

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

In the Matter of Transfer Application) FINAL ORDER APPROVING A
T-7974, Baker County) CHANGE IN PLACE OF USE AND
) PARTIAL DIMINUTION 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.

Applicants		Agent
JOHN INMAN	ROGER INMAN	BRENT THOMPSON
51 SAN PEDRO ST	1511 BELLEOU WOOD DR	48363 HWY 30
SALINAS CA 93901	TALLAHASSEE, FL 32308	HAINES, OR 97833

Findings of Fact

1. On April 3, 1998, John Inman filed a transfer application to change the place of use under Certificates 1463, 1498, 13542, 34740, 34741, 51497, 66286, 81738 and 81740. The Department assigned the application number T-7974.
2. On February 8, 2006 T-7974 was amended to correct deficiencies.
3. The portion of the first right to be transferred is as follows:

Certificate: 1463 in the name of L.M. DOUGHERTY (confirmed by North Powder River decree)

Use: IRRIGATION of 5.0 ACRES, LIVESTOCK AND DOMESTIC

Priority Date: 1898

Rate: 0.13 cubic foot per second (cfs) from 3/1 to 7/1 and 0.06 cfs from 7/1 to 10/1 not to exceed 13.0 acre foot.

Source: NORTH POWDER RIVER, tributary to POWDER RIVER

Authorized Points of Diversion:

SMITH, MCPHEE AND TANNER DITCHES

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 137-004-0080, 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.

Authorized Place of Use:

IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
7 S	39 E	WM	10	SE SE	5.00

4. The department received documentation that better describes the location of the point of diversion for Smith McPhee and Tanner Ditch. The location is as follows:

Twp	Rng	Mer	Sec	Q-Q	Survey Coordinates
6 S	39 E	WM	32	NW SW	SMITH, MCPHEE & TANNER DITCH; 1500 feet North and 500 feet East from SW Corner, Section 32

5. Application T-7974 proposes to change the place of use of the right to:

IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
7 S	39 E	WM	10	SE SW	4.00
7 S	39 E	WM	10	SW SE	1.00

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

Certificate: 1498 in the name of G.W. NEILL (confirmed by North Powder River decree)

Use: IRRIGATION of 192.0 ACRES, and LIVESTOCK

Priority Date: 1901

Rate: 4.8 cubic feet per second (cfs) from March 1st to July 1st and 2.4 cfs from July 1st to October 1st of each year not to exceed 480 acre-feet.

Source: NORTH POWDER RIVER, tributary to POWDER RIVER

Authorized Point of Diversion:

Twp	Rng	Mer	Sec	Q-Q	Survey Coordinates
6 S	38 E	WM	36	SE SW	KELSEY WILSON DITCH

Authorized Place of Use:

IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
7 S	39 E	WM	10	NE SW	20.00
7 S	39 E	WM	10	NW SW	32.00
7 S	39 E	WM	10	SW SW	40.00
7 S	39 E	WM	10	SE SW	20.00
7 S	39 E	WM	15	NE NW	40.00
7 S	39 E	WM	15	NW NW	40.00

7. The department received documentation that better describes the location of the point of diversion for the Kelsey Wilson ditch. The location is as follows:

Twp	Rng	Mer	Sec	Q-Q	Survey Coordinates
6 S	38 E	WM	36	SE SW	KELSEY WILSON DITCH; 950 feet North and 2450 feet East from SW Corner, Section 36

8. Application T-7974 proposes to change the place of use of the right and diminish a portion of the right to:

IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
7 S	39 E	WM	10	NE SW	27.40
7 S	39 E	WM	10	NW SW	29.60
7 S	39 E	WM	10	SW SW	7.60
7 S	39 E	WM	10	SE SW	4.00
7 S	39 E	WM	10	NW SE	20.20
7 S	39 E	WM	10	SW SE	1.50
7 S	39 E	WM	15	NE NW	23.00
7 S	39 E	WM	15	NW NW	29.90

