



5. The portion of the second right to be transferred is as follows:  
**Permit:** 7400, in the name of U.S. BUREAU OF RECLAMATION  
**Use:** SUPPLEMENTAL IRRIGATION  
**Priority Date:** JULY 1, 1924  
**Acres:** 13.60  
**Rate:** 1/80 CUBIC FEET PER SECOND per acre irrigated  
**Source:** MCKAY RESERVOIR, tributary to MCKAY CR

**Authorized Place of Use:**

AUTHORIZED PLACE OF USE – CERTIFICATE 55836 & PERMIT #7400											
TWP	RNG	MER	SEC	¼ ¼		TL	AC	LANDOWNER			
2	N	32	E	W.M.	27	SE	SW	1700	2.07	PUBLICPARK	
2	N	32	E	W.M.	34	SW	NE	1005	0.13	WITCHER	
2	N	32	E	W.M.	34	NE	NW	800	0.35	PETERSON	
2	N	32	E	W.M.	34	NE	NW	902	0.42	WENTZ	
2	N	32	E	W.M.	34	NE	NW	903	0.61	MILLER	
2	N	32	E	W.M.	34	NE	NW	904	0.59	SMITH	
2	N	32	E	W.M.	34	NE	NW	906	0.38	THOMPSON	
2	N	32	E	W.M.	34	NE	NW	908	0.84	THACKER	
2	N	32	E	W.M.	34	NE	NW	909	0.26	SCHOLL	
2	N	32	E	W.M.	34	NE	NW	1700	0.25	INGRAM	
2	N	32	E	W.M.	34	NE	NW	1800	0.10	HERNANDEZ	
2	N	32	E	W.M.	34	NE	NW		3.34	sub-division streets (Morton, Elder & Canter)	
2	N	32	E	W.M.	34	SE	NW	200	0.24	DENTON	
2	N	32	E	W.M.	34	SE	NW	700	0.15	ACEVEDO	
2	N	32	E	W.M.	34	SE	NW	800	0.11	PETERSON	
2	N	32	E	W.M.	34	SE	NW	900	0.21	HARRISON	
2	N	32	E	W.M.	34	SE	NW	1000	0.11	YOUNCS	
2	N	32	E	W.M.	34	SE	NW	1500	0.12	COOLEY	
2	N	32	E	W.M.	34	SE	NW	1600	0.16	COURTNEY	
2	N	32	E	W.M.	34	SE	NW	1700	0.54	INGRAM	
2	N	32	E	W.M.	34	SE	NW	1800	0.16	HERNANDEZ	
2	N	32	E	W.M.	34	SE	NW	1900	0.06	UNDERWOOD	
2	N	32	E	W.M.	34	SE	NW		2.40	sub-division streets (Morton, Canter & Fairmont)	
TOTAL:								13.60			

6. Application T-9645 proposes to change the place of use to:

PROPOSED PLACE OF USE – CERTIFICATE 55836 & PERMIT #7400)										
TWP	RNG	MER	SEC	¼ ¼		TL	AC	LANDOWNER		
2	N	32	E	W.M.	27	NE	SW	1100	0.36	GERBERDING
2	N	32	E	W.M.	27	NE	SW	1200	0.24	GEORGE
2	N	32	E	W.M.	27	NE	SW	1300	1.33	WARD
2	N	32	E	W.M.	27	NE	SW	1400	0.65	ASHCRAFT
2	N	32	E	W.M.	27	SE	SW	800	0.61	HODGEN
2	N	32	E	W.M.	27	SE	SW	900	0.58	BOSTWICK
2	N	32	E	W.M.	27	SE	SW	1100	0.48	MORRIS
2	N	32	E	W.M.	27	SE	SW	1101	0.49	ALDERMAN
2	N	32	E	W.M.	27	SE	SW	1200	0.24	GEORGE
2	N	32	E	W.M.	27	SE	SW	1200	0.48	TOWNE
2	N	32	E	W.M.	27	SE	SW	1300	0.54	WALDMAN
2	N	32	E	W.M.	27	SE	SW	3400	0.17	GARD
2	N	32	E	W.M.	27	SE	SW	3500	0.28	COOK
2	N	32	E	W.M.	27	SE	SW	3600	0.18	GRIFFITH
2	N	32	E	W.M.	27	SE	SW	3700	0.15	OVERSTREET
2	N	32	E	W.M.	27	SE	SW	3800	0.17	KELLY
2	N	32	E	W.M.	27	SE	SW	4100	0.16	GERATHS
2	N	32	E	W.M.	27	SE	SW	4600	0.19	WALLIS
2	N	32	E	W.M.	27	SE	SW	4700	0.19	MILTENBERGER
2	N	32	E	W.M.	27	SE	SW	5800	0.10	GILLETTE
2	N	32	E	W.M.	27	SE	SW	6000	0.17	COOK
2	N	32	E	W.M.	27	SE	SW	6100	0.82	STANHOPE
2	N	32	E	W.M.	34	NW	NE	400	0.60	MILTENBERGER
2	N	32	E	W.M.	34	SW	NE	900	2.67	BURTON
2	N	32	E	W.M.	34	SW	NE	901	1.75	KENNEDY
TOTAL:								13.60		

