

STATE OF OREGON

COUNTY OF UMATILLA

ORDER APPROVING A CHANGE IN PLACE OF USE,
A CHANGE IN POINT OF DIVERSION,
AND A CHANGE IN POINT OF APPROPRIATION

Pursuant to ORS 537.705 and 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 8303 submitted by

BOB HODNEFIELD
84301 MEHARRY ROAD
MILTON-FREEWATER, OREGON 97862

LEONARD BROWN
83803 YELLOW JACKET ROAD
MILTON-FREEWATER, OREGON 97862

The FIRST right to be modified was confirmed by decree of the Circuit Court of the State of Oregon for UMATILLA County as evidenced by Certificate 1705. The decree is recorded in the Order Record of the Water Resources Director in Volume 3, at Page 321. The date of priority is 1891.

The right allows the use of the SPRING BRANCH OF DUGGER CREEK, a tributary of DUGGER CREEK, for IRRIGATION OF 13.5 ACRES. The amount of water to which this right is entitled is limited to an amount actually beneficially used and shall not exceed a rate of flow of 0.17 cubic foot per second per acre irrigated from May 1 to September 1 of each year, or its equivalent in case of rotation; the total quantity diverted during each season not to exceed 40.5 acre feet.

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.

The SECOND right to be modified, as evidenced by a PORTION of Certificate 33206, was perfected under Permit G-397 with a date of priority of OCTOBER 17, 1956. The right allows the use of A WELL, within the DUGGER CREEK BASIN, for PRIMARY IRRIGATION OF 23.3 ACRES AND SUPPLEMENTAL IRRIGATION OF 13.5 ACRES. The amount of water to which this right is entitled is limited to an amount actually beneficially used and shall not exceed 0.46 cubic foot per second, if available at the authorized well; SW $\frac{1}{4}$ NW $\frac{1}{4}$, SECTION 32, T 6 N, R 35 E, W.M.; 1086.3 FEET NORTH AND 706.2 EAST FROM THE W $\frac{1}{4}$ CORNER OF SECTION 32, or its equivalent in case of rotation, measured at the well.

The amount of water used for irrigation, together with the amount secured under any other right existing on the same lands, is limited to ONE-EIGHTIETH 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 3.0 acre-feet per acre for each acre irrigated during the irrigation season of each year.

The THIRD right proposed to be modified, as evidenced by a PORTION of Certificate 65773, was perfected under Permit G-9405, with a date of priority of SEPTEMBER 22, 1980 AND AUGUST 6, 1981. The right allows the use of TWO WELLS, within the DUGGER CREEK BASIN, for PRIMARY IRRIGATION OF 4.5 ACRES AND SUPPLEMENTAL IRRIGATION OF 4.5 ACRES. The amount of water to which this right is entitled is limited to an amount actually beneficially used and shall not exceed 0.11 cubic foot per second, if available at the authorized wells; NW $\frac{1}{4}$ NW $\frac{1}{4}$, SW $\frac{1}{4}$ NW $\frac{1}{4}$, SECTION 32, T 6 N, R 35 E, W.M.; NORTHERLY WELL - 570 FEET SOUTH AND 1300 FEET EAST; WILLIAMS WELL - 1560 FEET SOUTH AND 700 FEET EAST; BOTH FROM THE NW CORNER OF SECTION 32, or its equivalent in case of rotation, measured at the wells.

The amount of water used for irrigation, together with the amount secured under any other right existing on the same lands, is limited to ONE-EIGHTIETH 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 3.0 acre-feet per acre for each acre irrigated during the irrigation season of each year. The right shall be limited to any deficiency in the available supply of any prior right for the same land and shall not exceed the limitation allowed herein.

The FOURTH right to be modified, is evidenced by a PORTION of Permit 43973, with a date of priority of September 28, 1978.

The right allows the use of water from the LITTLE WALLA WALLA RIVER, tributary to the WALLA WALLA RIVER and the WALLA WALLA RIVER, tributary to the COLUMBIA RIVER, for SUPPLEMENTAL IRRIGATION OF 9.0 ACRES. The amount of water to which this right is entitled is limited to not more than 0.26 CUBIC FOOT PER SECOND, or the equivalent in case of rotation, measured at the point of diversion from the source.

The amount of water used for irrigation shall be limited to 0.0375 of one cubic foot per second per acre, or its equivalent for each acre irrigated provided further that the right allowed herein shall be limited to any deficiency in the available supply of any prior right existing for the same land and shall not exceed the limitation allowed herein, provided further that the right acquired herein together with that under all other rights held by the company to the use of the Little Walla Walla River and the Tum-A-Lum River shall not exceed the capacity of the diversion works at the time of making proof of appropriation, and shall be subject to such reasonable rotation system as may be ordered by the proper state officer.

The authorized place of use for the above listed rights are described in TABLE A.

