, and there is no information in the record that would demonstrate that the rights are subject to forfeiture under ORS 540.610.
- 24. A diversion structure and ditch sufficient to use the full amount of water allowed under the existing right were present within the five-year period prior to submittal of Transfer Application T-8126.
- 25. The proposed change would not result in enlargement of the rights.
- 26. The proposed change would not result in injury to other water rights.

Partial Cancellation of a Water Right

- 27. On May 30, 2007, an affidavit for partial cancellation of a water right was received from Dalton Straus, legal representative for Little Elm Ranch as follows:

Certificate: 57716 in the name of J. L. Calvert and H. M. Yarbrough
Use: IRRIGATION of 5.0 ACRES
Priority Date: MARCH 5, 1912
Rate: 0.06 CUBIC FOOT PER SECOND (CFS)
Source: ILLINOIS RIVER, tributary to ROGUE RIVER

Authorized Point of Diversion:

Twp	Rng	Mer	Sec	Q-Q
39 S	8 W	WM	35	NE SW

Authorized Place of Use to be Cancelled:

IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
39 S	8 W	WM	27	SE SW	3.0
39 S	8 W	WM	27	NW SE	2.0

Partial Diminution of a Water Right

- 28. An affidavit certifying that a portion of a water right was requested to be diminished to Supplemental Irrigation and was received from Dalton Straus, Agent for Little Elm Ranch. The right to be diminished is as follows:

Certificate: 10110 in the name of Joel K. Brown (perfected under Permit S-9359)
Use: IRRIGATION of 7.0 ACRES
Priority Date: OCTOBER 31, 1929
Rate: 0.24 CUBIC FOOT PER SECOND (CFS)
Limit/Duty: ONE-EIGHTIETH cfs per acre
Source: ALTHOUSE CREEK, tributary to EAST FORK ILLINOIS RIVER

Authorized Point of Diversion:

Twp	Rng	Mer	Sec	Q-Q
39 S	8 W	WM	35	SW SE

Authorized Place of Use:

IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
39 S	8 W	WM	34	SE NW	7.0

Conclusion of Law

The change in point of diversion proposed in Transfer Application T-8126 is consistent with the requirements of ORS 540.505 to 540.580 and OAR 690-380-5000, the abandoned right should be cancelled, and the portion of the right described in Finding of Fact #26 should be diminished.

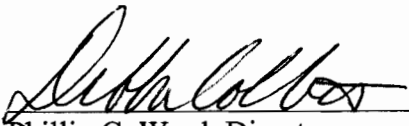
Now, therefore, it is ORDERED:

1. The change in point of diversion proposed in Transfer Application T-8126 is approved. The portion of the right that has been abandoned is cancelled.
2. The portion of the right requested to be diminished in Finding of Fact # 28 is diminished to Supplemental Irrigation and shall no longer be used as Primary Irrigation.
3. Water right certificates 2728, 6113, 10110, 19989, 57716 and 79469 are cancelled. New certificates will be issued describing those portions of the rights not affected by this transfer and cancellation.
4. 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 Certificates 2728, 6113, 10110, 19989, 57716 and 79469 and any related decree.
5. The quantity of water diverted at the new points of diversion, together with that diverted at the original points of diversion, shall not exceed the quantity of water lawfully available at the original points of diversion.
6. Prior to diverting water, the water user shall install a fish screening and/or by-pass device, as appropriate, at the new point of diversion consistent with the Oregon Department of Fish and Wildlife's (ODFW) design and construction standards. Prior to installation, the water user shall obtain written approval from ODFW that the required screen and/or by-pass device meets ODFW's criteria. Prior to submitting a Claim of Beneficial Use, the water user must obtain written approval from ODFW that the required screening and/or by-pass device was installed to the state's criteria. The water user shall maintain and operate the fish screen and/or by-pass device, as appropriate, at the point of diversion consistent with ODFW's operational and maintenance standards.
7. Prior to diverting water, the water user shall install 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 measuring device must be approved by the Department prior to beginning

construction and shall be installed under the general supervision of the Department. The water user shall maintain and operate the measuring device as required by the Department.

8. When required by the Department, the water user shall install, maintain and operate a headgate to control and regulate the quantity of water diverted. The type and plans of the headgate must be approved by the Department prior to beginning construction and shall be installed under the general supervision of the Department.
9. The approved changes shall be completed and full beneficial use of the water shall be made on or before October 1, 2010. 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 changes and full beneficial use of the water.
10. When satisfactory proof of the completed changes is received, new certificates confirming the rights transferred will be issued.

Dated at Salem, Oregon this 1st day of August, 2007.


Phillip C. Ward, Director

Mailing date: AUG 14 2007