SUPPLEMENTAL IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
7 S	39 E	WM	10	NE SW	8.80
7 S	39 E	WM	10	SE SW	7.60
7 S	39 E	WM	15	NW NE	32.40

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

Certificate: 13542 in the name of ARMAND W PERKINS (perfected under Permit S-14197)

Use: IRRIGATION of 94.70 ACRES and SUPPLEMENTAL IRRIGATION, 25.10 ACRES

Priority Date: MARCH 8, 1940

Rate: 3.0 cfs

Limit/Duty: 1/40 cfs per acre, for each acre irrigated

Source: POWDER RIVER AND WATER STORED IN RESERVOIR UNDER PERMIT NO. R-745, tributary to POWDER RIVER

Authorized Point of Diversion:

Twp	Rng	Mer	Sec	Q-Q
7 S	39 E	WM	10	SE SE
7 S	39 E	WM	11	NE SW

Authorized Place of Use:

IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
7 S	39 E	WM	10	SW SE	17.50
7 S	39 E	WM	10	SE SE	20.00
7 S	39 E	WM	11	NW SW	4.60
7 S	39 E	WM	11	SW SW	12.00
7 S	39 E	WM	15	NE NE	4.60
7 S	39 E	WM	15	NW NE	36.00

SUPPLEMENTAL IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
7 S	39 E	WM	10	SE SW	0.10
7 S	39 E	WM	10	SW SE	8.00
7 S	39 E	WM	10	SE SE	5.00
7 S	39 E	WM	15	NE NW	12.00

10. The department received documentation that better describes the location of the points of diversion. The locations are:

Twp	Rng	Mer	Sec	Q-Q	Survey Coordinates
7 S	39 E	WM	10	SE SE	1560 feet North and 1440 feet from the SW Corner, Section 10
7 S	39 E	WM	11	NE SW	580 feet North and 500 feet West from the SE Corner, Section 11

11. Application T-7974 proposes to change the place of use of the right to:

IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
7 S	39 E	WM	10	NE SW	10.10
7 S	39 E	WM	10	NW SW	8.00
7 S	39 E	WM	10	SW SW	29.00
7 S	39 E	WM	10	SE SW	20.50
7 S	39 E	WM	15	NE NW	16.80
7 S	39 E	WM	15	NW NW	10.10
7 S	39 E	WM	15	NE SW	0.20

SUPPLEMENTAL IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
7 S	39 E	WM	10	NE SW	1.40
7 S	39 E	WM	10	SE SW	19.50
7 S	39 E	WM	10	SW SE	4.20

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

Certificate: 34740 in the name of MARION INMAN (perfected under Permit S-30385)

Use: IRRIGATION of 19.0 ACRES

Priority Date: APRIL 16, 1965

Rate: 0.48 cfs

Limit/Duty: 1/40 cfs per acre, not to exceed 4.0 acre-feet per acre per year

Source: NORTH POWDER RIVER, tributary to POWDER RIVER

Authorized Point of Diversion:

Twp	Rng	Mer	Sec	Q-Q	Survey Coordinates
6 S	38 E	WM	36	SE SW	KELSEY WILSON DITCH: 350 feet South and 190 feet West from NE Corner, SESW, Section 36

Authorized Place of Use:

IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
7 S	39 E	WM	10	NW SW	6.00
7 S	39 E	WM	16	NE NE	13.00

13. Application T-7974 proposes to change the place of use of the right to:

IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
7 S	39 E	WM	10	NE SE	2.00
7 S	39 E	WM	10	NW SE	4.00
7 S	39 E	WM	16	NE NE	13.00

14. The fifth right to be transferred is as follows:

Certificate: 34741 in the name of MARION INMAN (perfected under Permit S-30386)

