



**Authorized Point of Diversion:**

Township		Range		Meridian	Sec	¼ ¼		Survey Coordinates
7	S	38	E	W.M.	34	NE	SW	Hunstock-Meyers Ditch - 2580 feet North and 2600 feet East from the SW corner of Section 34

**Authorized Place of Use:**

Township		Range		Meridian	Sec	¼ ¼		Acres
8	S	39	E	W.M.	7	SW	NE	16.0

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

**Certificate:** 66549 in the name of Mary L. Hunstock (confirmed by Powder River decree)

**Use:** Irrigation of 28.7 acres

**Priority Date:** 1868

**Quantity:** 0.72 cubic foot per second

**Rate/Duty:** One-fortieth of one cfs per acre

**Source:** Rock Creek, tributary to the Powder River

**Authorized Point of Diversion:**

Township		Range		Meridian	Sec	¼ ¼	
7	S	38	E	W.M.	34	NW	SE

**Authorized Place of Use:**

Township		Range		Meridian	Sec	¼ ¼		Acres
8	S	39	E	W.M.	7	NW	NE	23.0
8	S	39	E	W.M.	7	SW	NE	5.7

4. The Department received information that better describes the location of the point of diversion for Certificate 66549 at:

Township		Range		Meridian	Sec	¼ ¼		Survey Coordinates
7	S	38	E	W.M.	34	NE	SW	Hunstock - Meyers Ditch - 2580 feet North and 2600 feet East from the SW corner of Section 34

5. Application T-10200 proposes to add a point of diversion to Certificates 66549 and 72217 reflecting historic use at:

Township		Range		Meridian	Sec	¼ ¼		Survey Coordinates
7	S	38	E	W.M.	34	NW	SW	Brown - Delong Ditch - 3567 feet South and 5087 feet West from the NE corner of Section 34

6. Notice of the application for transfer was published on June 27, 2006, pursuant to ORS 540.520 and OAR 690-380-4000. No comments were filed in response to the notice.
7. The Oregon Department of Fish and Wildlife has determined that a fish screening and/or by-pass device may be required in the future at the additional 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 and that the diversion is not currently equipped with an appropriate fish screening and/or by-pass device.
8. Pursuant to 690-380-2120 (2)(a) evidence has been submitted that the additional point of diversion for the water rights in question has been in use for more than 10 years. On November 7, 2006, Alan Maxwell provided a statement attesting that both points of diversion irrigated all lands described in Certificates 66549 and 72217.
9. Pursuant to 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 additional point of diversion, prior to the transfer request.
10. Pursuant to 690-380-2120 (4) notice was mailed to affected water right holders October 31, 2006.
11. 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.
12. A diversion structure and ditch sufficient to use the full amount of water allowed under the existing rights is present.
13. The proposed change would not result in enlargement of the rights.
14. The proposed change would not result in injury to other water rights.

### **Conclusions of Law**

The proposed additional point of diversion to reflect historic use in application T-10200 is consistent with the requirements of ORS 537.705 and 540.505 to 540.580 and OAR 690-380-5000.

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

1. The additional point of diversion proposed in application T-10200 is approved and shall be effective immediately upon issuance of this order.
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 66549, 72217, and any related decree.
3. Water Right Certificates 66549 and 72217 are canceled.

4. The quantity of water diverted at the historic additional point of diversion, together with that diverted at the authorized point of diversion, shall not exceed the quantity of water lawfully available at the original point of diversion.
5. Prior to October 1, 2008, 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.
6. Within one year after receiving written notification from the Oregon Department of Fish and Wildlife (ODFW) that a fish screening and/or by-pass device is required the water user shall install and maintain a fish screen or fish by-pass device, as appropriate, at the new point of diversion. The fish screening and/or by-pass device must meet ODFW's design and construction standards. Prior to installation, the water user shall obtain written approval from ODFW that the required screening and/or by-pass device meets ODFW's criteria. Once installed the water user shall maintain and operate the fish screening and/or by-pass device, as appropriate, at the point of diversion consistent with ODFW's operational and maintenance standards.
7. Certificate 82969 shall be issued to confirm the right described by Certificates 66549 and 72217 changed by application T-10200 under the terms of this order.

Dated at Salem, Oregon this 20<sup>th</sup> day of December 2006.

  
Phillip C. Ward, Director *PCW*

Mailing Date DEC 26 2006