

STATE OF OREGON

COUNTY OF UMATILLA

ORDER APPROVING A CHANGE IN PLACE OF USE,  
POINT OF DIVERSION, CANCELLATION OF A WATER RIGHT, AND  
DIMINUTION OF A PORTION OF A WATER RIGHT

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 9437 submitted by

WALLA WALLA RIVER IRRIGATION DISTRICT  
605 LAMB STREET  
MILTON-FREEWATER, OREGON 97862.

The FIRST right to be modified was confirmed by decree of the Circuit Court of the State of Oregon for UMATILLA County as evidenced by Certificate 12916. The decree is recorded in the Order Record of the Water Resources Director in Volume 12, at Page 9. The date of priority is 1875.

The right allows the use of TUMALUM BRANCH OF WALLA WALLA RIVER, a tributary of COLUMBIA RIVER, for IRRIGATION OF 9.0 ACRES. The amount of water to which this right is entitled is limited to an amount actually beneficially used and shall not exceed ONE AND ONE HALF MINER'S INCHES per acre, if available at the authorized point of diversion: PRIVATE DITCH - SE $\frac{1}{4}$  NW $\frac{1}{4}$ , SECTION 1, T 5 N, R 35 E, W.M., or its equivalent in case of rotation, measured at the point of diversion from the source.

**NOTICE OF RIGHT TO PETITION FOR RECONSIDERATION OR JUDICIAL REVIEW**

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.

The authorized place of use is located as follows:

SE $\frac{1}{4}$  NW $\frac{1}{4}$  9.0 ACRES  
SECTION 1  
TOWNSHIP 5 NORTH, RANGE 35 EAST, W.M.,

More specifically being within the following described tract: That portion of the E $\frac{1}{2}$  of NW $\frac{1}{4}$  of Sec. 1, T. 5 N., R. 35 E., W.M., lying southerly of the OWR&N Co.'s right of way; EXCEPTING therefrom the lands deeded by Aaron Miller et ux to Edmund Wright et al, recorded Book 13, of Deeds, page 555, records of Umatilla County, Oregon; To Mary L. Raup, record in Book 15 of Deeds at page 105, records of Umatilla County, Oregon; to Milton Nursery Co., a corporation, recorded in Book 53 Deeds, at page 332, records of Umatilla County, Oregon; to George F. Massie, recorded in book 77 of Deeds at page 158, records of Umatilla County, Oregon, being 16.4 acres, more or less; ALSO: lots 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, and 21 of Block 23, in the Town of Freewater, Umatilla County, Oregon.

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 place of use to:

SE $\frac{1}{4}$  SE $\frac{1}{4}$  9.0 ACRES  
SECTION 36  
TOWNSHIP 6 NORTH, RANGE 35 EAST, W.M.

The applicant also proposes to change the point of diversion for the above described nine acres at the new place of use to:

EAST SIDE DITCH - NE $\frac{1}{4}$  NW $\frac{1}{4}$ , SECTION 1, T 5 N, R 35 E, W.M.; 1080 FEET SOUTH AND 450 FEET WEST FROM THE N $\frac{1}{4}$  CORNER, SECTION 1.

The SECOND right to be modified, as evidenced by a portion of Certificate 49291, was perfected under Permit 1299 with a date of priority of JULY 23, 1912. The right allows the use of WALLA WALLA RIVER, a tributary of COLUMBIA RIVER, for IRRIGATION OF 9.0 ACRES. The amount of water to which this right is entitled is limited to an amount actually beneficially used and shall not exceed 0.11 cubic foot per second, if available at the authorized point of diversion: NE $\frac{1}{4}$  NW $\frac{1}{4}$ , SECTION 1, T. 5 N., R. 35 E., W.M.; 1080 FEET SOUTH AND 450 FEET WEST FROM N $\frac{1}{4}$  CORNER, SECTION 1, or its equivalent in case of rotation, measured at the point of diversion from the source.

The amount of water used for irrigation, together with the amount secured under any other right existing for the same lands, is limited to ONE-EIGHTIETH of one cubic foot per second per acre or its equivalent for each acre irrigated during the irrigation season of each year.

The use shall conform to any reasonable rotation system ordered by the proper state officer.

The authorized place of use is located as follows:

SE $\frac{1}{4}$  SE $\frac{1}{4}$  9.0 ACRES  
SECTION 36  
TOWNSHIP 6 NORTH, RANGE 35 EAST, W.M.

The right to use the water for the above purpose is restricted to beneficial use on the lands or place of use described.

The applicant proposes to change the place of use to:

NW $\frac{1}{4}$  SW $\frac{1}{4}$  1.3 ACRES  
SW $\frac{1}{4}$  SW $\frac{1}{4}$  7.7 ACRES  
SECTION 31  
TOWNSHIP 6 NORTH, RANGE 36 EAST, W.M.