7. The district permanent transfer application satisfies the criteria of OAR 690-385-4000, contains the information required under OAR 690-385-2000, and includes maps meeting the requirements of OAR 690-385-2200.
8. The water rights are subject to transfer as defined in OAR 690-385-0100(17).
9. The proposed change in place of use would not result in enlargement of the rights.
10. The proposed change in place of use would not result in injury to other water rights
11. On March 14, 2005, the Department received an affidavit from Terry Warhol, District Manager of the Marion Jack Improvement Company, requesting cancellation of a portion of the right evidenced by Certificate 55836. The affidavit included signed notarized statements

and signatures of the record owners of land within the district boundaries to which a portion of the right is appurtenant.

12. The portion of the right to be canceled is as follows:

**Certificate:** 55836, in the name of MARION JACK IRRIGATION COMPANY

**Use:** IRRIGATION

**Priority Date:** JANUARY 3, 1912

**Acres:** 10.17

**Rate:** 0.13 CUBIC FOOT PER SECOND

**Source:** UMATILLA R, tributary to COLUMBIA R

Place of use of the abandoned portion of the water right:

CERTIFICATE 55836										
TWP	RNG	MER	SEC	¼ ¼		TL	AC	RECORD OWNER		
2	N	32	E	W.M.	27	NE	SW	206	0.04	DABOLING
2	N	32	E	W.M.	27	NW	SW	100	0.23	DAVIS
2	N	32	E	W.M.	27	NW	SW	200	0.12	DICKEY
2	N	32	E	W.M.	27	NW	SW	206	0.18	DABOLING
2	N	32	E	W.M.	27	NW	SW	300	0.10	SWEET
2	N	32	E	W.M.	27	NW	SW	301	0.03	SWEET
2	N	32	E	W.M.	27	NW	SW	305	0.01	SWEET
2	N	32	E	W.M.	27	NW	SW		0.10	BRIDLE ROAD (sub-division street)
2	N	32	E	W.M.	27	SW	SW	100	0.36	MONAHAN
2	N	32	E	W.M.	27	SW	SW	200	0.01	DICKEY
2	N	32	E	W.M.	27	SW	SW	304	0.03	WHITTEN
2	N	32	E	W.M.	27	SW	SW	1800	0.16	TERIBURY
2	N	32	E	W.M.	27	SW	SW	1900	0.12	NEIL
2	N	32	E	W.M.	27	SW	SW		0.29	PARK LANE (sub-division street)
2	N	32	E	W.M.	27	SE	SW	1400	0.11	ASHCRAFT
2	N	32	E	W.M.	27	SE	SW	1400	0.18	ROBINSON
2	N	32	E	W.M.	27	SE	SW	1500	0.23	CUELLAR
2	N	32	E	W.M.	27	SE	SW	1600	0.04	BOSTWICK
2	N	32	E	W.M.	27	SE	SW	2100	0.06	GREEN
2	N	32	E	W.M.	27	SE	SW	2400	0.06	SMITH
2	N	32	E	W.M.	27	SE	SW	3300	0.07	TABER
2	N	32	E	W.M.	27	SE	SW	3900	0.05	GUIWITS
2	N	32	E	W.M.	27	SE	SW	4000	0.05	BAEHMANN
2	N	32	E	W.M.	27	SE	SW	4200	0.08	MORRISON
2	N	32	E	W.M.	27	SE	SW	4300	0.09	BARILETTI
2	N	32	E	W.M.	27	SE	SW	4500	0.04	HAGUEWOOD
2	N	32	E	W.M.	27	SE	SW	4800	0.06	BERHEIM

