

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

In the Matter of Transfer Application )  
T-9796, Polk County ) **FINAL ORDER**  
)

ORS 540.510 (6) establishes the process in which a water right holder may submit a request to transfer the point of diversion, due to government action, authorized under an existing water right.

**Applicant**

Alvin and Geraldine Jahn  
30125 Salmon River Highway  
Grand Ronde, Oregon 97347

**Findings of Fact**

1. Alvin and Geraldine Jahn filed an application to transfer the point of diversion due to government action under Certificates 7785 and 7786. The Department assigned the application number T-9796.
2. The rights to be transferred are as follows:

**Certificate:** 7785 in the name of Otto Jahn, Sr.  
**Use:** Irrigation  
**Priority Date:** April 25, 1925  
**Quantity:** 0.04 cubic foot per second  
**Rate:** 1/80 cfs per acre  
**Acres:** 3.0 acres  
**Source:** Unnamed spring creek (Jackass Creek), tributary to the Rogue River

**Authorized Point of Diversion:**

Township		Range		Meridian	Sec	¼ ¼		Lot	DLC	Survey Coordinates
6	S	8	W	W.M.	10	SW	SE			

**Authorized Place of Use:**

Township		Range		Meridian	Sec	¼ ¼		Lot	DLC	Acres
6	S	8	W	W.M.	10	SE	SE			3.0

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 690-01-005 you may either petition for judicial review or petition the Director for reconsideration of this order.

**Certificate:** 7786 in the name of R.F. John  
**Use:** Irrigation  
**Priority Date:** April 24, 1925  
**Quantity:** 0.13 cubic foot per second  
**Rate:** 1/80 cfs per acre  
**Acres:** 6.0 acres  
**Source:** Spring creek (Jackass Creek), tributary to the Rogue River  
**Authorized Point of Diversion:**

Township		Range		Meridian	Sec	¼ ¼		Lot	DLC	Survey Coordinates
6	S	8	W	W.M.	10	SE	SE			NW¼ SE¼ SE¼

**Authorized Place of Use:**

Township		Range		Meridian	Sec	¼ ¼		Lot	DLC	Acres
6	S	8	W	W.M.	10	NE	SE			6.0

3. Application T-9796 proposes to move the authorized point of diversion approximately 200 feet upstream in the source to:

Township		Range		Meridian	Sec	¼ ¼		Lot	DLC	Survey Coordinates
6	S	8	W	W.M.	10	SW	SE			55 feet North and 520 feet East from the S¼ Corner of Section 10.

4. Notice of the application for transfer was published pursuant to ORS 540.520 and OAR 690-380-4000. No comments were filed in response to the notice. However, the Oregon Department of Fish and Wildlife did request inclusion of a condition requiring installation of proper fish screens.
5. Oregon Department of Transportation is replacing the Jackass Creek culvert crossing of Highway 18 with a bridge. The authorized points of diversion were in the highway right of way at the crossing. ODOT is relocating the points of diversion approximately 200 feet upstream from the authorized points of diversion.
6. The proposed change would not result in enlargement of the right.
7. The proposed change would not result in injury to other water rights.

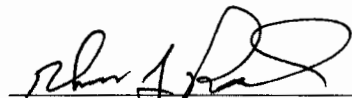
**Conclusion of law**

The proposed change in point of diversion due to government action in application T-9796 is consistent with the requirements of 540.510 (6).

**Now, therefore, it is ORDERED:**

1. The change in point of diversion due to government action proposed in application T-9796 is approved.
2. Water right certificates 7785 and 7786 are cancelled. New certificates confirming these rights will be issued.
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 Certificates 7785 and 7786 and any related decree.
4. The quantity of water diverted at the new point of diversion shall not exceed the quantity of water lawfully available at the original points of diversion.
5. When required by the Department, the water user shall 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.
6. Prior to October 1, 2006, the water user shall install and maintain a fish screen or fish by-pass device, as appropriate, at the new point of diversion. 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 Department of Fish and Wildlife's cost-sharing program for installation of screening and by-pass devices in accordance with ORS 540.525.

Dated at Salem, Oregon this 15<sup>th</sup> day of NOVEMBER, 2004.

  
Phillip C. Ward  
Acting Director

Mailing Date: NOV 29 2004