

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

In the Matter of Transfer Application) FINAL ORDER APPROVING
T-11088, Wallowa County) CHANGES IN POINT OF DIVERSION

Authority

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

Minam Lake Reservoir Association
1120 SE Florence
Enterprise, OR 97828

Agent

Grande Ronde Model Watershed
1114 J Avenue
LaGrande, OR 97850

Findings of Fact

Background

1. On June 8, 2010, MINAM LAKE RESERVOIR ASSOCIATION filed an application to change the point of diversion under Certificates 11642, 11999, 14526, 41074, 41177, 41283, 41376, 41637, 54099, 55031, 57556, 58694, 64780, 65550, 79892, and 80877. The Department assigned the application number T-11088.

2. The first right to be transferred is as follows:
 - Certificate:** 11642 in the name of CROSS COUNTRY CANAL CO. (perfected under Permit S-11695)
 - Use:** SUPPLEMENTAL IRRIGATION of 3544.95 ACRES
 - Priority Date:** JUNE 6, 1935
 - Rate:** 88.63 CUBIC FEET PER SECOND
 - Limit/Duty:** The amount of water used for irrigation, together with the amount secured under any other right existing for the same lands, shall not exceed 1.5 acre feet per acre during any thirty-day period from May 1, to July 31, and thereafter shall not exceed 1 acre foot per acre for the remainder of the irrigation season ending October 1, and the total quantity allowed under

This final order is subject to judicial review by the Court of Appeals under ORS 183.482. Any petition for judicial review must be filed within the 60-day time period specified by ORS 183.482(1). Pursuant to ORS 536.075 and OAR 137-003-0675, you may 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.

this and any other right for these lands described herein shall not at any time exceed the quantity of water allowed herein.

Source: WALLOWA RIVER, tributary to the GRANDE RONDE RIVER

Authorized Point of Diversion:

Twp	Rng	Mer	Sec	Q-Q	POD Name
1 S	43 E	WM	11	NW SE	Cross Country Canal

Authorized Place of Use:

SUPPLEMENTAL IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
1 N	42 E	WM	13	NW SW	2.0
1 N	42 E	WM	13	SE SW	5.0
1 N	42 E	WM	14	NE SE	30.0
1 N	42 E	WM	14	NW SE	5.0
1 N	42 E	WM	14	SE SE	9.0
1 N	42 E	WM	23	NE NE	5.0
1 N	42 E	WM	24	NW NE	1.0
1 N	42 E	WM	24	SW NE	9.0
1 N	42 E	WM	24	NE NW	31.0
1 N	42 E	WM	24	NW NW	20.0
1 N	42 E	WM	24	SW NW	25.0
1 N	42 E	WM	24	SE NW	39.5
1 N	42 E	WM	24	NE SW	39.5
1 N	42 E	WM	24	NW SW	34.0
1 N	42 E	WM	24	SW SW	34.0
1 N	42 E	WM	24	SE SW	39.7
1 N	42 E	WM	24	NW SE	15.0
1 N	42 E	WM	24	SW SE	35.0
1 N	42 E	WM	25	NW NE	40.5
1 N	42 E	WM	25	SW NE	40.5
1 N	42 E	WM	25	SE NE	28.0
1 N	42 E	WM	25	NE NW	40.0
1 N	42 E	WM	25	NW NW	17.0
1 N	42 E	WM	25	SW NW	11.0
1 N	42 E	WM	25	SE NW	40.0
1 N	42 E	WM	25	NE SW	40.0
1 N	42 E	WM	25	NW SW	6.5
1 N	42 E	WM	25	SE SW	20.0
1 N	42 E	WM	25	NE SE	41.0
1 N	42 E	WM	25	NW SE	40.5
1 N	42 E	WM	25	SW SE	39.0
1 N	42 E	WM	25	SE SE	41.0
1 N	42 E	WM	36	NE NE	27.0
1 N	42 E	WM	36	NW NE	9.0
1 N	43 E	WM	28	NW NE	4.5
1 N	43 E	WM	28	SW NE	11.0
1 N	43 E	WM	28	NE NW	40.0
1 N	43 E	WM	28	NW NW	10.0
1 N	43 E	WM	28	SW NW	13.5
1 N	43 E	WM	28	SE NW	40.0
1 N	43 E	WM	28	NE SW	40.0