TABLE A

"FROM" Lands / Inventory - Authorized Place of Use (PLACE OF USE CHANGE ONLY)				
Certificate #	Priority Date	Tax Lot	Primary or Suppl.	Place of Use
1705	1891	402	Primary	NW¼ NW¼ 4.5 ACRES (North Portion)
33206	10/17/56	402	Supplemental	NW¼ NW¼ 4.5 ACRES (North Portion)
65773	9/22/80	402	Supplemental	NW¼ NW¼ 4.5 ACRES (North Portion)
Per # 43973	9/28/78	402	Supplemental	NW¼ NW¼ 4.5 ACRES (North Portion)
				Section 32 Township 6 North, Range 35 East, W.M.
				TOTAL = 4.5 acres (Attachment "A")

The right to use water for the above purposes 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 or permit.

The applicant proposes to move the water rights listed in Table A to the location listed in Table B.

TABLE B

"TO" Lands / Inventory - Proposed Place of Use (PLACE OF USE CHANGE ONLY)				
Certificate #	Priority Date	Tax Lot	Primary or Suppl.	Place of Use
1705	1891	401	Primary	NW¼ NW¼ 4.5 ACRES (South Portion)
33206	10/17/56	401	Supplemental	NW¼ NW¼ 4.5 ACRES (South Portion)
65773	9/22/80	401	Supplemental	NW¼ NW¼ 4.5 ACRES (South Portion)
Per # 43973	9/28/78	401	Supplemental	NW¼ NW¼ 4.5 ACRES (South Portion)
				Section 32 Township 6 North, Range 35 East, W.M.
				TOTAL = 4.5 acres (Attachment "A")

The applicant also proposes to CHANGE THE POINT OF DIVERSION for the new location of the 4.5 acres (Tax Lot 401) under primary right Certificate 1705 to:

NE¼ NW¼, SECTION 32, T 6 N, R 35 E, W.M.; 230 FEET SOUTH AND 1360 EAST FROM THE NW CORNER OF SECTION 32.

The applicant proposes to move the water rights listed in Table C to the location listed in Table D.

TABLE C

"FROM" Lands / Inventory - Authorized Place of Use (PLACE OF USE CHANGE ONLY)				
Certificate #	Priority Date	Tax Lot	Primary or Suppl.	Place of Use
65773	9/22/80	401	Primary	NW¼ NW¼ 4.5 ACRES (South Portion)
Per # 43973	9/28/78	401	Supplemental	NW¼ NW¼ 4.5 ACRES (South Portion)
				Section 32 Township 6 North, Range 35 East, W.M.
				TOTAL = 4.5 acres (Attachment "B")

The right to use water for the above purposes 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 or permit.

TABLE D

"TO" Lands / Inventory - Proposed Place of Use (PLACE OF USE CHANGE ONLY)				
Certificate #	Priority Date	Tax Lot	Primary or Suppl.	Place of Use
65773	9/22/80	402	Primary	NW¼ NW¼ 4.5 ACRES (North Portion)
Per # 43973	9/28/78	402	Supplemental	NW¼ NW¼ 4.5 ACRES (North Portion)
				Section 32 Township 6 North, Range 35 East, W.M.
				TOTAL = 4.5 acres (Attachment "B")

In addition, the applicant also proposes to CHANGE THE POINT OF DIVERSION for the 9.0 acres (Tax Lot 401) under primary right Certificate 1705 to:

NE¼ NW¼, SECTION 32, T 6 N, R 35 E, W.M.; 230 FEET SOUTH AND 1360 EAST FROM THE NW CORNER OF SECTION 32.

The applicant also proposes to modify another portion of water right Certificate 33206, for the lands described as follows:

NE $\frac{1}{4}$ NW $\frac{1}{4}$ 23.3 ACRES (PRIMARY IRRIGATION)
NW $\frac{1}{4}$ NW $\frac{1}{4}$ 9.0 ACRES (SUPPLEMENTAL IRRIGATION)
SECTION 32
TOWNSHIP 6 SOUTH, RANGE 35 EAST, W.M.

The applicant is requesting to change the point of appropriation for the above listed lands from the Williams Well located within the SW $\frac{1}{4}$ NW $\frac{1}{4}$, Section 32, T 6 N, R 35 E, W.M., to a point located:

NORTHERLY WELL - NW $\frac{1}{4}$ NW $\frac{1}{4}$, SECTION 32, T 6 N, R 35 E, W.M.;
570 FEET SOUTH AND 1300 EAST FROM THE NW CORNER OF SECTION 32.

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. 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.
3. Oregon Department of Fish and Wildlife reports that there exists a large diversion dam on Dugger Creek downstream from the applicant's property which blocks salmonids from entering Dugger Creek. Should the above mentioned diversion dam be removed or modified to allow fish passage into Dugger Creek, a fish screen or by-pass device will then be required and approved by ODFW prior to construction.
4. The former places of use shall no longer be irrigated as a part of this water right.
5. Water shall be acquired from the same aquifer as the original point of appropriation.
6. Water shall be acquired from the same surface water source as the original point of diversion.

Certificates 1705, 33206, and 65773 are canceled. New certificates will be issued to confirm those portions of the rights NOT involved in this transfer. The remaining right certificate issued for the lands under Certificate 33206 NOT involved in this transfer rights will also reflect those lands remaining from the partial cancellation per the provisions of an order entered August 18, 1981, recorded in Special Order Volume 35, Page 103. 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 DECEMBER 17, 2003.



Paul R. Cleary, Director