Use: IRRIGATION of 99.0 ACRES

Priority Date: APRIL 16, 1965

Rate: 2.17 cfs

Limit/Duty: 1/40 cfs per acre, not to exceed 3.50 acre-feet per acre per year

Source: POWDER RIVER, tributary to SNAKE RIVER

Authorized Point of Diversion:

Twp	Rng	Mer	Sec	Q-Q	Survey Coordinates
7 S	39 E	WM	10	SE SE	1230 feet South and 190 feet East from E1/4 Corner, Section 10
7 S	39 E	WM	11	NW SW	2100 feet South and 530 feet West from E1/4 Corner, Section 10

Authorized Place of Use:

IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
7 S	39 E	WM	10	NE SE	15.20
7 S	39 E	WM	10	SE SE	2.60
7 S	39 E	WM	11	NW SW	22.40
7 S	39 E	WM	11	SW SW	14.40
7 S	39 E	WM	14	NW NW	34.00
7 S	39 E	WM	15	NE NE	10.40

15. Application T-7974 proposes to change the place of use of the right to:

IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
7 S	39 E	WM	10	NW SE	6.40
7 S	39 E	WM	10	SW SE	33.40
7 S	39 E	WM	10	SE SE	22.50
7 S	39 E	WM	15	NE NE	4.30
7 S	39 E	WM	15	NW NE	32.40

16. The portion of the sixth right to be transferred is as follows:

Certificate: 51497 in the name of OSCAR JACOBSEN (confirmed by Powder River decree)

Use: IRRIGATION of 93.0 ACRES

Priority Date: 1893 for 14.7 acres and 1899 for 78.3 acres

Rate: 2.33 cfs from 3/1-7/1 and 1.16 cfs from 7/1-10/1 not to exceed 232 acre feet.

Source: NORTH POWDER RIVER, tributary to POWDER RIVER

Authorized Points of Diversion:

SMITH, MCPHEE AND TANNER DITCHES

Authorized Place of Use:

IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
7 S	39 E	WM	10	NE SW	20.00
7 S	39 E	WM	10	SE SW	20.00
7 S	39 E	WM	10	NE SE	5.00
7 S	39 E	WM	10	NW SE	40.00
7 S	39 E	WM	10	SW SE	8.00

17. The department received documentation to clearly identify the location of the authorized POD located at:

Twp	Rng	Mer	Sec	Q-Q	Survey Coordinates
6 S	39 E	WM	32	NW SW	SMITH, MCPHEE & TANNER DITCH; 1500 feet North and 500 feet East from SW Corner, Section 32

18. Application T-7974 proposes to change the place of use of the right and diminish a portion of the 1899 right to:

IRRIGATION						
Twp	Rng	Mer	Sec	Q-Q	Acres	Priority
7 S	39 E	WM	10	SE SW	11.50	1893
7 S	39 E	WM	10	SW SE	3.20	1893

SUPPLEMENTAL						
Twp	Rng	Mer	Sec	Q-Q	Acres	Priority
7 S	39 E	WM	10	NE SW	1.30	1899
7 S	39 E	WM	10	NW SW	8.00	1899
7 S	39 E	WM	10	SW SW	29.00	1899
7 S	39 E	WM	10	SE SW	12.90	1899
7 S	39 E	WM	15	NW NE	0.20	1899
7 S	39 E	WM	15	NE NW	16.80	1899
7 S	39 E	WM	15	NW NW	10.10	1899

19. The seventh right to be transferred is as follows:

Certificate: 66286 in the name of JOHN INMAN (perfected under Permit S-49893)

Use: PRIMARY IRRIGATION of 19.10 ACRES, AND SUPPLEMENTAL IRRIGATION OF 204.70 ACRES

Priority Date: JULY 14, 1986

Rate: 5.59 cfs

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

Source: WARM SPRINGS CREEK, tributary to POWDER RIVER

Authorized Point of Diversion:

Twp	Rng	Mer	Sec	Q-Q	Survey Coordinates
7 S	39 E	WM	6	NE SE	1390 feet North and 1220 feet West from SE Corner, Section 6