SUPPLEMENTAL IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
1 N	43 E	WM	28	NW SW	21.0
1 N	43 E	WM	28	SW SW	29.0
1 N	43 E	WM	28	SE SW	40.0
1 N	43 E	WM	28	NW SE	15.0
1 N	43 E	WM	28	SW SE	6.0
1 N	43 E	WM	29	NW SW	4.0
1 N	43 E	WM	29	SW SW	30.0
1 N	43 E	WM	29	SE SW	3.0
1 N	43 E	WM	30	NW NE	30.0
1 N	43 E	WM	30	SW NE	40.0
1 N	43 E	WM	30	SE NE	20.0
1 N	43 E	WM	30	NE NW	38.0
1 N	43 E	WM	30	NW NW	17.0
1 N	43 E	WM	30	SW NW	34.0
1 N	43 E	WM	30	SE NW	40.0
1 N	43 E	WM	30	NE SW	40.0
1 N	43 E	WM	30	NW SW	40.0
1 N	43 E	WM	30	SW SW	40.0
1 N	43 E	WM	30	SE SW	40.0
1 N	43 E	WM	30	NE SE	40.0
1 N	43 E	WM	30	NW SE	40.0
1 N	43 E	WM	30	SW SE	40.0
1 N	43 E	WM	30	SE SE	40.0
1 N	43 E	WM	31	NE NE	40.0
1 N	43 E	WM	31	NW NE	40.0
1 N	43 E	WM	31	SW NE	40.0
1 N	43 E	WM	31	SE NE	40.0
1 N	43 E	WM	31	NE NW	40.0
1 N	43 E	WM	31	NW NW	40.0
1 N	43 E	WM	32	NW NE	18.0
1 N	43 E	WM	32	SW NE	40.0
1 N	43 E	WM	32	SE NE	16.0
1 N	43 E	WM	32	NE NW	35.0
1 N	43 E	WM	32	NW NW	38.0
1 N	43 E	WM	32	SW NW	40.0
1 N	43 E	WM	32	SE NW	40.0
1 N	43 E	WM	32	NE SW	40.0
1 N	43 E	WM	32	NW SW	40.0
1 N	43 E	WM	32	SW SW	15.0
1 N	43 E	WM	32	SE SW	40.0
1 N	43 E	WM	32	NE SE	34.0
1 N	43 E	WM	32	NW SE	40.0
1 N	43 E	WM	32	SW SE	40.0
1 N	43 E	WM	32	SE SE	40.0
1 N	43 E	WM	33	NE NW	40.0
1 N	43 E	WM	33	NW NW	40.0
1 N	43 E	WM	33	SW NW	40.0
1 N	43 E	WM	33	SE NW	40.0
1 N	43 E	WM	33	NE SW	40.0
1 N	43 E	WM	33	NW SW	4.0

SUPPLEMENTAL IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
1 N	43 E	WM	33	SW SW	9.0
1 N	43 E	WM	33	SE SW	40.0
1 S	43 E	WM	4	NW NE	21.0
1 S	43 E	WM	4	SW NE	24.5
1 S	43 E	WM	4	NE NW	25.0
1 S	43 E	WM	4	NW NW	27.0
1 S	43 E	WM	4	SW NW	38.0
1 S	43 E	WM	4	SE NW	6.0
1 S	43 E	WM	4	NE SW	13.5
1 S	43 E	WM	4	NW SW	40.0
1 S	43 E	WM	4	SW SW	40.0
1 S	43 E	WM	4	SE SW	37.0
1 S	43 E	WM	4	NE SE	22.0
1 S	43 E	WM	4	NW SE	34.0
1 S	43 E	WM	4	SW SE	16.0
1 S	43 E	WM	4	SE SE	40.0
1 S	43 E	WM	5	NE NE	42.0
1 S	43 E	WM	5	NW NE	42.0
1 S	43 E	WM	5	SW NE	35.0
1 S	43 E	WM	5	SE NE	40.0
1 S	43 E	WM	5	NE NW	40.0
1 S	43 E	WM	5	SE NW	35.0
1 S	43 E	WM	5	NE SW	8.0
1 S	43 E	WM	5	NE SE	40.0
1 S	43 E	WM	5	SE SE	40.0
1 S	43 E	WM	9	NW NE	12.0
1 S	43 E	WM	9	SW NE	3.0
1 S	43 E	WM	9	SE NE	10.0
1 S	43 E	WM	9	NE NW	3.0
1 S	43 E	WM	10	NW NE	38.0
1 S	43 E	WM	10	NE NW	28.7
1 S	43 E	WM	10	NW NW	29.5
Total Acres:					3544.95

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

Certificate: 11999 in the name of J.R. HENSLEY (perfected under Permit S-12467)
Use: IRRIGATION of 15.0 ACRES
Priority Date: FEBRUARY 15, 1937
Rate: 0.25 CUBIC FOOT PER SECOND
Limit/Duty: The amount of water used for irrigation, together with the amount secured under any other right existing for the same lands, shall be limited to ONE-FORTIETH of one cubic foot per second for each acre irrigated during any 30 day period from May 1 to July 31, and thereafter shall be limited to a diversion of not to exceed 1 acre foot per acre for each acre irrigated during the remainder of the irrigation season ending October 1, and shall

be further limited to a total diversion of not to exceed 0.25 cubic foot per second measured at the point of diversion from the stream.

Source: WALLOWA RIVER, tributary to the GRANDE RONDE RIVER

Authorized Point of Diversion:

Twp	Rng	Mer	Sec	Q-Q	POD Name
1 S	43 E	WM	11	NW SE	Cross Country Canal

Authorized Place of Use:

IRRIGATION						
Twp	Rng	Mer	Sec	Q-Q	GLot	Acres
1 S	43 E	WM	4	NW NE	2	11.0
1 S	43 E	WM	4	SW NE		4.0

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

Certificate: 14526 in the name of OSCAR F E GUSTAFSON; CHARLES GUSTAFSON (perfected under Permit S-14907)

Use: IRRIGATION of 72.0 ACRES

Priority Date: APRIL 24, 1941

Rate: 1.80 CUBIC FEET PER SECOND

Limit/Duty: The amount of water used for irrigation, together with the amount secured under any other right existing for the same lands, is limited to a diversion of not to exceed 1.5 acre feet per acre for each acre irrigated during any thirty-day period from May 1, to July 31, and thereafter shall be limited to a diversion of not exceed 1 acre foot per acre for each acre irrigated during the remainder of the irrigation season ending October 1.

