

STATE OF OREGON

COUNTY OF GRANT

ORDER APPROVING AN ADDITIONAL POINT OF DIVERSION,
CORRECTING A SCRIVENER'S ERRORS IN
CERTIFICATES 80047 AND 80048, AND
PARTIAL CANCELLATION OF CERTIFICATE 80048

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 9564 submitted by

WILLIAM McNEIL/ALLAN MULLIN
61356 HWY 26
JOHN DAY, OREGON 97845.

The FIRST right to be modified was confirmed by decree of the Circuit Court of the State of Oregon for GRANT County as evidenced by a PORTION of Certificate 67940. The decree is recorded in the Order Record of the Water Resources Director in Volume 15, at Page 461. The date of priority is 1868.

The right allows the use of DISSEL CREEK, JOHN DAY RIVER AND SPRINGS IN N $\frac{1}{2}$ N $\frac{1}{2}$, SECTION 28, NE $\frac{1}{4}$ NE $\frac{1}{4}$, SECTION 29, N $\frac{1}{2}$ SW $\frac{1}{4}$, SECTION 20, T 13 S, R 32 E, W.M., a tributary of COLUMBIA RIVER, for IRRIGATION OF 77.1 ACRES.

The use is limited to:

Dissel Creek and Springs: 1/40 cubic foot per second per acre irrigated to June 1 and 1/80 cubic foot per second per acre thereafter; further limited to one acre-foot per calendar month

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.

to June 1 and four acre-feet per acre during season April 1 to September 30;

John Day River: 1/40 cubic foot per second per acre irrigated from April 1 to September 30; further limited to one acre-foot per acre per calendar month to July 1 and 3/4 acre-foot per acre thereafter; total five acre-feet per acre for season; if available at the authorized points of diversion from John Day River: OLIVER DITCH (NORTHSIDE) - SW $\frac{1}{4}$ SW $\frac{1}{4}$, SECTION 21, T 13 S , R 32 E, 950 FEET NORTH AND 500 FEET EAST FROM SW CORNER, SECTION 21; OLIVER DITCH (SOUTHSIDE) - SW $\frac{1}{4}$ SE $\frac{1}{4}$, SECTION 21, T 13 S , R 32 E, 900 FEET NORTH AND 1950 FEET WEST FROM SE CORNER, SECTION 21, or its equivalent in case of rotation, measured at the points of diversion from the source.

The authorized place of use is located as follows:

NE $\frac{1}{4}$ SW $\frac{1}{4}$	0.9 ACRE
SW $\frac{1}{4}$ SW $\frac{1}{4}$	14.6 ACRES
SE $\frac{1}{4}$ SW $\frac{1}{4}$	36.4 ACRES
SECTION 20	

NE $\frac{1}{4}$ NW $\frac{1}{4}$	15.9 ACRES
NW $\frac{1}{4}$ NW $\frac{1}{4}$	9.3 ACRES
SECTION 29	

TOWNSHIP 13 SOUTH, RANGE 32 EAST, W.M.

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 add an additional point of diversion to:

JOHN DAY RIVER - SE $\frac{1}{4}$ SW $\frac{1}{4}$, SECTION 20, T 13 S, R 32 E, W.M.; 330 FEET NORTH AND 15 FEET WEST FROM S $\frac{1}{4}$ CORNER, SECTION 20.

The SECOND right to be modified, as evidenced by Certificate 80047, was perfected under Permit 48178 with a date of priority of SEPTEMBER 30, 1983. The right allows the use of JOHN DAY

RIVER, a tributary of COLUMBIA RIVER, for SUPPLEMENTAL IRRIGATION OF 9.5 ACRES. The amount of water to which this right is entitled is limited to an amount actually beneficially used and shall not exceed 0.25 cubic foot per second, if available at the original point of diversion: NE¼ NW¼, SECTION 30, T 13 S, R 32 E, W.M.; 180 FEET SOUTH AND 2100 FEET EAST FROM NW CORNER, SECTION 30. The authorized point of diversion is: OLIVER DITCH - SW¼ SW¼, SECTION 21, T 13 S, R 32 E, W.M.; 950 FEET NORTH AND 500 FEET EAST FROM SW CORNER, SECTION 21, 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-FORTIETH 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 5.0 acre-feet for each acre irrigated during the irrigation season of each year. This right is limited to any deficiency in the available supply of any prior right existing for same lands.

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

The authorized place of use is located as follows:

SW¼ SW¼ 9.5 ACRES
SECTION 20
TOWNSHIP 13 SOUTH, RANGE 32 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 water user shall maintain a record of, and upon request of the Watermaster, report the quantity diverted.

The applicant proposes to change the point of diversion to:

SE¼ SW¼, SECTION 20, T 13 S, R 32 E, W.M.; 330 FEET NORTH AND 15 FEET WEST FROM S¼ CORNER, SECTION 20.

***NOTE:** A scrivener's error was found in Certificate 80047 describing the range and a coordinate of the point of diversion. This order correctly describes the point of diversion as: Range 32 East; and the coordinate as 950 feet North.

The THIRD right to be modified was confirmed by decree of the Circuit Court of the State of Oregon for GRANT County as evidenced by Certificate 80048. The decree is recorded in the Order Record of the Water Resources Director in Volume 15, at Page 461. The date of priority is 1880.

The right allows the use of JOHN DAY RIVER, a tributary of COLUMBIA RIVER, for IRRIGATION OF 4.6 ACRES. The amount of water to which this right is entitled is limited to an amount actually beneficially used and shall not exceed 1/40 CUBIC FOOT PER SECOND PER ACRE IRRIGATED FROM APRIL 1 TO SEPTEMBER 30; FURTHER LIMITED TO ONE ACRE-FOOT PER ACRE PER CALENDAR MONTH TO JULY 1 AND 3/4 ACRE-FOOT PER ACRE THEREAFTER; TOTAL FIVE ACRE-FOOT PER ACRE FOR SEASON, MEASURED AT POINT OF DIVERSION (IF AVAILABLE AT THE ORIGINAL POINTS OF DIVERSION BELOW THE MOUTH OF PINE CREEK.)

