

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

In the Matter of Transfer Application)	FINAL ORDER APPROVING A
T-7994, Union County, Oregon)	CHANGE IN POINT OF DIVERSION
)	AND PARTIAL CANCELLATION OF
)	WATER RIGHTS

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

ORODELL CANAL COMPANY
C/O BILL WHITE
62876 MONROE LANE
LAGRANDE, OR 97850

Findings of Fact

1. On April 28, 1998, the Orodell Canal Company filed a transfer application for a Change in Point of Diversion under Certificates 3810, 6416, and 81616. The Department assigned the application number T-7994.

2. The first right to be transferred is as follows:

Certificate: 3810 in the name of B. A. Rogers (perfected under permit S-5222)

Use: Irrigation

Priority Date: August 26, 1921

Rate: 0.06 cubic foot per second (cfs)

Acres: 5.0 acres

Source: Grande Ronde River, tributary to Snake River

Authorized Point of Diversion:

Orodell Ditch

Authorized Place of Use:

Township		Range		Meridian	Sec	¼ ¼		Acres
2	S	38	E	W.M.	33	NE	NE	5.0

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.

3. The Department received information that better describes that the point of diversion as located at:

Township		Range		Meridian	Sec	¼ ¼	
2	S	38	E	W.M.	31	SW	SW

4. The portion of the second right to be transferred is as follows:

Certificate: 6416 in the name of Freeman Ladd (confirmed by the Grande Ronde River Decree)

Use: Irrigation

Priority Date: 1901

Rate: 1/40th cfs per acre not to exceed 3.0 acre-feet per acre in any irrigation season

Acres: 49.4 acres

Source: Grande Ronde River, tributary to Snake River

Authorized Point of Diversion:

Orodell Ditch

Authorized Place of Use:

Township		Range		Meridian	Sec	¼ ¼		Acres
2	S	38	E	W.M.	28	SW	SW	25.0
2	S	38	E	W.M.	33	NW	NW	24.4

5. The Department received information that better describes the point of diversion as located at:

Township		Range		Meridian	Sec	¼ ¼	
2	S	38	E	W.M.	31	SW	SW

6. The portion of the third right to be transferred is as follows:

Certificate: 81616 in the name of Orodell Ditch Association (confirmed by the Grande Ronde River Decree)

Use: Irrigation

Priority Date: 1872

Rate: 1/40th cfs per acre not to exceed 3.0 acre-feet per acre in any irrigation season

Acres: 554.1 acres

Source: Grande Ronde River, tributary to Snake River

Authorized Point of Diversion:

Township		Range		Meridian	Sec	¼ ¼		Location
2	S	38	E	W.M.	31	SW	SW	Orodell Ditch

Authorized Place of Use:

Township		Range		Meridian	Sec	¼ ¼		Acres
2	S	38	E	W.M.	27	SW	NW	10.0
2	S	38	E	W.M.	27	NE	SW	36.0

Township		Range		Meridian	Sec	¼ ¼		Acres
2	S	38	E	W.M.	27	NW	SW	39.0
2	S	38	E	W.M.	28	NE	NE	30.0
2	S	38	E	W.M.	28	SE	NE	30.0
2	S	38	E	W.M.	28	NE	SW	7.0
2	S	38	E	W.M.	28	SE	SW	37.5
2	S	38	E	W.M.	28	NE	SE	39.1
2	S	38	E	W.M.	28	NW	SE	10.0
2	S	38	E	W.M.	28	SW	SE	40.0
2	S	38	E	W.M.	29	SE	SE	4.5
2	S	38	E	W.M.	31	NE	NE	14.0
2	S	38	E	W.M.	31	SE	NE	39.4
2	S	38	E	W.M.	31	NE	SE	17.2
2	S	38	E	W.M.	32	NE	NE	26.3
2	S	38	E	W.M.	32	NW	NE	15.5
2	S	38	E	W.M.	32	SW	NE	33.8
2	S	38	E	W.M.	32	NE	NW	1.0
2	S	38	E	W.M.	32	SE	NW	39.1
2	S	38	E	W.M.	32	NE	SW	9.0
2	S	38	E	W.M.	32	NW	SW	22.5
2	S	38	E	W.M.	32	NW	SE	13.8
2	S	38	E	W.M.	33	NE	NE	10.0
2	S	38	E	W.M.	33	NE	NW	29.4

7. The survey coordinates describing the proposed point of diversion location under Transfer T-7994 (being 1858 feet south and 81 feet east from the west ¼ corner of Section 31) do not correspond to the point plotted on the transfer map, which measures approximately 1950 feet south and 81 feet east from the west ¼ corner of Section 31.

The Department has confirmed, however, that Transfer T-7994 proposes to utilize the same diversion point approved under Transfer Applications T-8382, T-8653, T-8905 and T-9327, all of which describe the point of diversion as being located approximately 1858 feet south and 81 feet east from the west ¼ corner of Section 31.