CERTIFICATE 55836										
TWP	RNG	MER	SEC	¼ ¼		TL	AC	RECORD OWNER		
2	N	32	E	W.M.	27	SE	SW	4900	0.04	VAN DORN
2	N	32	E	W.M.	27	SE	SW	5000	0.01	PITNER
2	N	32	E	W.M.	27	SE	SW	5100	0.06	PITNER
2	N	32	E	W.M.	27	SE	SW	5300	0.03	GUIDRY
2	N	32	E	W.M.	27	SE	SW	5400	0.03	MATHSON
2	N	32	E	W.M.	27	SE	SW	5500	0.05	IRVING
2	N	32	E	W.M.	27	SE	SW	5600	0.04	SHOWAKER
2	N	32	E	W.M.	27	SE	SW	5700	0.03	JONES
2	N	32	E	W.M.	27	SE	SW	5900	0.04	PETTYJOHN
2	N	32	E	W.M.	27	SE	SW		4.45	SUB-DIVISION STREETS
2	N	32	E	W.M.	34	NE	NW	100	0.17	MICHAEL
2	N	32	E	W.M.	34	NE	NW	100	0.18	HART
2	N	32	E	W.M.	34	NE	NW	300	0.06	WHITE
2	N	32	E	W.M.	34	NE	NW	400	0.07	GAYLORD
2	N	32	E	W.M.	34	NE	NW	500	0.07	LICURSE
2	N	32	E	W.M.	34	NE	NW	700	0.06	PENCZAK
2	N	32	E	W.M.	34	NE	NW	701	0.17	FNMA
2	N	32	E	W.M.	34	NE	NW	800	0.03	HERBURGER
2	N	32	E	W.M.	34	NE	NW	801	0.06	HERBURGER
2	N	32	E	W.M.	34	NE	NW	900	0.10	SEWELL
2	N	32	E	W.M.	34	NE	NW	901	0.06	WENTZ
2	N	32	E	W.M.	34	NE	NW		0.97	GATEWAY AVE. (sub-division street)
2	N	32	E	W.M.	34	SE	NW	100	0.05	HART
2	N	32	E	W.M.	34	SE	NW	300	0.01	WARHOL
2	N	32	E	W.M.	34	SE	NW	400	0.10	WARHOL
2	N	32	E	W.M.	34	SE	NW	600	0.06	ROSE
2	N	32	E	W.M.	34	SE	NW	700	0.12	ACEVEDO
2	N	32	E	W.M.	34	SE	NW	1100	0.03	ROSE
2	N	32	E	W.M.	34	SE	NW	1200	0.12	ROSE
TOTAL:								10.17		

13. On March 7, 2005, the Department received an affidavit from Gerry E. Wyland, of Wyland Ranches, Inc., requesting cancellation of a portion of the right evidenced by Certificate 55836 appurtenant to land owned by Wyland Ranches, Inc. that is not located within the boundaries of Marion Jack Improvement District.

14. The portion of the right to be canceled is as follows:

**Certificate:** 55836, in the name of MARION JACK IRRIGATION COMPANY

**Use:** IRRIGATION

**Priority Date:** JANUARY 3, 1912

**Acres:** 7.40

**Rate:** 0.092 CUBIC FOOT PER SECOND

**Source:** UMATILLA R, tributary to COLUMBIA R

Place of use of the abandoned portion of the water right:

CERTIFICATE 55836										
TWP	RNG	MER	SEC	¼ ¼		TL	AC	DESCRIPTION		
2	N	32	E	W.M.	27	NW	SW	201	0.93	OLD HIGHWAY
2	N	32	E	W.M.	27	NW	SW	207	0.10	STRIP ALONG MCKAY DR.
2	N	32	E	W.M.	27	NW	SW	201	0.80	WEST OF OLD HIGHWAY
2	N	32	E	W.M.	27	SW	SW	201	0.14	WEST OF OLD HIGHWAY
2	N	32	E	W.M.	28	NE	SE	200	4.00	
2	N	32	E	W.M.	28	SE	SE	200	1.43	
TOTAL:									7.40	

15. On June 13, 2005, the Department received an affidavit from Rhonda Wyland requesting cancellation of a portion of the right evidenced by Certificate 55836 appurtenant to land she owns that is not located within the boundaries of Marion Jack Improvement District.

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

**Certificate:** 55836, in the name of MARION JACK IRRIGATION COMPANY

**Use:** IRRIGATION

**Priority Date:** JANUARY 3, 1912

**Acres:** 0.10

**Rate:** 0.001 CUBIC FOOT PER SECOND

**Source:** UMATILLA R, tributary to COLUMBIA R

Place of use of the abandoned portion of the water right:

CERTIFICATE 55836										
TWP	RNG	MER	SEC	¼ ¼		TL	AC	DESCRIPTION		
2	N	32	E	W.M.	27	NW	SW	208	0.10	Strip along McKay Dr

17. On March 7, 2005, the Department received an affidavit from State of Oregon, Department of Transportation, requesting cancellation of a portion of the right evidenced by Certificate 55836 appurtenant to land owned by the State of Oregon. The affidavit was signed by Gail A. Harbert, Property Agent, Right of Way Section, and requests the abandoned portion be canceled.

