

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

In the Matter of Transfer Application)	FINAL ORDER APPROVING
T-8680, Union County, Oregon)	ADDITIONAL POINTS OF
)	DIVERSION, CHANGES IN PLACE OF
)	USE, AND PARTIAL CANCELLATION
)	OF 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

ALICEL IRRIGATION DISTRICT
65101 IMBLER ROAD
COVE, OR 97824

Findings of Fact

1. On February 5, 2001, Alicel Irrigation District filed a transfer application to add points of diversion and change the place of use, under Certificates 32356, 40821, 41063 and 41162. The Department assigned the application number T-8680. Revised maps were submitted on August 5, 2005, December 21, 2005 and December 29, 2005. Greg Blackman, of Bagett, Griffith & Blackman, is authorized to act as an agent on the applicant's behalf.
2. The first right to be transferred is as follows:
Certificate: 32356 in the name of MONICA KINNEL (perfected under Permit S-27541)
Use: IRRIGATION of 256.41 ACRES
Priority Date: JUNE 19, 1961
Rate: 2.62 CUBIC FEET PER SECOND (CFS) to be diverted from unnamed slough when available and any deficiency in the available supply in unnamed slough is to be made up by diversion from Grande Ronde River, providing that the total quantity diverted from both streams shall not exceed 1/40th cfs for each acre irrigated.
Limit/Duty: ONE-FORTIETH cfs 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 for each acre irrigated during the irrigation season of each year; provided further that the right to use is limited to the period when the flow of the Lower Grande Ronde River is more than 300.0 cfs at USGS Gage No. 3325 and more than 420.0 cfs at USGS Gage No. 3330.

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: AN UNNAMED SLOUGH AND GRANDE RONDE RIVER, tributary to SNAKE RIVER

Authorized Points of Diversion:

Twp	Rng	Mer	Sec	Q-Q	Source	Survey Coordinates
2 S	39 E	WM	4	NE SE	Grande Ronde River	Not specified. This POD is also known as POD #3:
2 S	39 E	WM	4	NW SE	Unnamed Slough	Not specified. This POD is also known as POD #4.

Authorized Place of Use:

IRRIGATION						
Twp	Rng	Mer	Sec	Q-Q	Acres	Change
2 S	39 E	WM	4	SW NE	36.45	Add POD ONLY
2 S	39 E	WM	4	SE NW	37.64	Add POD ONLY
2 S	39 E	WM	4	NE SW	34.79	Add POD ONLY
2 S	39 E	WM	4	NE SW	0.50	POU/Add POD
2 S	39 E	WM	4	SE SW	34.22	Add POD ONLY
2 S	39 E	WM	4	NW SE	27.15	Add POD ONLY
2 S	39 E	WM	4	SW SE	11.52	Add POD ONLY
2 S	39 E	WM	9	NW NE	36.31	Add POD ONLY
2 S	39 E	WM	9	NE NW	37.83	Add POD ONLY

3. Application T-8680 proposes to add a point of diversion approximately 3/4 mile downstream to:

Twp	Rng	Mer	Sec	Q-Q	Source	Survey Coordinates
2 S	39 E	WM	4	NE SE	Grande Ronde River	POD #2: 1470 FEET NORTH AND 950 FEET WEST FROM SE CORNER OF SECTION 33

4. Application T-8680 also proposes to change the place of use of the right to:

IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
1 S	39 E	WM	32	SW SE	0.50

5. The second right to be transferred is as follows:

Certificate: 40821 in the name of GAIL TALBOTT (perfected under Permit S-29200)

Use: IRRIGATION of 199.3 ACRES

Priority Date: JUNE 27, 1963

Rate: 4.78 CUBIC FEET PER SECOND

Limit/Duty: ONE-FORTIETH of one cfs for each acre or its equivalent for each acre irrigated from direct flow 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 from direct flow and storage from reservoir constructed under Permit No. R-3883; provided further that the right to use direct flow is limited to the period when the flow of the Lower Grande Ronde River is more than 300 cfs at USGS Gage No. 3325 and more than 420 cfs at the Oregon-Washington border.