On MAY 16, 2003, an affidavit for the above right was received from SAM LEFORE, JR. The affidavit states that Mr. Lefore, Jr., is the owner of certain lands and the above described water right is appurtenant to it. A portion of the water right is requested to be diminished to supplemental irrigation and is shown on the affidavit map.

The right is described as a PORTION of Certificate 41017, and was perfected under Permit G-4014 with a date of priority of MARCH 4, 1968. The right allows the use of WELL, within the WALLA WALLA RIVER BASIN, for IRRIGATION OF 9.0 ACRES. The amount of water to which this right is entitled is limited to an amount actually beneficially used and shall not exceed 0.11 cubic foot per second, if available at the original well; SW $\frac{1}{4}$  SW $\frac{1}{4}$ , SECTION 31, T 6 N, R 36 E, W.M., 580 FEET NORTH AND 570 FEET EAST FROM THE SW CORNER, SECTION 31, or its equivalent in case of rotation, measured at the well.

The amount of water used for irrigation, together with the amount secured under any other right existing on the same lands, is limited to ONE-EIGHTIETH of one cubic foot per second per acre, or its equivalent for each acre irrigated and shall be further limited to a diversion of not to exceed 2.5 acre-feet for each acre irrigated during the irrigation season of each year.

The portion to be diminished is located as follows:

NW $\frac{1}{4}$ SW $\frac{1}{4}$	1.3 ACRES
SW $\frac{1}{4}$ SW $\frac{1}{4}$	7.7 ACRES
SECTION 31	
TOWNSHIP 6 NORTH, RANGE 36 EAST, W.M.	

The use shall conform to any reasonable rotation system ordered by the proper state officer.

The right to use water for the rights proposed for transfer or diminution are restricted to beneficial use on the lands or place of use described.

On MAY 16, 2003, an affidavit was received from SAM LEFORE, JR., owner of certain land and the water right appurtenant to it. The water right has been abandoned and is requested to be canceled.

The water right is described by Certificate 47020, and was perfected under Permit G-6290 with a date of priority of JANUARY 3, 1975. The right allows the use of A WELL, a tributary of WALLA WALLA RIVER, for IRRIGATION OF 1.4 ACRES AND SUPPLEMENTAL IRRIGATION OF 8.3 ACRES. The amount of water to which this right is entitled is limited to an amount actually beneficially used and shall not exceed 0.12 cubic foot per second, if available at the authorized point of appropriation: SE¼ NW¼, SECTION 1, T. 5 N., R. 35 E., W.M.; 2120 FEET SOUTH AND 1960 FEET EAST FROM THE NW CORNER, SECTION 1, or its equivalent in case of rotation, measured at the point of diversion from the source.

The abandoned portion is located as follows:

PRIMARY

SE¼ NW¼ 1.4 ACRES  
SECTION 1  
TOWNSHIP 5 NORTH, RANGE 35 EAST, W.M.

SUPPLEMENTAL

NE¼ NW¼ 8.3 ACRES  
SECTION 1  
TOWNSHIP 5 NORTH, RANGE 35 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."

THESE CHANGES TO EXISTING WATER RIGHTS MAY BE MADE PROVIDED THE FOLLOWING CONDITIONS ARE MET BY THE WATER USER:

1. The proposed changes shall be completed on or before October 1, 2005.
2. The quantity of water diverted at the new points of diversion, shall not exceed the quantity of water lawfully available at the original points of diversion.
3. Water shall be acquired from the same aquifer as the original point of appropriation.

4. 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.
5. When required by the Department, the water user or irrigation district shall operate and maintain the headgate and measuring device, as needed. The water user or irrigation district shall report total flow figures when requested by the Watermaster. The Watermaster may monitor the accuracy of the measuring device, as needed.
6. Water shall be acquired from the same surface water source as the original point of diversion.
7. The former places of use shall no longer be irrigated as a part of these water rights as described herein.
8. 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.

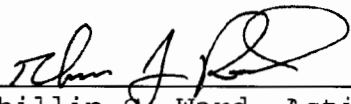
The water user may participate in the Oregon Department of Fish and Wildlife's cost sharing program for installation of screening and by-pass devices in accordance with ORS 540.525.

The abandoned water right evidenced by Certificate 47020 requested to be canceled is canceled.

A new water right certificate will be issued for the right perfected under Permit G-4014 to describe the right as diminished.

Certificates 12916, 49291, 41017 are cancelled. New certificates will be issued to describe those portions of the rights NOT involved in this transfer. When satisfactory proof of the completed changes are received, new certificates will be issued describing the extent to which water is used beneficially under the terms and conditions of this transfer order.

WITNESS the signature of the Water Resources  
Director, affixed AUGUST 11, 2004.

  
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Phillip C. Ward, Acting Director