Source: WALLOWA RIVER, tributary to the GRANDE RONDE RIVER

Authorized Point of Diversion:

Twp	Rng	Mer	Sec	Q-Q	POD Name
1 S	43 E	WM	11	NW SE	Cross Country Canal

Authorized Place of Use:

IRRIGATION						
Twp	Rng	Mer	Sec	Q-Q	Acres	
1 N	43 E	WM	31	SW NW	36.0	
1 N	43 E	WM	31	SE NW	36.0	

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

Certificate: 41074 in the name of EDITH HAUN CLARK (perfected under Permit S-34421)

Use: SUPPLEMENTAL IRRIGATION of 52.4 ACRES

Priority Date: MAY 16, 1969

Rate: 1.21 CUBIC FEET PER SECOND

Limit/Duty: The amount of water used for irrigation, together with the amount secured under any other right existing for the same lands, is limited to a diversion of ONE-FORTIETH of one cubic foot per second, or its equivalent for each acre irrigated, and shall be further limited to a diversion of not to exceed 3.5 acre-feet per acre for each acre irrigated during the irrigation season of each year.

Source: WALLOWA RIVER, tributary to the GRANDE RONDE RIVER

Authorized Point of Diversion:

Twp	Rng	Mer	Sec	Q-Q	Survey Coordinates
1 S	43 E	WM	11	SW SE	CROSS COUNTRY CANAL - 1260 FEET NORTH AND 3170 FEET EAST FROM THE SW CORNER OF SECTION 11

Authorized Place of Use:

SUPPLEMENTAL IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
1 S	43 E	WM	3	NE SW	18.9
1 S	43 E	WM	3	SW SW	33.5

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

Certificate: 41283 in the name of JOSEPH HAUN; HAUN, JAMES (perfected under Permit S-34777)

Use: SUPPLEMENTAL IRRIGATION of 89.9 ACRES

Priority Date: NOVEMBER 20, 1969

Rate: 1.70 CUBIC FEET PER SECOND

Limit/Duty: The amount of water used for irrigation, together with the amount secured under any other right existing for the same lands, is limited to a diversion of ONE-FORTIETH of one cubic foot per second per acre, or its equivalent for each acre irrigated, and shall be further limited to a diversion of not to exceed 3.5 acre-feet per acre for each acre irrigated during the irrigation season of each year; provided further that the right allowed herein shall be limited to any deficiency in the available supply of any prior right existing for the same land and shall not exceed the limitation allowed herein.

Source: WALLOWA RIVER, tributary to the GRANDE RONDE RIVER

Authorized Point of Diversion:

Twp	Rng	Mer	Sec	Q-Q	Survey Coordinates
1 S	43 E	WM	11	SW SE	CROSS COUNTRY CANAL - 1260 FEET NORTH AND 3170 FEET EAST FROM THE SW CORNER OF SECTION 11

Authorized Place of Use:

SUPPLEMENTAL IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
1 S	43 E	WM	3	NE SW	18.7
1 S	43 E	WM	3	SE SW	35.4
1 S	43 E	WM	3	NW SE	10.1
1 S	43 E	WM	3	SW SE	25.7

7. The sixth right to be transferred is as follows:

Certificate: 41637 in the name of JOSEPH/JAMES F HAUN (confirmed by Wallowa River Decree)

Use: IRRIGATION of 35.5 ACRES, DOMESTIC, AND STOCK

Priority Date: 1889

Limit/Duty: The amount of water to which such right is entitled, for the purposes aforesaid, is limited to an amount actually beneficially used for said purposes, and shall not exceed 1.5 acre feet per acre during any period of 30 days prior to July 31 of each year, and thereafter not to exceed 1 acre foot per acre during the entire remainder of the irrigation season; and said right shall be subject to all other conditions and limitations contained in said decree.

Source: WALLOWA RIVER, tributary to the GRANDE RONDE RIVER

Authorized Point of Diversion:

Twp	Rng	Mer	Sec	Q-Q	Survey Coordinates
1 S	43 E	WM	11	SW SE	CROSS COUNTRY CANAL - 1260 FEET NORTH AND 3170 FEET EAST FROM THE SW CORNER OF SECTION 11

Authorized Place of Use:

IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
1 S	43 E	WM	3	NW NW	4.0
1 S	43 E	WM	3	SW NW	14.0
1 S	43 E	WM	3	SE NW	17.5

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

Certificate: 54099 in the name of EDITH HAUN CLARK (perfected under Permit S-34108)

Use: IRRIGATION of 126.1 ACRES

Priority Date: APRIL 15, 1969

Rate: 2.2 CUBIC FEET PER SECOND

Limit/Duty: The amount of water used for irrigation, together with the amount secured under any other right existing for the same lands, shall be limited to ONE-FORTIETH of one cubic foot per second per acre, or its equivalent for each acre irrigated, and shall be further limited to a diversion of not to

exceed 3.5 acre-feet per acre for each acre irrigated during the irrigation season of each year.