Therefore, the Department has determined that the proposed point of diversion survey coordinates described in Transfer Application T-7994 are correct, and that the point shown on the transfer map is simply plotted in the wrong spot.

8. Application T-7994 proposes to change the point of diversion approximately 1000 feet upstream in the source to:

Township		Range		Meridian	Sec	¼ ¼		Survey Coordinates
2	S	38	E	W.M.	31	SW	SW	1858 feet South and 81 feet East from the W¼ Corner of Section 31

9. Notice of the application for transfer was published on May 5, 1998, pursuant to ORS 540.520 and OAR 690-380-4000. No comments were filed in response to the notice.
10. The Oregon Department of Fish and Wildlife reported that the proposed diversion is already equipped with an appropriate fish-screening device.
11. As described in Finding #7 above, Transfer T-7994 proposes to utilize the same diversion point approved under Transfer Applications T-8382, T-8653, T-8905 and T-9327, for which the local Watermaster has indicated that an adequate headgate and measuring device is already in place.
12. 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.
13. A ditch system sufficient to use the full amount of water allowed under the existing rights are present.
14. The proposed change would not result in enlargement of the rights.
15. The proposed change would not result in injury to other water rights.
16. On June 16, 2006, the Department issued a preliminary determination proposing to approve Transfer T-7994 and mailed a copy to the applicant. Additionally, notice of the preliminary determination for the transfer application was published on the Department's weekly notice on June 27, 2006, pursuant to ORS 540.520 and OAR 690-380-4020. No protests were filed in response to the notice.

Partial Cancellation of Water Rights

17. An affidavit for partial cancellation of a water right was received from Union County as follows:

Certificate: 6416 in the name of Freeman Ladd

Use: Irrigation of 0.6 acres

Priority Date: 1901

Rate: 0.015 cubic foot per second

Limit/Duty: 1/40th cfs per acre, not to exceed 3.0 acre-feet per acre per year

Source: Grande Ronde River, tributary to Snake River

Authorized Point of Diversion:

Twp	Rng	Mer	Sec	Q-Q	Survey Coordinates
2 S	38 E	WM	31	SWSW	ORODELL DITCH

Authorized Place of Use to be cancelled:

IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
2 S	38 E	WM	33	NW NW	0.6

18. An affidavit for partial cancellation of a water right was received from Union County as follows:

Certificate: 81616 in the name of Orodell Ditch Association (formerly Certificate 81067)

Use: Irrigation of 13.9 acres

Priority Date: 1872

Rate: 0.35 cubic foot per second

Limit/Duty: 1/40th cfs per acre, not to exceed 3.0 acre-feet per acre per year

Source: Grande Ronde River, tributary to Snake River

Authorized Point of Diversion:

Twp	Rng	Mer	Sec	Q-Q	Survey Coordinates
2 S	38 E	WM	31	SW SW	ORODELL DITCH

Authorized Place of Use to be cancelled:

IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
2 S	38 E	WM	28	NE SE	0.90
2 S	38 E	WM	31	SE NE	0.60
2 S	38 E	WM	31	NE SE	3.00
2 S	38 E	WM	32	NE NE	1.00
2 S	38 E	WM	32	SW NE	2.00
2 S	38 E	WM	32	SE NW	0.90
2 S	38 E	WM	32	NE SW	1.10
2 S	38 E	WM	32	NW SW	1.10
2 S	38 E	WM	32	NW SE	3.00
2 S	38 E	WM	33	NE NW	0.30

Conclusions of Law

The change in point of diversion proposed in application T-7994 is consistent with the requirements of ORS 540.505 to 540.580, and OAR 690-380-5000. The portions of the rights evidenced by Certificates 6416 and 81616 identified in Findings of Fact #17 and #18 have been abandoned in accordance with the provisions of ORS 540.621.

Now, therefore, it is ORDERED:

1. The change in point of diversion proposed in application T-7994 is approved.
2. Water right certificates 3810, 6416 and 81616 are cancelled. New certificates will be issued describing the portions of the right evidenced by certificates 6416 and 81616 not involved in transfer T-7994 or abandoned.
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 3810, 6416 and 81616 and any related decree.
4. The portions of Water Right Certificates 6416 and 81616 described in Findings of Fact #17 and #18 above are cancelled and shall revert to the public.
5. The proposed change 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 water.
6. The quantity of water diverted at the new point of diversion shall not exceed the quantity of water lawfully available at the original point of diversion.
7. 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.
8. When satisfactory proof of the completed changes is received, new certificates confirming the rights transferred will be issued.

Dated at Salem, Oregon this 8th day of August 2006.

Debbie Colbert
Phillip C. Ward, Director FWP

Mailing date: Aug 11, 2006