

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

In the Matter of Transfer Application                    )  
T-7438, Grant County, Oregon                         )  
  )  
  )  
  )  
  )

FINAL ORDER APPROVING A  
CHANGE IN PLACE OF USE,  
ADDITIONAL POINTS OF DIVERSION  
AND CORRECTIONS TO A WATER  
RIGHT

ORS 540.505 to 540.580 establishes the process in which a water right holder may submit a request to transfer the point of diversion, place of use, or character of use authorized under an existing water right. OAR Chapter 690, Division 380 implements the statutes and provides the Department's procedures and criteria for evaluating transfer applications.

**Applicant**

Clyde Holliday Family Ranches, Inc.  
c/o Ken Holliday  
62394 Hwy 26  
John Day, Oregon 97845

**Findings of Fact**

1. On October 5, 1995, Clyde Holliday Family Ranches, Inc. filed a transfer application to change the place of use for 80.3 acres and add additional points of diversion under Certificate 80463. The Department assigned the application number T-7438.
2. Upon further review by staff, a small error was found in the acreage figures in the SENE, Section 26, T13S 32E. The application map was amended on January, 5, 2005 and the correction to the amount of acreage has been included in this order.
3. Also upon further review by staff, updated and corrected survey coordinates for Hillis Ditch were submitted on an amended map on January, 5, 2005. These corrected survey coordinates have been included in this order.
4. The portion of the right to be transferred is as follows:

**Certificate:** 80463 in the name of Holliday Brothers LLC  
**Use:** Irrigation  
**Priority Date:** November 7, 1986  
**Quantity:** 6.38 cubic feet per second (cfs)  
**Rate/Duty:** 1/40 cfs per acre, not to exceed 4.0 acre-feet per acre per year  
**Acres:** 255.1

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 137-004-0080 you may either petition for judicial review or petition the Director for reconsideration of this order. A petition for reconsideration may be granted or denied by the Director, and if no action is taken within 60 days following the date the petition was filed, the petition shall be deemed denied.

**Source:** Pine Creek, tributary to John Day River

**Authorized Points of Diversion:**

Township		Range		Meridian	Sec	¼ ¼		Survey Coordinates
13	S	32	E	W.M.	25	NW	NW	Ditch #5 – 4070 feet N & 100 feet E from the NW corner, Section 36
13	S	32	E	W.M.	36	NW	NW	Ditch #6 – 920 feet East from NW corner, Sec. 36
13	S	32	E	W.M.	25	NW	SW	McKenna Ditch – 1600 feet N & 730 feet E from NW corner, Sec. 36
13	S	32	E	W.M.	36	NW	NW	Horsley Ditch – 350 feet S & 1000 feet E from NW corner, Section 36
13	S	32	E	W.M.	36	NE	SW	Staley Ditch – 3050 feet S & 1900 feet E from NW corner, Section 36

**Authorized Place of Use:**

Township		Range		Meridian	Sec	¼ ¼		Authorized Diversion	Change	Acres
13	S	32	E	W.M.	23	NE	SW	Ditch #6	APOD	7.0
13	S	32	E	W.M.	23	NE	SW	Ditch #6	POU & APOD	0.8
13	S	32	E	W.M.	23	SE	SW	Ditch #6	APOD	13.5
13	S	32	E	W.M.	23	SE	SW	Ditch #6	POU & APOD	13.8
13	S	32	E	W.M.	25	NE	NW	McKenna	APOD	10.8
13	S	32	E	W.M.	25	NW	NW	#5, McKenna	APOD	39.5
13	S	32	E	W.M.	25	SW	NW	#6, McKenna	APOD	40.0
13	S	32	E	W.M.	25	SE	NW	McKenna	APOD	9.1
13	S	32	E	W.M.	25	NW	SW	#6, McKenna,	APOD	27.5
13	S	32	E	W.M.	25	SW	SW	Horsley, #6	APOD	27.4
13	S	32	E	W.M.	26	NW	NE	#6	POU & APOD	11.4
13	S	32	E	W.M.	26	SW	NE	#6	POU & APOD	18.8
13	S	32	E	W.M.	26	SE	NE	#6	POU & APOD	0.2
13	S	32	E	W.M.	26	NE	NW	#6	POU & APOD	11.4
13	S	32	E	W.M.	26	NE	SE	#6, Horsley	POU & APOD	10.6
13	S	32	E	W.M.	26	NW	SE	#6, Horsley	POU & APOD	3.1
13	S	32	E	W.M.	26	SE	SE	Horsley, Staley	POU & APOD	10.2
<b>Total</b>									<b>255.1</b>	

5. Application T-7438 proposes to add a point of diversion from Horsely Ditch (located approximately 400 feet upstream in Pine Creek) as an additional point of diversion for the following lands:

Township		Range		Meridian	Sec	¼ ¼		Authorized Diversion	Change	Acres
13	S	32	E	W.M.	23	NE	SW	Ditch #6	APOD	7.0
13	S	32	E	W.M.	23	SE	SW	Ditch #6	APOD	13.5
<b>Total</b>									<b>20.5</b>	

6. Application T-7438 also proposes to add Hillis Ditch as an additional point of diversion for the following lands:

Township		Range		Meridian	Sec	¼ ¼	Ditch	Change	Acres
13	S	32	E	W.M.	25	NE NW	McKenna	APOD	10.8
13	S	32	E	W.M.	25	NW NW	#5, McKenna	APOD	39.5
13	S	32	E	W.M.	25	SW NW	#6, McKenna	APOD	40.0
13	S	32	E	W.M.	25	SE NW	McKenna	APOD	9.1
13	S	32	E	W.M.	25	NW SW	#6, McKenna,	APOD	27.5
13	S	32	E	W.M.	25	SW SW	Horsley, #6	APOD	27.4
<b>Total</b>									<b>154.3</b>

7. Application T-7438 proposes to add Hillis Ditch as an additional point of diversion and to change the place of use for the following lands:

Township		Range		Meridian	Sec	¼ ¼	Ditch	Change	Acres
13	S	32	E	W.M.	23	NE SW	#6	POU & APOD	0.8
13	S	32	E	W.M.	23	SE SW	#6	POU & APOD	13.8
13	S	32	E	W.M.	26	NW NE	#6	POU & APOD	11.4
13	S	32	E	W.M.	26	SW NE	#6	POU & APOD	18.8
13	S	32	E	W.M.	26	SE NE	#6	POU & APOD	0.2
13	S	32	E	W.M.	26	NE NW	#6	POU & APOD	11.4
13	S	32	E	W.M.	26	NE SE	#6, Horsley	POU & APOD	10.6
13	S	32	E	W.M.	26	NW SE	#6, Horsley	POU & APOD	3.1
13	S	32	E	W.M.	26	SE SE	Horsley, Staley	POU & APOD	10.2
<b>Total</b>									<b>80.3</b>

8. The proposed new place of use for the lands described in Finding of Fact #7 is:

Township		Range		Meridian	Sec	¼ ¼	Acres
13	S	32	E	W.M.	23	NW NE	26.8
13	S	32	E	W.M.	23	SW NE	30.4
13	S	32	E	W.M.	23	SE NE	1.5
13	S	32	E	W.M.	23	NE SE	9.2
13	S	32	E	W.M.	23	NW SE	12.4
<b>Total</b>							<b>80.3</b>

9. Hillis Ditch is located to approximately 2,300 feet upstream of McKenna Ditch, approximately 4,800 feet upstream of Ditch #5, approximately 400 feet upstream of Horsley Ditch, approximately 700 feet upstream Ditch #6, and approximately 2,600 feet downstream of Staley Ditch. Hillis Ditch is located at:

Township		Range		Meridian	Sec	¼ ¼	Survey Coordinates
13	S	32	E	W.M.	36	NW NW	Hillis Ditch – 755 feet South & 1130 feet East from NW corner, Section 36***

\*\*\*Survey coordinates cited above for Hillis Ditch reflect a corrected location.

10. 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.
11. Water has been used within the last five years according to the terms and conditions of the right and no evidence is available that would demonstrate that the right is subject to forfeiture under ORS 540.610.
12. Diversion structures and ditches sufficient to use the full amount of water allowed under the existing right are present.
13. The proposed changes would not result in enlargement of the right.
14. The proposed changes would not result in injury to other water rights.

### **Conclusions of Law**

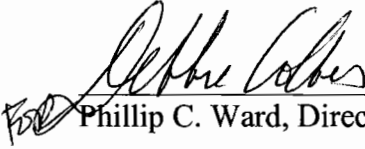
The changes in place of use and additional points of diversion in application T-7438 are consistent with the requirements of ORS 537.705 and 540.505 to 540.580 and OAR 690-380-5000.

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

1. The changes in place of use and additional points of diversion proposed in application T-7438 are approved.
2. Water right certificate 80463 is cancelled. A new certificate will be issued describing that portion of the right not involved in this transfer
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 Certificate 80463 and any related decree.
4. The approved changes shall be completed and full beneficial use of the water shall be made ofn or before **October 1, 2007**. 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.
5. The quantity of water diverted at the additional points of diversion, together with that diverted at the old points of diversion, shall not exceed the quantity of water lawfully available at the original points of diversion.
6. The former place of use shall no longer be irrigated as part of this water right.
7. 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.

8. When satisfactory proof of the completed changes is received, a new certificate confirming the transferred portion of the right will be issued.

Dated at Salem, Oregon this 7<sup>th</sup> day of April, 2006.

  
Phillip C. Ward, Director

*Protests should be addressed to the attention of Field Services Division, Water Resources Department, 725 Summer St. NE, Suite A, Salem, OR 97301-1271.*

Mailing Date APR 11 2006