Source: WALLOWA RIVER, tributary to the GRANDE RONDE RIVER

Authorized Point of Diversion:

Twp	Rng	Mer	Sec	Q-Q	Survey Coordinates
1 S	43 E	WM	11	NW SE	CROSS COUNTRY CANAL - 1350 FEET NORTH AND 410 FEET EAST FROM THE SW CORNER OF SECTION 11

Authorized Place of Use:

IRRIGATION						
Twp	Rng	Mer	Sec	Q-Q	GLot	Acres
1 N	43 E	WM	33	SE SE		15.3
1 S	43 E	WM	3	NW NW	4	1.1
1 S	43 E	WM	3	SW NW		10.3
1 S	43 E	WM	3	NW SW		31.8
1 S	43 E	WM	4	NE NE	1	32.9
1 S	43 E	WM	4	SE NE		34.7
Total:						126.1

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

Certificate: 55031 in the name of JOHN L MAGDEN (perfected under Permit S39472)

Use: IRRIGATION of 3.2 ACRES AND SUPPLEMENTAL IRRIGATION of 22.0 ACRES

Priority Date: JUNE 2, 1975

Rate: 0.63 CUBIC FOOT PER SECOND

Limit/Duty: The amount of water used for irrigation, together with the amount secured under any other right existing for the same lands, shall be limited to ONE-FORTIETH of one cubic foot per second per acre, or its equivalent for each acre irrigated, and shall be further limited to a diversion of not to exceed 3.5 acre-feet per acre for each acre irrigated during the irrigation season of each year.

Source: WALLOWA RIVER, tributary to the GRANDE RONDE RIVER

Authorized Point of Diversion:

Twp	Rng	Mer	Sec	Q-Q	Survey Coordinates
1 S	43 E	WM	11	NW SE	CROSS COUNTRY CANAL - 1350 FEET NORTH AND 410 FEET EAST FROM THE S 1/4 CORNER OF SECTION 11

Authorized Place of Use:

IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
1 S	43 E	WM	9	SE NE	3.2

SUPPLEMENTAL IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
1 S	43 E	WM	9	NE NE	21.0
1 S	43 E	WM	9	SE NE	1.0

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

Certificate: 57556 in the name of GEORGE D MCDANIEL (confirmed by Wallowa River Decree)
Use: IRRIGATION of 57.0 ACRES
Priority Date: 1890
Limit/Duty: The right is limited to not more than 1.5 acre feet per acre during any period of 30 days prior to July 31st of each year, and thereafter not to exceed 1.0 acre foot per acre during the entire remainder of the irrigation season, if available at the original point of diversion for the Slough ditch.
Source: WALLOWA RIVER, tributary to the GRANDE RONDE RIVER

Authorized Point of Diversion:

Twp	Rng	Mer	Sec	Q-Q	Survey Coordinates
1 S	43 E	WM	11	NW SE	CROSS COUNTRY CANAL - 1410 FEET NORTH AND 2970 FEET EAST FROM THE SW CORNER, SECTION 11

Authorized Place of Use:

IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
1 S	43 E	WM	11	SW NW	6.0
1 S	43 E	WM	11	NE SW	15.0
1 S	43 E	WM	11	NW SW	36.0

11. The tenth right to be transferred is as follows:

Certificate: 58694 in the name of GEORGE D MCDANIEL (perfected under Permit S-41090)
Use: IRRIGATION of 45.6 ACRES
Priority Date: DECEMBER 22, 1976
Rate: 1.14 CUBIC FEET PER SECOND
Limit/Duty: The amount of water used for irrigation, together with the amount secured under any other right existing for the same lands, shall be limited to ONE-FORTIETH of one cubic foot per second per acre, or its equivalent for each acre irrigated, and shall be further limited to a diversion of not to exceed 3.5 acre-feet per acre for each acre irrigated during the irrigation season of each year.

Source: WALLOWA RIVER, tributary to the GRANDE RONDE RIVER

Authorized Point of Diversion:

Twp	Rng	Mer	Sec	Q-Q	Survey Coordinates
1 S	43 E	WM	11	NW SE	CROSS COUNTRY CANAL - 1410 FEET NORTH AND 2970 FEET EAST FROM THE SW CORNER OF SECTION 11

Authorized Place of Use:

IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
1 S	43 E	WM	10	SE NE	11.0
1 S	43 E	WM	11	SW NW	16.7
1 S	43 E	WM	11	NE SW	13.0
1 S	43 E	WM	11	NW SW	1.4
1 S	43 E	WM	11	NW SE	3.5

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

Certificate: 65550 in the name of LOSTINE CEMETERY DISTRICT (perfected under Permit S-49490)

Use: IRRIGATION of 4.2 ACRES

Priority Date: JULY 3, 1985

Rate: 0.11 CUBIC FOOT PER SECOND

Limit/Duty: The amount of water used for irrigation, together with the amount secured under any other right existing for the same lands, shall be limited to ONE-FORTIETH of one cubic foot per second per acre, or its equivalent for each acre irrigated, and shall be further limited to a diversion of not to exceed 3.5 acre-feet per acre for each acre irrigated during the irrigation season of each year.