Authorized Place of Use:

IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
7 S	39 E	WM	16	NE NE	19.10

SUPPLEMENTAL IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
7 S	39 E	WM	10	NE SW	35.70
7 S	39 E	WM	10	NW SW	36.80
7 S	39 E	WM	10	SW SW	37.80
7 S	39 E	WM	10	SE SW	30.20
7 S	39 E	WM	10	NW SE	15.70
7 S	39 E	WM	10	SW SE	2.60
7 S	39 E	WM	15	NE NW	6.80
7 S	39 E	WM	15	NW NW	26.50
7 S	39 E	WM	16	NE NE	12.60

20. Application T-7974 proposes to change the place of use of the right to:

IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
7 S	39 E	WM	16	NE NE	19.10

SUPPLEMENTAL IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
7 S	39 E	WM	10	NE SW	36.50
7 S	39 E	WM	10	NW SW	21.90
7 S	39 E	WM	10	SW SW	33.60
7 S	39 E	WM	10	SE SW	40.00
7 S	39 E	WM	10	NW SE	10.00
7 S	39 E	WM	10	SW SE	5.70
7 S	39 E	WM	15	NW NE	0.20
7 S	39 E	WM	15	NE NW	16.80
7 S	39 E	WM	15	NW NW	40.00

21. The portion of the eighth right to be transferred is as follows:

Certificate: 81738 in the name of MARION C INMAN (perfected under Permit S-44618)

Use: SUPPLEMENTAL IRRIGATION of 148.50 ACRES.

Priority Date: DECEMBER 14, 1979

Rate: 8.0 ACRE FEET STORED WATER ONLY FROM INMAN RESERVOIR FOR SUPPLEMENTAL IRRIGATION

Limit/Duty: 1/40 of one cfs per acre, not to exceed 3.5 acre feet per acre from STORAGE FROM INMAN RESERVOIR CONSTRUCTED UNDER PERMIT R-5295

Source: INMAN RESERVOIR ENLARGED UNDER PERMIT R-5295, tributary to POWDER R

Authorized Point of Diversion:

Twp	Rng	Mer	Sec	Q-Q	Survey Coordinates
7 S	39 E	WM	10	NW SE	1040 feet South and 800 feet East from the Center, Section 10

Authorized Place of Use:

SUPPLEMENTAL IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
7 S	39 E	WM	10	SE SW	6.20
7 S	39 E	WM	10	NW SE	2.70
7 S	39 E	WM	10	SW SE	37.00
7 S	39 E	WM	10	SE SE	25.00
7 S	39 E	WM	11	SW SW	0.20
7 S	39 E	WM	15	NE NE	4.60
7 S	39 E	WM	15	NW NE	33.60
7 S	39 E	WM	15	NE NW	31.20
7 S	39 E	WM	15	NW NW	8.00

22. Application T-7974 proposes to change the place of use of the right to:

SUPPLEMENTAL IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
7 S	39 E	WM	10	NE SW	11.50
7 S	39 E	WM	10	NW SW	14.10
7 S	39 E	WM	10	SW SW	33.60
7 S	39 E	WM	10	SE SW	40.00
7 S	39 E	WM	10	SW SE	4.20
7 S	39 E	WM	15	NW NE	0.20
7 S	39 E	WM	15	NE NW	16.80
7 S	39 E	WM	15	NW NW	28.10

23. The ninth right to be transferred is as follows:

Certificate: 81740 in the name of MARION C INMAN (perfected under Permit S-33518)

Use: IRRIGATION of 11.50 ACRES AND SUPPLEMENTAL IRRIGATION OF 137.0 ACRES

Priority Date: APRIL 23, 1968

Rate: 0.5 cfs

Limit/Duty: 1/40 of one cfs per acre, not to exceed 3.50 acre-feet per acre FROM DIRECT FLOW AND STORAGE FROM INMAN RESERVOIR CONSTRUCTED UNDER PERMIT R-5295

