

Authorized Point of Diversion:

Based upon the John Day River Decree and associated adjudication map, the tabulation describing the right recognizes and identifies a ditch and dam located:

Twp	Rng	Mer	Sec	Q-Q
13 S	34 E	WM	26	SE NE

Authorized Place of Use:

Twp	Rng	Mer	Sec	Q-Q	Acres
13 S	34 E	W.M.	26	SW NE	2.0
13 S	34 E	W.M.	26	SE NW	6.3

- Application T-10209 proposes to change the point of diversion to reflect historical use approximately 600 feet downstream from the authorized point of diversion to a pump site located:

Twp	Rng	Mer	Sec	Q-Q	Survey Coordinates
13 S	34 E	WM	26	SW NE	LATITUDE: NORTH 44 DEGREES 24 MINUTES 42.9 SECONDS LONGITUDE: WEST 118 DEGREES 34 MINUTES 48.4 SECONDS

- Notice of the application for transfer was published on July 25, 2006 pursuant to ORS 540.520 and OAR 690-380-4000. The Department did not receive any responses to that notice.
- The Oregon Department of Fish and Wildlife (ODFW) has determined that a fish screening and/or by-pass device is necessary at the new point of diversion to prevent fish from entering the diversion and/or safely transport fish back to the body of water from which the fish were diverted. ODFW furthered determined that the existing diversion is currently equipped with an appropriate fish screening and/or by-pass device.
- Pursuant to OAR 690-380-2120 (2)(c) the Watermaster provided a statement that to his knowledge there has been no complaint of injury due to the use of water at the actual, current point of diversion, prior to the transfer request.
- There were no affected water rights requiring proof of service by the applicant. Therefore no proof of service was provided.
- Water has been used within the last five years according to the terms and conditions of the right, and no evidence is available that would demonstrate that the right is subject to forfeiture under ORS 540.610.
- A diversion structure and ditch sufficient to use the full amount of water allowed under the existing right are present.
- The proposed change would not result in enlargement of the right.
- The proposed change would not result in injury to other water rights.

12. This transfer is being processed simultaneously with transfer application T-10210, also proposing to modify a portion of water right Certificate 25452.

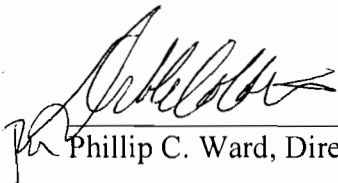
Conclusions of Law

The proposed change in point of diversion to reflect historical use in application T-10209 is consistent with the requirements of ORS 540.505 to 540.580 and OAR 690-380-5000.

Now, therefore, it is ORDERED:

1. The changes proposed in T-10209 are approved. The proposed change shall be effective immediately upon issuance of the special order approving T-10209.
2. Water right certificate 25452 is cancelled. Certificate 83478 will be issued to describe the change in point of diversion for the portion of the right included in T-10209. Certificate 83479 shall be issued to describe the portion of Certificate 25452 not modified by the final orders approving T-10209 and T-10210. Together Certificates 83478, 83479 and 83834 (which confirms a change in point of diversion under T-10210), shall supersede Certificate 25452.
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 Certificate 25452 and any related decree.
4. 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.
5. Prior to October 1, 2010, the water user shall install and maintain 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 measuring device must be approved by the Department prior to beginning construction and shall be installed under the general supervision of the Department. The water user shall maintain the existing headgate and shall make such improvements as may be required by the Department.
6. The water user shall maintain and operate a fish screening and/or fish by-pass device, as appropriate, at the new point of diversion, consistent with the Oregon Department of Fish and Wildlife operational and maintenance standards.

Dated at Salem, Oregon this 18 day of January 2007.



Phillip C. Ward, Director

Mailing Date FEB 08 2008