Source: WALLOWA RIVER, tributary to the GRANDE RONDE RIVER

Authorized Point of Diversion:

Twp	Rng	Mer	Sec	Q-Q	Survey Coordinates
1 S	43 E	WM	11	NW SE	CROSS COUNTRY CANAL - 1350 FEET NORTH AND 410 FEET EAST FROM THE SOUTH 1/4 CORNER OF SECTION 11

Authorized Place of Use:

IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
1 S	43 E	WM	3	NW SW	4.2

13. The twelfth right to be transferred is as follows:

Certificate: 80877 in the name of CHAMBERLAIN DITCH CO. (perfected under Permit S-36047)

Use: IRRIGATION of 114.2 ACRES AND SUPPLEMENTAL IRRIGATION of 1408.4 ACRES

Priority Date: AUGUST 18, 1971

Rate: 38.06 CUBIC FEET PER SECOND

Limit/Duty: The amount of water used for irrigation, together with the amount secured under any other right existing for the same lands, is limited to ONE-FORTIETH of one cubic foot per second per acre, or its equivalent for each acre irrigated, and shall be further limited to a diversion of not to exceed 3.5 acre-feet per acre for each acre irrigated during the irrigation season of each year.

Source: WALLOWA RIVER, tributary to the GRANDE RONDE RIVER

Authorized Point of Diversion:

Twp	Rng	Mer	Sec	Q-Q	Survey Coordinates
1 S	43 E	WM	11	SW SE	CROSS COUNTRY CANAL - 1260 FEET NORTH AND 3170 FEET EAST FROM THE SW CORNER OF SECTION 11

Authorized Place of Use:

IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
1 N	42 E	WM	4	SW SE	1.2
1 N	42 E	WM	8	SE NE	2.7
1 N	42 E	WM	9	NE NE	2.8
1 N	42 E	WM	9	NW NE	36.2
1 N	42 E	WM	9	SW NW	1.2
1 N	42 E	WM	9	NW SW	4.7
1 N	42 E	WM	10	NW NW	4.4
1 N	42 E	WM	10	NE SW	3.3
1 N	42 E	WM	10	SE SW	18.8
1 N	42 E	WM	10	NE SE	15.8
1 N	42 E	WM	10	SW SE	3.5
1 N	42 E	WM	10	SE SE	2.5
1 N	42 E	WM	11	NW SW	0.6
1 N	42 E	WM	14	NW NW	5.0
1 N	42 E	WM	14	SW NW	2.5
1 N	42 E	WM	15	NW NE	4.0
1 N	42 E	WM	15	SW NE	2.1
1 N	42 E	WM	15	NW SE	2.1
1 N	42 E	WM	16	NE NW	0.8
Total:					114.2

SUPPLEMENTAL IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
1 N	42 E	WM	4	SW SW	34.4
1 N	42 E	WM	4	SE SW	23.8
1 N	42 E	WM	4	SW SE	2.7
1 N	42 E	WM	4	SE SE	0.2
1 N	42 E	WM	5	SE SE	16.9
1 N	42 E	WM	8	NE NE	2.0
1 N	42 E	WM	9	NE NE	25.0
1 N	42 E	WM	9	NW NE	1.0

SUPPLEMENTAL IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
1 N	42 E	WM	9	SW NE	40.0
1 N	42 E	WM	9	SE NE	40.0
1 N	42 E	WM	9	NE NW	40.0
1 N	42 E	WM	9	NW NW	39.0
1 N	42 E	WM	9	SW NW	34.0
1 N	42 E	WM	9	SE NW	39.7
1 N	42 E	WM	9	NE SW	23.0
1 N	42 E	WM	9	SE SW	9.0
1 N	42 E	WM	9	NE SE	39.8
1 N	42 E	WM	9	NW SE	39.8
1 N	42 E	WM	9	SW SE	40.0
1 N	42 E	WM	9	SE SE	40.0
1 N	42 E	WM	10	SW NE	30.9
1 N	42 E	WM	10	SE NE	30.2
1 N	42 E	WM	10	NE NW	7.2
1 N	42 E	WM	10	NW NW	15.8
1 N	42 E	WM	10	SW NW	38.4
1 N	42 E	WM	10	SE NW	35.0
1 N	42 E	WM	10	NE SW	36.0
1 N	42 E	WM	10	NW SW	38.4
1 N	42 E	WM	10	SW SW	38.6
1 N	42 E	WM	10	SE SW	20.0
1 N	42 E	WM	10	NE SE	19.7
1 N	42 E	WM	10	NW SE	38.9
1 N	42 E	WM	10	SW SE	26.0
1 N	42 E	WM	10	SE SE	10.6
1 N	42 E	WM	11	SW NW	9.6
1 N	42 E	WM	11	NW SW	5.3
1 N	42 E	WM	11	SW SW	9.1
1 N	42 E	WM	14	NW NW	15.2
1 N	42 E	WM	14	SW NW	13.5
1 N	42 E	WM	15	NE NE	15.3
1 N	42 E	WM	15	NW NE	20.7
1 N	42 E	WM	15	SW NE	24.5
1 N	42 E	WM	15	SE NE	36.6
1 N	42 E	WM	15	NE NW	39.9
1 N	42 E	WM	15	NW NW	39.0
1 N	42 E	WM	15	SW NW	39.7
1 N	42 E	WM	15	SE NW	40.0
1 N	42 E	WM	15	NE SW	9.6
1 N	42 E	WM	15	NW SW	40.0
1 N	42 E	WM	15	NW SE	2.4
1 N	42 E	WM	16	NE NE	40.0
1 N	42 E	WM	16	NW NE	30.5
1 N	42 E	WM	16	SW NE	4.0
1 N	42 E	WM	16	SE NE	37.5
1 N	42 E	WM	16	NE SE	20.0
					1408.4

