

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

In the Matter of Transfer Application  
T-9724, Josephine County

FINAL ORDER APPROVING A  
TRANSFER

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**

Wayne O. and Nancy K. Dollarhide  
3199 Helms Road  
Grants Pass, Oregon 97527

**Findings of Fact**

1. Wayne O. and Nancy K. Dollarhide filed an application to add an additional point of diversion, under Certificates 53116 and 53632. The Department assigned the application number T-9724.
2. On February 15, 2005, the Department adjusted the quantity of water to be transferred under Certificate 53116 from 1.84 cubic feet per second to 1.79 cubic feet per second, based upon continued review of the portion of the certificate proposed to be transferred. The Preliminary Determination, Findings of Fact #2 stated that the rate/duty was not specified on the certificate. However, Certificate 53116 allows diversion of 2.0 cfs from the Houck and George Ditch with 1856 priority for 100.0 acres, yielding a rate of 0.02 cfs/acre. Thus, the maximum amount allowed for the 89.3 acres proposed for transfer should be  $89.3 \text{ acres} \times 0.2 \text{ cfs/acre} = 1.79 \text{ cfs}$ .
3. On February 15, 2005, Wayne Dollarhide amended the application to include domestic and stock uses as illustrated in Water Right Certificate 53116.
4. The portion of the first right to be affected by the additional point of diversion is as follows:  
**Certificate:** 53116 in the name of Barbara Bales Et Al  
**Use:** Irrigation, Domestic and Stock  
**Priority Date:** 1856  
**Quantity:** 1.79 cubic feet per second, delivered through the Houck and George Ditch  
**Rate/Duty:** 0.02 cfs/acre as per certificate, which allows 2.0 cfs for 100.0 acres  
**Acres:** 89.3

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 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.

**Source:** Althouse Creek, tributary to the Illinois River

**Authorized Point of Diversion:**

Township		Range		Meridian	Sec	¼ ¼	Survey Coordinates
40	S	7	W	W.M.	8	NW SW	180 ft. South & 1180 ft. East of the West ¼ Corner of Section 8

**Authorized Place of Use Affected by this Additional POD:**

Township	Range	Meridian	Sec	¼ ¼	Lot	DLC	Acres	
40	S	8	W	W.M.	13	SW NE	30.5	
40	S	8	W	W.M.	13	NW SE	6.9	
40	S	8	W	W.M.	13	SE NE	2	5.2
40	S	8	W	W.M.	13	SE NE	45	30.5
40	S	8	W	W.M.	13	NE SE	45	7.2
40	S	7	W	W.M.	18	NW SW	37	0.2
40	S	7	W	W.M.	18	SW NW	37	8.8

5. The portion of the second right to be affected by the additional point of diversion is as follows:

**Certificate:** 53632 in the name of Barbara Bales Et Al

**Use:** Irrigation

**Priority Date:** 1856 and 1870

**Quantity:** 0.67 cfs; being 0.61 cfs priority 1870 and 0.06 cfs priority 1856, delivered through the Houck and George Ditch

**Rate/Duty:** Not specified in certificate

**Acres:** 33.3; being 30.4 ac priority 1870 and 2.9 ac priority 1856

**Source:** Althouse Creek, tributary to the Illinois River

**Authorized Point of Diversion:**

Township		Range		Meridian	Sec	¼ ¼	Survey Coordinates
40	S	7	W	W.M.	8	NW SW	180 ft. South & 1180 ft. East of the West ¼ Corner of Section 8

**Authorized Place of Use Affected by this Additional POD:**

Township	Range	Meridian	Sec	¼ ¼	Lot	DLC	Acres		
40	S	7	W	W.M.	18	NW NW	—	38	1.4
40	S	7	W	W.M.	18	SW NW	—	38	21.9
40	S	7	W	W.M.	18	SE NW		38	3.6
40	S	7	W	W.M.	18	SW NW		37	3.5
40	S	8	W	W.M.	13	SE NW			2.9

Note: Section 18 areas have a priority date of 1870, Section 13 areas have a priority date 1856.

6. Application T-9724 proposes to Add a point of diversion approximately 1.5 miles downstream in the source to:

Township		Range		Meridian	Sec	¼ ¼	Survey Coordinates
40	S	7	W	W.M.	18	NW NW	245.70 ft. South and 1151.0 ft. East from the NW corner of Section 18

7. 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. However, the Oregon Department of Fish and Wildlife did request inclusion of a condition requiring installation of proper fish screens at the diversion point. This requirement is as per ORS 540.525.
8. 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.
9. A diversion structure and ditch sufficient to use the full amount of water allowed under the existing right are present.
10. The proposed change would not result in enlargement of the right. The proposed change would not result in injury to other water rights.
11. The application map contains an error in quantifying the acres of irrigation remaining in the NW ¼ NW¼ of section 18, T40S, R7W under Certificate 53632. The correct acreages remaining in the NW ¼, NW ¼ of section 18, T40S, R7W as per Certificate 53632 should be 24.17 ac within DLC 38, and 3.80 ac within DLC 37.

### Conclusions of Law

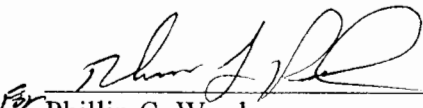
The proposed addition of a point of diversion, in application T-9724 is consistent with the requirements of ORS 537.705 and ORS 540.505 to 540.580 and OAR 690-380-5000.

### Now, therefore, it is ORDERED:

1. The additional point of diversion as proposed in application T-9724 is approved.
2. Water right certificates 53116 and 53632 are cancelled. New certificates 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 Certificates 53116 and 53632 and any related decree.
4. The proposed change shall be completed on or before October 1, 2006.
5. A Claim of Beneficial Use prepared by a Certified Water Rights Examiner shall be submitted by the applicant to the Department by October 1, 2007.
6. The quantity of water diverted at the additional 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.

7. Prior to diverting water, 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. The water user shall install and maintain a fish screen or fish by-pass device, as appropriate, at the new point of diversion. 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 Department of Fish and Wildlife's cost-sharing program for installation of screening and by-pass devices in accordance with ORS 540.525.
9. When satisfactory proof of the completed changes is received, new certificates confirming the rights transferred will be issued.

Dated at Salem, Oregon this 17<sup>th</sup> day of FEBRUARY, 2005.

  
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For Phillip C. Ward  
Director

MAR 04 2005

Mailing date: \_\_\_\_\_