Source: GRANDE RONDE RIVER AND RUCKMAN'S RESERVOIR, tributary to SNAKE RIVER

Authorized Points of Diversion:

Twp	Rng	Mer	Sec	Q-Q	Source	Survey Coordinates
1 S	39 E	WM	33	NE SE	Grande Ronde River	1470 FEET NORTH AND 950 FEET WEST FROM SE CORNER OF SECTION 33; also known as POD #2
1S	39 E	WM	33	SE SW	Ruckman's Reservoir	600 FEET NORTH AND 2890 FEET WEST FROM SE CORNER OF SECTION 33; also known as POD #1

Authorized Place of Use:

IRRIGATION						
Twp	Rng	Mer	Sec	Q-Q	Acres	Change
1 S	39 E	WM	33	SW SW	40.00	Add POD
1 S	39 E	WM	33	SE SW	32.00	Add POD
1 S	39 E	WM	33	SW SE	11.40	Add POD
2 S	39 E	WM	4	NW NE	36.30	Add POD
2 S	39 E	WM	4	NE NW	39.60	Add POD
2 S	39 E	WM	4	NW NW	40.00	Add POD

6. Application T-8680 proposes to add a point of diversion approximately 3/4 mile upstream to:

Twp	Rng	Mer	Sec	Q-Q	Source	Survey Coordinates
2 S	39 E	WM	4	NE SE	Grande Ronde River	POD #3: 2850 FEET SOUTH AND 4750 FEET EAST FROM NW CORNER OF SECTION 4

7. The third right to be transferred is as follows:

Certificate: 41063 in the name of GAIL TALBOTT (perfected under Permit S-32231)

Use: IRRIGATION of 313.1 ACRES

Priority Date: DECEMBER 19, 1966

Rate: 3.79 CUBIC FEET PER SECOND

Limit/Duty: ONE-FORTIETH of one cfs per acre or its equivalent for each acre irrigated from direct flow and shall be further limited to a diversion of not to exceed 3.0 acre-feet per acre per year for each acre irrigated during the irrigation season of each year from direct flow and storage from reservoir constructed under Permit number R-3883

Source: GRANDE RONDE RIVER AND RUCKMAN RESERVOIR, tributary to SNAKE RIVER

Authorized Points of Diversion:

Twp	Rng	Mer	Sec	Q-Q	Source	Survey Coordinates
1 S	39 E	WM	33	SE SW	Grande Ronde River	1470 FEET NORTH AND 950 FEET WEST FROM SE CORNER OF SECTION 33; also known as POD #2
1 S	39 E	WM	33	NE SE	Ruckman's Reservoir	600 FEET NORTH AND 2890 FEET WEST FROM SE CORNER OF SECTION 33; also known as POD #1

Authorized Place of Use:

IRRIGATION						
Twp	Rng	Mer	Sec	Q-Q	Acres	Change
1 S	39 E	WM	32	SE SE	40.00	Add POD ONLY
2 S	39 E	WM	4	SW NW	40.60	Add POD ONLY
2 S	39 E	WM	4	NW SW	40.00	Add POD ONLY
2 S	39 E	WM	5	NE NE	36.80	Add POD ONLY
2 S	39 E	WM	5	SW NE	36.60	Add POD ONLY
2 S	39 E	WM	5	SW NE	3.00	POU/Add POD
2 S	39 E	WM	5	SE NE	34.50	Add POD ONLY
2 S	39 E	WM	5	SE NE	3.00	POU/Add POD
2 S	39 E	WM	5	SE NW	37.00	Add POD ONLY
2 S	39 E	WM	5	SE NW	3.00	POU/Add POD
2 S	39 E	WM	5	NE SE	38.60	Add POD ONLY

- 8 Application T-8680 proposes to add a point of diversion approximately 3/4 mile upstream to:

Twp	Rng	Mer	Sec	Q-Q	Source	Survey Coordinates
2 S	39 E	WM	4	NE SE	Grande Ronde River	POD #3: 2850 FEET SOUTH AND 550 FEET WEST FROM NE CORNER OF SECTION 4

9. Application T-8680 also proposes to change the place of use of the right to:

IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
1 S	39 E	WM	32	SW SE	9.00

10. The fourth right to be transferred is as follows:

Certificate: 41162 in the name of ROBERT R. & SHARON K. BECK (perfected under Permit S-32156)

Use: IRRIGATION of 155.2 ACRES

Priority Date: MAY 27, 1966

Rate: 2.0 CUBIC FEET PER SECOND, being 0.66 CFS FROM THE SLOUGH and 1.34 CFS FROM THE RIVER

Limit/Duty: ONE-FORTIETH cfs per acre, not to exceed 3.0 acre-feet per acre per year

Source: GRANDE RONDE RIVER and UNNAMED SLOUGH, tributary to SNAKE RIVER

Authorized Points of Diversion:

Twp	Rng	Mer	Sec	Q-Q	Source	Survey Coordinates
2 S	39 E	WM	4	NE SE	Grande Ronde River	2450 FEET NORTH AND 4750 FEET EAST FROM SW CORNER OF SECTION 4; also known as POD #3
2 S	39 E	WM	4	NW SE	Unnamed Slough	1320 FEET NORTH AND 3125 FEET EAST FROM SW CORNER OF SECTION 4; also known as POD #4

