

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

In the Matter of Transfer Application) FINAL ORDER APPROVING AN
T-7437, Grant County) ADDITIONAL POINT OF DIVERSION

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

Holliday & Son
HCR 77, Box 355
John Day, Oregon 97845

Findings of Fact

1. On October 5, 1995, Holliday and Son filed a transfer application to add an additional point of diversion under Certificate 53018. The Department assigned the application number T-7437.

2. The portion of the right to be transferred is as follows:

- Certificate:** 53018 in the name of Smith Brothers
- Use:** Irrigation
- Priority Date:** 1908
- Quantity:** 3.325 cubic feet per second (cfs)
- Rate/Duty:** 1/40th cfs per acre irrigated to June 1, and 1/80th cfs per acre thereafter; further limited to one acre-foot per calendar month to June 1 and four acre-feet per acre during season April 1 to September 30, measured at point of diversion.
- Acres:** 133.0
- Source:** Pine Creek, tributary to John Day River
- Authorized Point of Diversion:**

Township		Range		Meridian	Sec	¼	¼	Survey Coordinates
13	S	32	E	W.M.	23	NE	NE	Clover Ditch #3
13	S	32	E	W.M.	23	SE	NE	Clover Ditch #2

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.

Township		Range		Meridian	Sec	¼ ¼		Survey Coordinates
13	S	32	E	W.M.	23	NE	SE	Clover Ditch #1

Authorized Place of Use:

Irrigation

13	S	32	E	W.M.	14	SW	SE	20.3
13	S	32	E	W.M.	14	SE	SE	22.4
13	S	32	E	W.M.	23	NE	NE	33.2
13	S	32	E	W.M.	23	NW	NE	13.9
13	S	32	E	W.M.	23	SW	NE	0.5
13	S	32	E	W.M.	23	SE	NE	30.8
13	S	32	E	W.M.	23	NE	SE	11.9
								133.0

3. Application T-7437 proposes to add an additional point of diversion for the above described lands approximately 1½ miles upstream in the source to:

Township		Range		Meridian	Sec	¼ ¼		Survey Coordinates
13	S	32	E	W.M.	36	NW	NW	Hillis Ditch – 600 Feet South & 1150 Feet East from NW Corner, Section 36

4. On October 24, 1995, 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.
5. 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.
6. Diversion structures and ditches sufficient to use the full amount of water allowed under the existing right are present.
7. The proposed change would not result in enlargement of the right.
8. The proposed change would not result in injury to other water rights.

Conclusions of Law

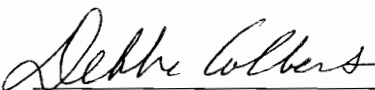
The change to add an additional point of diversion proposed in application T-7437 is consistent with the requirements of ORS 537.705 and 540.505 to 540.580 and OAR 690-380-5000.

Now, therefore, it is ORDERED:

1. The change in point of diversion proposed in application T-7437 is approved.

2. Water right certificate 53018 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 53018 and any related decree.
4. The approved change shall be completed and full beneficial use of the water shall be made on 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 new point 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. 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.
7. When satisfactory proof of the completed change is received, a new certificate confirming the right transferred will be issued.

Dated at Salem, Oregon this 13th day of April, 2006.



Phillip C. Ward, Director

Mailing date: APR 24 2006