The authorized point of diversion from: OLIVER DITCH - SW $\frac{1}{4}$ SW $\frac{1}{4}$, SECTION 21, T 13 S , R 32 E, 950 FEET NORTH AND 500 FEET EAST FROM SW CORNER, SECTION 21, 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:

SW $\frac{1}{4}$ SW $\frac{1}{4}$ 1.0 ACRE
SE $\frac{1}{4}$ SW $\frac{1}{4}$ 3.6 ACRES
SECTION 20
TOWNSHIP 13 SOUTH, RANGE 32 EAST, W.M.

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 water user shall maintain a record of, and upon request of the Watermaster, report the quantity diverted.

The applicant proposes to add an additional point of diversion to:

SE $\frac{1}{4}$ SW $\frac{1}{4}$, SECTION 20, T 13 S, R 32 E, W.M.; 330 FEET NORTH AND 15 FEET WEST FROM S $\frac{1}{4}$ CORNER, SECTION 20.

***NOTE:** A scrivener's error was found in Certificate 80047 describing the range and a coordinate of the point of diversion. This order correctly describes the point of diversion as: Range 32 East; and the coordinate as 950 feet North.

CANCELLATION OF A PORTION OF WATER RIGHT CERTIFICATE 67940

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 and order canceling the water right."

On September 25, 2003, the Department received an affidavit from Allan Mullin, owner of certain land and the right appurtenant to it. A portion of the water right has been abandoned and is requested to be canceled.

The portion is described by Certificate 80048, State Record of Water Right Certificates. The date of priority is 1880. The abandoned portion of the water use is for irrigation of 5.9 acres from John Day River, a tributary of the Columbia River. The amount used was 0.15 cubic feet per second.

The abandoned portion is located as follows:

SE $\frac{1}{4}$ SW $\frac{1}{4}$ 5.9 ACRES
SECTION 20
TOWNSHIP 13 SOUTH, RANGE 32 EAST, W.M.

The FOURTH right to be modified was confirmed by decree of the Circuit Court of the State of Oregon for GRANT County as evidenced by Certificate 64330. The decree is recorded in the Order Record of the Water Resources Director in Volume 15, at

Page 461. The date of priority is 1870.

The right is limited to not more than 0.95 CUBIC FOOT PER SECOND.

The right allows the use of JOHN DAY RIVER AND DOG CREEK, a tributary of COLUMBIA RIVER, for IRRIGATION OF 37.9 ACRES. The amount of water used for irrigation from the JOHN DAY RIVER shall be limited to an amount actually beneficially used and shall not exceed ONE-FORTIETH of one cubic foot per second per acre, or its equivalent for each acre irrigated and shall be further limited to one (1) acre foot per acre per calendar month to July 1 and 3/4 acre foot per acre per calendar month thereafter, and to a total diversion of five (5) acre feet during the irrigation season of each year.

The amount of water used for irrigation from DOG CREEK shall be limited to an amount actually beneficially used and shall not exceed ONE-FORTIETH of one cubic foot per second per acre irrigated to June 1 and ONE-EIGHTIETH cubic foot per second per acre thereafter and shall be further limited to one (1) acre foot per acre per calendar month to June 1 and to a total diversion of four(4) acre feet during the irrigation season of each year.

The authorized point of diversion from John Day River: SW $\frac{1}{4}$ SE $\frac{1}{4}$, SECTION 20, T 13 S , R 32 E, 230 FEET NORTH AND 10 FEET EAST FROM S $\frac{1}{4}$ CORNER, SECTION 20, 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:

SW $\frac{1}{4}$ SE $\frac{1}{4}$ 2.0 ACRES

SE $\frac{1}{4}$ SE $\frac{1}{4}$ 5.8 ACRES

SECTION 19

NE $\frac{1}{4}$ NE $\frac{1}{4}$ 0.6 ACRE

NW $\frac{1}{4}$ NE $\frac{1}{4}$ 12.5 ACRES

NE $\frac{1}{4}$ NW $\frac{1}{4}$ 17.0 ACRES

SECTION 30

TOWNSHIP 13 SOUTH, RANGE 32 EAST, W.M.

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 add an additional point of diversion to John Day River:

SE¼ SW¼, SECTION 20, T 13 S, R 32 E, W.M.; 330 FEET NORTH AND 15 FEET WEST FROM S¼ CORNER, SECTION 20.

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. Proof, to the satisfaction of the Director, that the changes approved by this order have been completed must be submitted on or before October 1, 2006.
3. 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.
4. 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.
5. When required by the Department, the water user shall operate the headgate and measuring device, as needed. The water user 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 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.

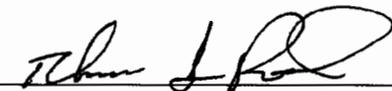
The water user may participate in the Oregon Department of Fish and Wildlife's cost sharing program for installation of screening and by-pass devices in accordance with ORS 540.525.

The abandoned portion of the water right evidenced by Certificate 80048 requested to be canceled is canceled.

Certificates 67940, 80047, 80048, and 64330 are cancelled. A new certificate will be issued to describe that portion of water right certificate 67940, NOT involved in this transfer. When satisfactory proof of the completed changes are received, new certificates confirming these water rights will be issued.

WITNESS the signature of the Water Resources

Director, affixed August 14, 2004.


for Phillip C. Ward, Acting Director