Authorized Place of Use:

IRRIGATION						
Twp	Rng	Mer	Sec	Q-Q	Acres	Change
2 S	39 E	WM	4	SW SW	32.40	Add POD ONLY
2 S	39 E	WM	4	SW SW	3.60	POU/Add POD
2 S	39 E	WM	5	SE SE	40.00	Add POD ONLY
2 S	39 E	WM	8	NE NE	39.60	Add POD ONLY
2 S	39 E	WM	9	NW NW	39.60	Add POD ONLY

11. Application T-8680 proposes to add a point of diversion approximately 3/4 mile downstream to:

Twp	Rng	Mer	Sec	Q-Q	Source	Survey Coordinates
2 S	39 E	WM	4	NE SE	Grande Ronde River	POD #2: 1470 FEET NORTH AND 950 FEET WEST FROM SE CORNER OF SECTION 33

12. Application T-8680 also originally proposed to change the place of use for 2.1 acres under Certificate 41162. However, the applicant modified the transfer application map to request a place of use change for 3.6 acres under Certificate 41162 as follows:

IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
1 S	39 E	WM	32	SW SE	3.60

13. Notice of the application for transfer was published on February 13, 2001, 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.
14. Notice of the preliminary determination for the transfer application was published on the Department's weekly notice on March 7, 2006, and in a local newspaper on March 15, 22 and 29, 2006, pursuant to ORS 540.520 and OAR 690-380-4020. No protests were filed in response to the Department's weekly notice or to the newspaper notice.
15. Water has been used within the last five years according to the terms and conditions of the rights, and no evidence is available that would demonstrate that the rights are subject to forfeiture under ORS 540.610.
16. A pump, pipeline, and sprinkler system sufficient to use the full amount of water allowed under the existing right are present.
17. The proposed change would not result in enlargement of the right.
18. The proposed change would not result in injury to other water rights.
19. The following location coordinates, which are identified throughout this final order, all accurately describe the same point of diversion, being POD #3: 2850 feet south and 4750 feet east from the NW corner of Section 4 (as described in Finding #6); 2850 feet south and 550 feet west from the NE corner of Section 4 (as described in Finding #8); and 2450 feet north and 4750 feet east from the SW corner of Section 4 (as described in Finding #10).

Partial Cancellation of a Water Right

20. An affidavit for partial cancellation of a water right was received from Rob and Patricia Beck as follows:

Certificate: 41063 in the name of GAIL TALBOTT

Use: IRRIGATION

Priority Date: DECEMBER 19, 1966

Source: GRANDE RONDE RIVER AND RUCKMAN RESERVOIR (constructed under Permit R-3883), tributary to SNAKE RIVER

Authorized Points of Diversion:

Twp	Rng	Mer	Sec	Q-Q	Source	Survey Coordinates
1 S	39 E	WM	33	NE SE	Grande Ronde River	1470 FEET NORTH AND 950 FEET WEST FROM SE CORNER OF SECTION 33
1 S	39 E	WM	33	SE SW	Ruckman Reservoir	600 FEET NORTH AND 2890 FEET WEST FROM SE CORNER OF SECTION 33

Authorized Place of Use to be cancelled:

IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
2 S	39 E	WM	5	SE NE	0.60

Conclusions of Law

The changes in place of use and additional points of diversion proposed in application T-8680 are consistent with the requirements of ORS 540.505 to 540.580 and OAR 690-380-5000.

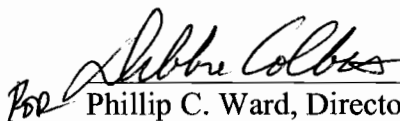
That portion of the right evidenced by Water Right Certificate 41063 has been abandoned in accordance with the provisions of ORS 540.621.

Now, therefore, it is ORDERED:

1. The changes in place of use and additional points of diversion proposed in application T-8680 are approved.
2. 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 32356, 40821, 41063 and 41162 and any related decree.
3. The portion of Water Right Certificate 41063 described in Finding #20 above is cancelled.
4. Water Right Certificates 32356, 40821, 41063 and 41162 are cancelled.
5. The approved changes 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.

6. When satisfactory proof of the completed changes is received, new certificates confirming the rights transferred will be issued.
7. The quantity of water diverted at the additional points of diversion, together with that diverted at the original points of diversion, shall not exceed the quantity of water lawfully available at the original points of diversion.
8. The former place of use of the transferred water shall no longer receive water as part of these rights.
9. 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.
10. 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.

Dated at Salem, Oregon this 25th day of May 2006.


Phillip C. Ward, Director

Mailing date: JUN 01 2006