18. The portion of the right to be canceled is as follows:

**Certificate:** 55836, in the name of MARION JACK IRRIGATION COMPANY

**Use:** IRRIGATION

**Priority Date:** JANUARY 3, 1912

**Acres:** 15.61

**Rate:** 0.19 CUBIC FOOT PER SECOND

**Source:** UMATILLA R, tributary to COLUMBIA R

Place of use of the abandoned portion of the water right:

CERTIFICATE 55836										
TWP	RNG	MER	SEC	¼ ¼		AC	DESCRIPTION			
2	N	32	E	W.M.	27	NW	SW	4.51	HIGHWAY 395	
2	N	32	E	W.M.	27	SW	SW	6.31	HIGHWAY 395	
2	N	32	E	W.M.	34	NE	NW	2.79	HIGHWAY 395	
2	N	32	E	W.M.	34	NW	NW	2.00	HIGHWAY 395	
TOTAL:								15.61		

19. On March 10, 2005, the Department received an affidavit from the County of Umatilla, requesting cancellation of a portion of the right evidenced by Certificate 55836 appurtenant to land owner by the county. The affidavit was signed by Emile M. Holeman, Chair, Board of Commissioners, and requests the abandoned portion be canceled.

20. The portion of the right to be canceled is as follows:

**Certificate:** 55836, in the name of MARION JACK IRRIGATION COMPANY

**Use:** IRRIGATION

**Priority Date:** JANUARY 3, 1912

**Acres:** 4.31

**Rate:** 0.054 CUBIC FOOT PER SECOND

**Source:** UMATILLA R, tributary to COLUMBIA R

Place of use of the abandoned portion of the water right:

CERTIFICATE 55836										
TWP	RNG	MER	SEC	¼ ¼		AC	DESCRIPTION			
2	N	32	E	W.M.	27	NW	SW	0.86	MCKAY DR. (each side of Hwy 395)	
2	N	32	E	W.M.	27	NW	SW	0.47	OLD HIGHWAY	
2	N	32	E	W.M.	27	SW	SW	0.50	OLD HIGHWAY	
2	N	32	E	W.M.	28	SE	SE	0.75	OLD HIGHWAY	
2	N	32	E	W.M.	34	NE	NW	0.91	LAKE DRIVE	
2	N	32	E	W.M.	34	SE	NW	0.82	LAKE DRIVE	
TOTAL:								4.31		

21. On March 14, 2005, the Department received an affidavit from Terry Warhol, District Manager of the Marion Jack Improvement Company, requesting cancellation of a portion of the right evidenced by Certificate 52821. Certificate 52821 authorizes supplemental irrigation of lands affected by the proposed change in place of use of the irrigation right under Certificate 55836. The affidavit included signed notarized statements and signatures of the

record owners of land within the district boundaries to which a portion of the right is appurtenant.

22. The portion of the right to be canceled is as follows:

**Certificate:** 52821, in the name of FREDERICK J. LICURSE

**Use:** SUPPLEMENTAL IRRIGATION

**Priority Date:** SEPTEMBER 30, 1977

**Acres:** 4.98

**Rate:** 0.06 CUBIC FOOT PER SECOND

**Limit/Duty:** 1/80 cubic foot per second not to exceed 3.0 acre feet per acre per year

**Source:** WELL, tributary to MCKAY CR BASIN

Place of use of the abandoned portion of the water right:

CERTIFICATE 52821 – SUPPLEMENTAL IRRIGATION										
TWP	RNG	MER	SEC	¼ ¼		TL	AC	RECORD OWNER		
2	N	32	E	W.M.	34	NE	NW	901	0.06	WENTZ
2	N	32	E	W.M.	34	NE	NW	902	0.42	WENTZ
2	N	32	E	W.M.	34	NE	NW	903	0.61	MILLER
2	N	32	E	W.M.	34	NE	NW	904	0.59	SMITH
2	N	32	E	W.M.	34	NE	NW	906	0.38	THOMPSON
2	N	32	E	W.M.	34	NE	NW	908	0.84	THACKER
2	N	32	E	W.M.	34	NE	NW	909	0.26	SCHOLL
2	N	32	E	W.M.	34	NE	NW		1.82	Sub-division streets (MORTON & ELDER)
TOTAL:									4.98	

23. Accompanying the affidavit received on March 14, 2005, from Marion Jack Improvement Company was an affidavit from a landowner NOT involved in the proposed transfer but requesting cancellation of a portion of the water right evidenced by Certificate 52821.

