

STATE OF OREGON

COUNTY OF UMATILLA

ORDER APPROVING A CHANGE IN HISTORIC POINT OF DIVERSION  
AND A PARTIAL CANCELLATION OF  
WATER RIGHT CERTIFICATES 21755 AND 13098

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 9481 submitted by

JOHN D. AND JANE MAUER  
54059 MAUER  
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 a PORTION of Certificate 13098. The decree is recorded in the Order Record of the Water Resources Director in Volume 12, at Page 9. The date of priority is 1906.

The right allows the use of TUMALUM RIVER, a tributary of COLUMBIA RIVER, for IRRIGATION OF 9.0 ACRES. The amount of water to which this right is entitled is limited to an amount actually beneficially used and shall not exceed ONE AND ONE-HALF miner's inches per acre, if available at the authorized point of diversion: NE $\frac{1}{4}$  NE $\frac{1}{4}$ , SECTION 24, T 6 N, R 35 E, W.M., or its equivalent in case of rotation, measured at the point of diversion from the source.

**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 authorized place of use is located as follows:

SW¼ NE¼        5.5 ACRES (TAX LOT 513)  
SW¼ NE¼        3.5 ACRES (TAX LOT 502)  
SECTION 24  
TOWNSHIP 6 NORTH, RANGE 35 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 change the point of diversion to:

SW¼ NE¼, SECTION 24, T 6 N, R 35 E, W.M.; 580 FEET NORTH AND 1290 FEET EAST FROM CENTER CORNER, SECTION 24.

On DECEMBER 18, 2003, affidavits for the above described right were received from JOHN D. AND JANE MAUER AND RONALD GALE AND TERI LYNNE ROBINS, owners of certain land and the water right appurtenant to it. A portion of the water right in addition to the 9.0 acres described has been abandoned and is requested to be canceled.

The abandoned portion is located as follows:

SW¼ NE¼        1.14 ACRES  
SECTION 24  
TOWNSHIP 6 NORTH, RANGE 35 EAST, W.M.

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 an order canceling the water right."

The SECOND right to be modified, as evidenced by A PORTION OF Certificate 21755, was perfected under Permit 19303 with a date of priority of March 14, 1950. The right allows the use of SPRING BRANCH, a tributary of WALLA WALLA RIVER, for SUPPLEMENTAL

IRRIGATION OF 1.14 ACRES. The amount of water to which this portion of the right is entitled is limited to an amount actually beneficially used and shall not exceed 0.04 cubic foot per second, measured at the point of diversion from the source.

On DECEMBER 18, 2003, affidavits for the above described right were received from JOHN D. AND JANE MAUER AND RONALD GALE AND TERI LYNNE ROBINS, owners of certain land and the water right appurtenant to it. The water right has been abandoned and is requested to be canceled.

The abandoned portion is located as follows:

SW¼ NE¼ 1.14 ACRES  
SECTION 24  
TOWNSHIP 6 NORTH, RANGE 35 EAST, W.M.

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 an order canceling the water right."

PROPOSED CHANGE OF POINT OF DIVERSION TO THE WATER RIGHT MAY BE MADE PROVIDED THE FOLLOWING CONDITIONS ARE MET BY THE WATER USER:

1. 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, 2005.
2. 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.
3. 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.

4. 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.
5. Water shall be acquired from the same surface water source as the original point of diversion.
6. 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.

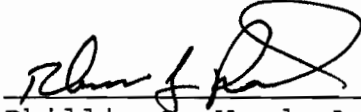
The water user may participate in the Oregon Department of Fish and Wildlife's cost sharing program for installation of screening and by-pass devices in accordance with ORS 540.525.

The abandoned water rights evidenced by Certificates 13098 and 21755 requested to be canceled are canceled.

Certificates 13098 and 21755 are canceled. New certificates will be issued to confirm those portions of the rights NOT involved in this transfer. A new certificate listing the new point of diversion for this water right will be issued.

WITNESS the signature of the Water Resources

Director, affixed September 8, 2004.

  
Phillip C. Ward, Acting Director