Source: UNNAMED DRAW AND INMAN RESERVOIR CONSTRUCTED UNDER PERMIT R-5295, tributary to POWDER R

Authorized Point of Diversion:

Twp	Rng	Mer	Sec	Q-Q	Survey Coordinates
7 S	39 E	WM	10	NW SE	1040 feet South and 800 feet East from C1/4 Corner, Section 10

Authorized Place of Use:

IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
7 S	39 E	WM	10	SW SE	11.50

SUPPLEMENTAL IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
7 S	39 E	WM	10	SE SW	6.20
7 S	39 E	WM	10	NW SE	2.70
7 S	39 E	WM	10	SW SE	25.50
7 S	39 E	WM	10	SE SE	25.00
7 S	39 E	WM	11	SW SW	0.20
7 S	39 E	WM	15	NE NE	4.60
7 S	39 E	WM	15	NW NE	33.60
7 S	39 E	WM	15	NE NW	31.20
7 S	39 E	WM	15	NW NW	8.00

24. Application T-7974 proposes to diminish 11.5 acres of Primary Irrigation to Supplemental irrigation and change the place of use of the right to:

SUPPLEMENTAL					
Twp	Rng	Mer	Sec	Q-Q	Acres
7 S	39 E	WM	10	NE SW	11.50
7 S	39 E	WM	10	NW SW	14.10
7 S	39 E	WM	10	SW SW	33.60
7 S	39 E	WM	10	SE SW	40.00
7 S	39 E	WM	10	SW SE	4.20
7 S	39 E	WM	15	NW NE	0.20
7 S	39 E	WM	15	NE NW	16.80
7 S	39 E	WM	15	NW NW	28.10

25. Notice of the application for transfer was published on August 25, 1998 pursuant to ORS 540.520 and OAR 690-380-4000. No comments were filed in response to the notice.
26. Water has been used within the five years prior to filing of the application 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.
27. Diversion structures and ditches sufficient to use the full amount of water allowed under the existing rights are present.
28. The proposed change would not result in enlargement of the rights.
29. The proposed change would not result in injury to other water rights.
30. On May 25, 2006, the Department issued a preliminary determination proposing to approve Transfer T-7974 and mailed a copy to the applicants. Additionally, notice of the preliminary determination for the transfer application was published on the Department's weekly notice on May 30, 2006, pursuant to ORS 540.520 and OAR 690-380-4020. Newspaper notice was not required. No protests were filed in response to the Department's weekly notice.

Conclusions of Law


The proposed changes in place of use in application T-7974 appear are consistent with the requirements of ORS 540.505 to 540.580, and OAR 690-380-5000.

Now, therefore, it is ORDERED:

1. The proposed changes in place of use in application T-7974 are approved.
2. Water right certificates 51497, 1463, 1498, 13542, 34740, 34741, 66286, 81738 and 81740 are cancelled. New certificates will be issued describing the portions of the rights evidenced by certificates 51497, 1463, and 81738 not involved in this transfer.

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 1463, 1498, 13542, 34740, 34741, 51497, 66286, 81738 and 81740 and any related decree.
4. The approved changes shall be completed and full beneficial use of the water shall be made on or before **October 1, 2008**. 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.
5. The former place of use of the transferred water shall no longer receive water as part of these rights.
6. Prior to diverting water for the new places of use, the water user shall install and maintain a headgates, in-line flow meters, weirs, or other suitable devices for measuring and recording the quantity of water diverted. The type and plans of the headgates and measuring devices must be approved by the Department prior to beginning construction and shall be installed under the general supervision of the Department.
7. When satisfactory proof of the completed changes is received, new certificates confirming the rights transferred will be issued.

Dated at Salem, Oregon this 11th day of July 2006.



Phillip C. Ward, Director

Mailing date: JUL 13 2006