

STATE OF OREGON

COUNTY OF UMATILLA

ORDER APPROVING A CHANGE IN POINT OF DIVERSION

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 9197 submitted by

DALE COSPER  
78976 S. FK. WALLA WALLA RIVER ROAD  
MILTON-FREEWATER, OR 97862.

The right to be modified was confirmed by decree of the Circuit Court of the State of Oregon for UMATILLA County as evidenced by a PORTION of Certificate 13146. The decree is recorded in the Order Record of the Water Resources Director in Volume 12, at Page 9. The date of priority is 1882.

The right allows the use of the SOUTH FORK WALLA WALLA RIVER, a tributary of the WALLA WALLA RIVER, for the IRRIGATION OF 7.1 ACRES. The amount of water to which this right is entitled is limited to an amount actually beneficially used and shall not exceed 0.266 cubic foot per second, if available at the authorized point of diversion: ROBERTS DITCH - NW¼ SW¼, SECTION 10, T 4 N, R 37 E, W.M.; or its equivalent in case of rotation, measured at the point of diversion from the source.

The authorized place of use is located as follows:

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.

NE¼ NE¼ 3.0 ACRES

NW¼ NE¼ 4.1 ACRES

SECTION 10

TOWNSHIP 4 NORTH, RANGE 37 EAST, W.M.

The applicant proposes to change the point of diversion to:

NW¼ NE¼, SECTION 9, T 4 N, R 37 E, W.M.; 790 FEET SOUTH AND 1610 FEET WEST FROM THE NE CORNER OF SECTION 9.

THIS CHANGE TO AN EXISTING WATER RIGHT MAY BE MADE PROVIDED THE FOLLOWING CONDITIONS ARE MET BY THE WATER USER:

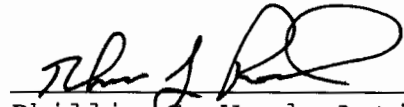
1. The proposed change shall be completed on or before October 1, 2005.
2. The quantity of water diverted at the new point of diversion, together with that diverted at the old point of diversion, shall not exceed the quantity of water lawfully available at the original point of diversion.
3. The user 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.
4. Water shall be acquired from the same surface water source as the original point of diversion.
5. 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.

Certificate 13146 is canceled. A new certificate will be issued to confirm that portion of the right NOT involved in this transfer. When satisfactory proof of the completed change is received, a new certificate confirming this water right will be issued.

WITNESS the signature of the Water Resources

Director, affixed AUGUST 9, 2004.

  
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Phillip C. Ward, Acting Director