

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

In the Matter of Point of Diversion Transfer        )   CORRECTING FINAL ORDER  
T-7489, Certificates 2951, 2962, 2963, 2965,        )  
3003, 3004, 3010, 3011, 3046, 3066, 3070,         )  
3071, 3124, 3134, 3135, 3136, 3137, 3138,         )  
3190, 8765, 21985, 34496, 41165, 41175,         )  
57661, 64462, 72625, Wallowa County,             )  
Oregon   )

The Lower Valley Improvement District submitted an application to transfer the points of diversions for certificates of water rights 2951, 2962, 2963, 2965, 3003, 3004, 3010, 3011, 3046, 3066, 3070, 3071, 3124, 3134, 3135, 3136, 3137, 3138, 3190, 8765, 21985, 34496, 41165, 41175, 57661, 64462, and 72625. The Department issued an order approving the transfer on April 23, 1997. The order was filed at Special Order Volume 51, pages 398 to 412.

Subsequent to issuance of the order, the Department identified the following scrivener's errors:

**1. Descriptions of the following water rights were inadvertently omitted from the order:**

The twenty-sixth right to be modified was confirmed by decree of the Circuit Court of the State of Oregon for Wallowa County as evidenced by Certificate 2962. The decree is recorded in the Order Record of the Water Resources Director in Volume 5, at Page 149. The date of priority is 1890 for Tract No. 1 and 1884 for Tract No. 2.

The right allows the use of Wallowa River, a tributary of Grande Ronde River, for irrigation of 221.75 acres and stock. This right is limited to 1½ acre feet per acre during any period of 30 days prior to July 31<sup>st</sup> of each year and thereafter not to exceed 1 acre foot per acre during the entire remainder of the irrigation season, if available at the authorized point of diversion or its equivalent in case of rotation, measured at the points of diversion from the source. The authorized points of diversion are:

Tract 1 – Lower Valley Ditch – SW¼ NW¼, Section 11, Township 1 North, Range 42 East, W.M.; 1750 feet south and 800 feet east from NW corner, Section 11,

Tract 2 – Levi Rogers Ditch – NW¼ NW¼, Section 11, Township 1 North, Range 42 East, W.M.; 1200 feet south and 100 feet east from NW corner, Section 11.

The authorized place of use is located as follows:

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 137-004-080 and OAR 690-01-005 you may either petition for judicial review or petition the Director for reconsideration of this order.

TRACT NO. 1  
NW $\frac{1}{4}$  NE $\frac{1}{4}$  46.0 ACRES  
SECTION 3  
TOWNSHIP 1 NORTH, RANGE 42 EAST, W.M.

SE $\frac{1}{4}$  SW $\frac{1}{4}$  21.0 ACRES  
SW $\frac{1}{4}$  SE $\frac{1}{4}$  39.25 ACRES  
SE $\frac{1}{4}$  SE $\frac{1}{4}$  3.0 ACRES  
SECTION 34  
TOWNSHIP 2 NORTH, RANGE 42 EAST, W.M.

TRACT NO. 2  
SW $\frac{1}{4}$  SW $\frac{1}{4}$  32.5 ACRES  
SECTION 34  
  
S $\frac{1}{2}$  SE $\frac{1}{4}$  80.0 ACRES  
SECTION 33  
TOWNSHIP 2 NORTH, RANGE 42 EAST, W.M.

The twenty-seventh right to be modified was confirmed by decree of the Circuit Court of the State of Oregon for Wallowa County as evidenced by Certificate 3070. The decree is recorded in the Order Record of the Water Resources Director in Volume 5, at Page 176. The date of priority is 1890.

The right allows the use of Wallowa River, a tributary of Grande Ronde River, for irrigation of 40 acres and stock. This right is limited to 1 $\frac{1}{2}$  acre feet per acre during any period of 30 days prior to July 31<sup>st</sup> of each year and thereafter not to exceed 1 acre foot per acre during the entire remainder of the irrigation season, if available at the authorized point of diversion: Lower Valley Ditch – SW $\frac{1}{4}$  NW $\frac{1}{4}$ , Section 11, Township 1 North, Range 42 East, W.M.; 1750 feet south and 800 feet east from NW corner, Section 11; or its equivalent in case of rotation, measured at the point of diversion from the source.

The authorized place of use is located as follows:

NW $\frac{1}{4}$  NW $\frac{1}{4}$  40.0 ACRES  
SECTION 34  
TOWNSHIP 2 NORTH, RANGE 42 EAST, W.M.

**2. Descriptions of the following water rights contained errors:**

The order described the authorized point of diversion under the water right evidence by Certificate 2963 for the Tract No. 1 lands. However, a description of the authorized point of diversion for the Tract No. 2 lands was not included in the order. That diversion is the Levi Rogers Ditch – NW $\frac{1}{4}$  NW $\frac{1}{4}$ , Section 11, Township 1 North, Range 42 East, W.M.; 1200 feet south and 100 feet east from NW corner, Section 11

The lands irrigated under the water right evidenced by Certificate 3004 were described as being in the SW $\frac{1}{4}$  SW $\frac{1}{4}$ , Section 3, Township 1 North, Range 42 East, W.M. The lands are in the SE $\frac{1}{4}$  SW $\frac{1}{4}$ , Section 3, Township 1 North, Range 42 East, W.M.

The description of the water right evidenced by Certificate 3068 in the order includes lands that are not affected by the transfer. Transfer 7473, entered October 28, 1996, and recorded in Special Order Volume 50, Page 717 authorized a change in point of diversion for the Tract No. 1 lands. Certificate 3068 was cancelled and remaining right Certificate 72625 was issued for the Tract No. 2 lands. Only the lands now evidenced by Certificate 72625 are involved in Transfer 7489. These lands are as follows:

SW $\frac{1}{4}$  NW $\frac{1}{4}$  40.0 ACRES  
SECTION 3  
TOWNSHIP 1 NORTH, RANGE 42 EAST, W.M.

A portion of the lands irrigated under the water right evidenced by Certificate 3138 were described as being in the NE $\frac{1}{4}$  SW $\frac{1}{4}$ , Section 34, Township 2 North, Range 42 East, W.M. The lands are in the NE $\frac{1}{4}$  NW $\frac{1}{4}$ , Section 34, Township 2 North, Range 42 East, W.M.

The point of diversion for the water right evidenced by Certificate 8765 is described as being in the SE $\frac{1}{4}$  SW $\frac{1}{4}$ , Section 11, Township 1 North, Range 42 East, W.M. The authorized point of diversion is in the SE $\frac{1}{4}$  NW $\frac{1}{4}$ , Section 11, Township 1 North, Range 42 East, W.M.

The date of priority of the water right evidenced by Certificate 41165 is described as June 29, 1969. The date of priority of the right is June 29, 1964.

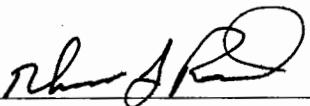
**3. The list of certificates cancelled is incomplete:**

The water rights evidenced by certificates 2962, 3070, 3134, and 72625 also are modified by the transfer and the certificates should be cancelled. Certificate 3068 is listed as cancelled, but was previously cancelled in the order approving T-7473.

**Now, therefore, it is ORDERED:**

The Special Order filed at Volume 51, pages 398 to 412 is modified to reflect the corrections described above. All other provisions of the original order are retained.

Dated at Salem, Oregon this 7<sup>th</sup> day of April, 2004.

  
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Paul R. Cleary  
Director