14. Transfer Application T-11088 proposes to move the authorized point of diversion approximately 122 feet upstream to:

Twp	Rng	Mer	Sec	Q-Q	Survey Coordinates
1 S	43 E	WM	11	SW SE	CROSS COUNTRY CANAL - 1191 FEET NORTH AND 3270 FEET EAST FROM THE SW CORNER OF SECTION 11

15. The thirteenth right to be transferred is as follows:

Certificate: 41177 in the name of W.H. WOOD (perfected under Permit S-34521)
Use: IRRIGATION of 11.1 ACRES AND SUPPLEMENTAL IRRIGATION of 26.0 ACRES
Priority Date: JULY 9, 1969
Rate: 0.54 CUBIC FOOT PER SECOND
Limit/Duty: The amount of water used for irrigation, together with the amount secured under any other right existing for the same lands, shall be limited to ONE-FORTIETH of one cubic foot per second per acre, or its equivalent for each acre irrigated, and shall be further limited to a diversion of not to exceed 3.5 acre-feet per acre for each acre irrigated during the irrigation season of each year; provided further that the right allowed herein shall be limited to any deficiency in the available supply of any prior right existing for the same land and shall not exceed the limitation allowed herein.
Source: WALLOWA RIVER, tributary to the GRANDE RONDE RIVER

Authorized Points of Diversion:

Twp	Rng	Mer	Sec	Q-Q	Survey Coordinates
1 S	43 E	WM	2	SW SW	580 FEET NORTH AND 20 FEET EAST FROM THE SW CORNER OF SECTION 2
1 S	43 E	WM	11	SW SE	1260 FEET NORTH AND 3170 FEET EAST FROM THE SW CORNER OF SECTION 11

Authorized Place of Use:

IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
1 S	43 E	WM	2	SW SW	3.9
1 S	43 E	WM	3	SE SE	7.2

SUPPLEMENTAL IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
1 S	43 E	WM	3	SE SE	2.0
1 S	43 E	WM	10	NE NE	24.0

16. Transfer Application T-11088 proposes to move the authorized Cross Country Canal point of diversion for all the rights approximately 122 feet upstream (leaving all other diversion points for the rights unchanged):

Twp	Rng	Mer	Sec	Q-Q	Survey Coordinates
1 S	43 E	WM	11	SW SE	CROSS COUNTRY CANAL - 1191 FEET NORTH AND 3270 FEET EAST FROM THE SW CORNER OF SECTION 11

17. The fourteenth right to be transferred is as follows:

Certificate: 41376 in the name of DONALD G. IMSLAND (perfected under Permit S-33521)

Use: IRRIGATION of 77.7 ACRES

Priority Date: APRIL 24, 1968

Rate: 1.94 CUBIC FEET PER SECOND from Lostine River with any deficiency in the available supply from the Lostine River to be made up by appropriation of not to exceed 1.38 cubic feet per second from Wallowa River provided that the total quantity diverted from both sources shall not exceed 1.94 cubic feet per second.

Limit/Duty: The amount of water used for irrigation, together with the amount secured under any other right existing for the same lands, is limited to ONE-FORTIETH of one cubic foot per second per acre, or its equivalent for each acre irrigated, and shall be further limited to a diversion of not to exceed 3.5 acre-feet per acre for each acre irrigated during the irrigation season of each year.

Source: WALLOWA RIVER, tributary to the GRANDE RONDE RIVER

Authorized Points of Diversion:

Twp	Rng	Mer	Sec	Q-Q	Survey Coordinates
1 S	43 E	WM	9	NE NE	530 FEET SOUTH AND 880 FEET WEST FROM THE NE CORNER OF SECTION 9
1 S	43 E	WM	11	SW SE	CROSS COUNTRY CANAL - 1260 FEET NORTH AND 3170 FEET EAST FROM THE SW CORNER OF SECTION 11

Authorized Place of Use:

IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
1 N	43 E	WM	28	NE NE	5.7
1 N	43 E	WM	28	NW NE	23.8
1 N	43 E	WM	28	SW NE	9.4
1 N	43 E	WM	28	SE NE	21.1
1 N	43 E	WM	28	NE SE	15.0
1 N	43 E	WM	28	NW SE	2.7