24. The portion of the right to be canceled is as follows:

**Certificate:** 52821, in the name of FREDERICK J. LICURSE

**Use:** SUPPLEMENTAL IRRIGATION

**Priority Date:** SEPTEMBER 30, 1977

**Acres:** 4.98

**Rate:** 0.001 CUBIC FOOT PER SECOND

**Limit/Duty:** 1/80 cubic foot per second not to exceed 3.0 acre feet per acre per year

**Source:** WELL, tributary to MCKAY CR BASIN

Place of use of the abandoned portion of the water right:

CERTIFICATE 52821 – SUPPLEMENTAL IRRIGATION										
TWP	RNG	MER	SEC	¼ ¼		TL	AC	RECORD OWNER		
2	N	32	E	W.M.	34	NE	NW	900	0.10	SEWELL



25. On April 6, 2005, the Department received an affidavit from Terry Warhol, District Manager of the Marion Jack Improvement Company, with a signed notarized statement from Robert W. and Rachel B. Miltenberger requesting to diminish the entirety of the water right evidenced by Certificate 40929 from irrigation to supplemental irrigation because the proposed change in place of use of Certificate 55836 would become the irrigation water right for the subject lands.
26. The portion of the right to be diminished from irrigation to supplemental irrigation is as follows:  
**Certificate:** 40929, in the name of JACK FITTERER  
**Priority Date:** MAY 12, 1969  
**Acres:** 1.3  
**Rate:** 0.02 CUBIC FOOT PER SECOND  
**Limit/Duty:** 1/80 cubic foot per second not to exceed 3.0 acre feet per acre per year  
**Source:** WELL, tributary to MCKAY CR BASIN

Place of use of the diminished portion of the right:

CERTIFICATE 40929 – DIMINISH to SUPPLEMENTAL IRRIGATION										
TWP	RNG	MER	SEC	¼ ¼		TL	AC	RECORD OWNER		
2	N	32	E	W.M.	34	NW	NE	500	1.30	MILTENBERGER

27. Transfer Application T-9766, proposing a change in point of diversion to the Marion Jack Improvement District point of diversion authorized under Certificate 55836, is being processed concurrently with this transfer application.
28. The district permanent transfer application satisfies the criteria of OAR 690-385-4000, contains the information required under OAR 690-385-2000, and includes maps meeting the requirements of OAR 690-385-2200.
29. The water rights are subject to transfer as defined in OAR 690-385-0100(17).
30. The proposed change in place of use would not result in enlargement of the rights.
31. The proposed change in place of use would not result in injury to other water rights

**Conclusions of Law**

The proposed changes in place of use in Transfer Application T-9645 satisfy the requirements of ORS 540.574(3) and 540.580.

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

1. The proposed changes to the water rights evidenced by Certificates 55836 and Permit 7400 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 55836 and Permit 7400 and any related decree.
3. The former place of use shall no longer be irrigated as part of these water rights.
4. The proposed changes shall be completed on or before October 1, 2006.
5. A Claim of Beneficial Use shall be submitted by the applicant to the Department by October 1, 2007.
6. Certificates 55836 and 52821 are canceled.
7. The Department shall issue Certificate 81502 to describe the remaining portion of Certificate 55836 not cancelled by the provisions of this order as well as the inchoate rights under T-9645 and T-9766. Following satisfactory proof of completion of the changes authorized by this order, the Department shall issue a water right certificate on a determination that it is necessary to produce a certificate describing the water right.
8. The Department shall issue Certificate 81503 to describe the remaining portion of Certificate 52821 not cancelled by the provisions of this order.
9. The Department shall issue a separate certificate to describe the portion of Permit 7400 for supplemental irrigation appurtenant to lands within the Marion Jack Improvement District.
10. Upon issuance of the certificate for Permit 7400, Marion Jack Improvement District shall submit a statement to the Department that it does not intend to perfect the use of water under Permit 53097 for supplemental irrigation and the Department may cancel the water use permit because supplemental irrigation rights have been secured by issuance of the certificate.
11. Certificates 81504 and 81505 shall be issued to confirm a change in point of diversion for portions of Certificate 55836, authorized by an order of the Water Resources Director entered June 16, 1955, approving Transfer Application W-66.
13. Certificate 40929 is canceled and the Department shall issue Certificate 81506 to describe the diminution of the water right from irrigation to supplemental irrigation.

Dated at Salem, Oregon this 23<sup>rd</sup> day of August, 2005.

*for* Phillip C. Ward  
Phillip C. Ward, Director