18. Transfer Application T-11088 proposes to move the authorized Cross Country Canal point of diversion for all the rights approximately 122 feet upstream (leaving all other diversion points for the rights unchanged):

Twp	Rng	Mer	Sec	Q-Q	Survey Coordinates
1 S	43 E	WM	11	SW SE	CROSS COUNTRY CANAL - 1191 FEET NORTH AND 3270 FEET EAST FROM THE SW CORNER OF SECTION 11

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

Certificate: 64780 in the name of PERRY JOHNSTON (perfected under Permit S-37956)

Use: IRRIGATION of 45.0 ACRES

Priority Date: MARCH 29, 1973 for 0.025 CUBIC FOOT PER SECOND, JUNE 25, 1973 for 1.10 CUBIC FEET PER SECOND

Rate: 1.125 CUBIC FEET PER SECOND

Limit/Duty: The amount of water used for irrigation, together with the amount secured under any other right existing for the same lands, shall be limited to ONE-FORTIETH of one cubic foot per second per acre, or its equivalent for each acre irrigated, and shall be further limited to a diversion of not to exceed 3.5 acre-feet per acre for each acre irrigated during the irrigation season of each year.

Source: LAZY 3 CREEK, tributary to the LOSTINE RIVER, with any deficiency in supply to be diverted from the WALLOWA RIVER, tributary to GRANDE RONDE RIVER.

Authorized Points of Diversion:

Twp	Rng	Mer	Sec	Q-Q	Survey Coordinates
1 N	43 E	WM	32	NW NE	LAZY 3 CREEK DIV 1 - 10 FEET SOUTH AND 2020 FEET EAST FROM THE SW CORNER OF SECTION 29
1 N	43 E	WM	32	NE NW	LAZY 3 CREEK DIV 2 - 200 FEET SOUTH AND 2700 FEET WEST FROM THE NE CORNER, OF SECTION 32
1 N	43 E	WM	32	NW NE	LAZY 3 CREEK DIV 3 - 380 FEET SOUTH AND 1870 FEET WEST FROM THE NE CORNER OF SECTION 32
1 S	43 E	WM	11	SW SE	CROSS COUNTRY DITCH - 1350 FEET NORTH AND 410 FEET EAST FROM THE SOUTH 1/4 CORNER OF SECTION 11

Authorized Place of Use:

IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
1 N	43 E	WM	29	SE SW	32.1
1 N	43 E	WM	29	SW SE	4.6
1 N	43 E	WM	32	NW NE	7.3
1 N	43 E	WM	32	NE NW	1.0

20. Transfer Application T-11088 proposes to move the authorized Cross Country Canal point of diversion for all the rights approximately 122 feet upstream (leaving all other diversion points for the rights unchanged):

Twp	Rng	Mer	Sec	Q-Q	Survey Coordinates
1 S	43 E	WM	11	SW SE	CROSS COUNTRY CANAL - 1191 FEET NORTH AND 3270 FEET EAST FROM THE SW CORNER OF SECTION 11

21. The sixteenth right to be transferred is as follows:

Certificate: 79892 in the name of GEORGE E. & WESLEY G. PARKER (perfected under Permit S-12623)

Use: IRRIGATION of 5.0 ACRES

Priority Date: APRIL 30, 1937

Rate: 0.123 CUBIC FOOT PER SECOND

Limit/Duty: The amount of water used for irrigation, together with the amount secured under any other right existing for the same lands, is limited to ONE-FORTIETH of one cubic foot per second per acre from Lostine and Wallowa Rivers, provided that water shall be appropriated from Wallowa River only during those periods when there is an insufficient quantity available from Lostine River to make up the quantity allowed herein and then only so much as may be required to make a total appropriation from both sources of not to exceed the quantity allowed herein.

Source: LOSTINE RIVER, tributary to the WALLOWA RIVER and WALLOWA RIVER, TRIBUTARY TO GRANDE RONDE RIVER

Authorized Points of Diversion:

Twp	Rng	Mer	Sec	Q-Q	POD Name
1 N	43 E	WM	33	SW SW	
1 S	43 E	WM	11	NW SE	Cross Country Canal

Authorized Place of Use:

IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
1 N	42 E	WM	24	NE NW	3.5
1 N	42 E	WM	24	NW NW	1.5

22. Transfer Application T-11088 proposes to move the authorized Cross Country Canal point of diversion for all the rights approximately 122 feet upstream (leaving all other diversion points for the rights unchanged):

Twp	Rng	Mer	Sec	Q-Q	Survey Coordinates
1 S	43 E	WM	11	SW SE	CROSS COUNTRY CANAL - 1191 FEET NORTH AND 3270 FEET EAST FROM THE SW CORNER, SECTION 11

23. 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 and that the diversion is currently equipped with an appropriate fish screening and/or by-pass device.
24. An instream water right, Certificate 73021, exists for the reach of the river in which the authorized point of diversion would be moved upstream, and streamflows within the reach are frequently below the levels allocated under the instream water right. Thus, the instream water right would be injured as a result of the proposed change in points of diversion.
25. Notice of the application for transfer was published on June 15, 2010, pursuant to OAR 690-380-4000. No comments were filed in response to the notice.
26. On August 25, 2010, the Department mailed a copy of the draft Preliminary Determination proposing to deny Transfer Application T-11088 to the applicant. The draft Preliminary Determination set forth a deadline of September 25, 2010, for the applicant to respond. The applicant requested that the Department proceed with issuance of a Preliminary Determination and provided the necessary information to demonstrate that the applicant is authorized to pursue the transfer.
27. On November 5, 2010 the agent, on behalf of the applicant, requested that the Department seek a recommendation from Oregon Department of Fish and Wildlife as to whether the Department should consent to injury of the instream water right pursuant to OAR 690-380-4030.
28. On January 18, 2011, the Department issued a Preliminary Determination mailed a copy to the applicant, proposing to deny Transfer Application T-11088 unless the Oregon Department of Fish and Wildlife recommended that the Department consent to injury of an instream water right due to net benefits to the resource that would result from the transfer. 11088 Notice of the Preliminary Determination for the transfer application was published on

the Department's weekly notice on January 25, 2011, pursuant to ORS 540.520 and OAR 690-380-4020. No protests were filed in response to the notice.

29. On January 25, 2011, the Department sent a letter to ODFW, accompanied by a copy of the Preliminary Determination and other supporting documentation, requesting the agency's recommendation on whether the Department should consent to injury of the instream water right due to the proposed change resulting in a net benefit to the resource; and any conditions necessary to ensure that the proposed change would be consistent with that recommendation.
30. On January 31, 2011, ODFW recommended that the Department consent to the injury of instream water right Certificate 73021 on the Wallowa River, a tributary of the Grande Ronde River, because the proposed change would result in a net benefit to the fishery resource. The recommendation concluded that:
 - a) The new POD will allow passage past the diversion by all life stages at all flows. The current unstable dam impedes such passage.
 - b) Removal of the unstable diversion dam will improve escape cover, foraging habitat and invertebrate food production because of improved channel structure and the reduction of sediment. By improving fish habitat, fish populations can better sustain themselves, leading to possible recovery of listed species.
 - c) The project will improve fish screen operations by reducing sediment entering the ditch.
 - d) Removing the existing dam will help protect valuable restoration projects above and below the POD.
31. Notice of opportunity to comment on ODFW's recommendation to consent to injury of the instream water right was published on February 8, 2011 in the Department's weekly notice pursuant to OAR 690-380-5050(4). No comments on the recommendation were received.

Transfer Review Criteria [OAR 690-380-4010(2)]

32. Water has been used within the last five years according to the terms and conditions of the rights. There is no information in the record that would demonstrate that the rights are subject to forfeiture under ORS 540.610.
33. A diversion structure and ditch sufficient to use the full amount of water allowed under the existing rights were present within the five-year period prior to submittal of Transfer Application T-11088.
34. The proposed changes would not result in enlargement of the rights.
35. The proposed changes would result in injury to instream water right Certificate 73021.

Conclusions of Law

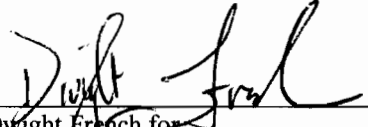
The Water Resources Department consents to injury of instream water rights under Certificate 73021 pursuant to OAR 690-380-5050. Therefore, the changes in point of diversion proposed in Transfer Application T-11088 are consistent with the requirements of ORS 540.505 to 540.580 and OAR 690-380-5000.

Now, therefore, it is ORDERED:

1. The changes in point of diversion proposed in application T-11088 are approved.
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 11642, 11999, 14526, 41074, 41177, 41283, 41376, 41637, 54099, 55031, 57556, 58694, 64780, 65550, 79892, 80877, and any related decree.
3. Water right certificates 11642, 11999, 14526, 41074, 41177, 41283, 41376, 41637, 54099, 55031, 57556, 58694, 64780, 65550, 79892, and 80877 are cancelled.
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. Water use measurement conditions:
 - a. Before water use may begin under this order, the water user shall install, with prior approval of the Director, a suitable measuring device, at the point of diversion.
 - b. The water user shall maintain the measuring device in good working order.
 - c. The water user shall allow the Watermaster access to the measuring device; provided however, where the measuring device is located within a private structure, the Watermaster shall request access upon reasonable notice.
6. Prior to diverting water, the water user shall install a headgate to control and regulate the quantity of water diverted. The type and plans of the headgate 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 headgate as required by the Department.
7. The water user shall maintain and operate a fish screening and/or by-pass device, as appropriate, at the point of diversion consistent with the Oregon Department of Fish and Wildlife's operational and maintenance standards.
8. The approved changes shall be completed and full beneficial use of the water shall be made on or before **October 1, 2013**. A Claim of Beneficial Use prepared by a Certified Water Right 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.

9. When satisfactory proof of the completed changes is received, new certificates confirming the rights transferred will be issued.

Dated at Salem, Oregon this 11 day of March, 2011.



Dwight French for
PHILLIP C. WARD, DIRECTOR

Mailing date: MAR 17 2011