

T-10339

Elms Family Trust
c/o Edward & Patricia Elms
42543 Pocahontas Rd.
Baker City, OR 97814
541-523-4393

Anne Kirkpatrick
3140 N 2nd St.
Baker City, OR 97814
541-523-4181

Name

By

Address

J&S Management, LLC
c/o John Kirkpatrick
2321 Rolling Hills Drive
Clarkston, WA 99403
208-413-2339

Garret, Kaleli, Milo, Mark & Susan Hughes Cross
c/o Mark Cross
PO Box 519
LaGrande, OR 97850
541-963-4161

Change in PODDate filed 3-19-07

Date of hearing _____

Place of hearing _____

Date of order 11-8-07 Vol. 73, page 604

Date for application of water _____

Proof mailed _____

Proof received _____

Certificate issued _____ Vol. _____, page _____

CF 83630
RR 83631

HISTORIC

T-10339

DESCRIPTION OF WATER RIGHT

Name of stream Eagle Cr / Crater Lk ResTrib. of Powder R. / Kettle Cr County of BakerUse IR IS

Quantity of water _____ No. of acres _____

Name of ditch _____

Date of priority 1881, 1886 1962In name of George Evans Eagle Valley Irr Co.Powder River Adjudication, Vol. 51, page 423App. No. 37065 Per. No. 528626 Cert. No. 4649 75384

Certificate cancelled _____

Notation made on record by _____

file missing

FEES PAID

Date	Amount	Receipt No.
<u>3/19/07</u>	<u>350.00</u>	<u>86717</u>
TOTAL . . .		
	Cert. Fee	

FEES REFUNDED

Date	Amount	Check No.

REMARKS

Agent: John Kirkpatrick 2321 Rolling Hills Drive Clarkston WA 99403 208-413-2339
Eagle Valley Irrigation Company Richland OR 97870
County Planning, Baker County Courthouse
CWRE: Thomas Hawley #241

STATE OF OREGON

COUNTY OF BAKER

CERTIFICATE OF WATER RIGHT

THIS CERTIFICATE ISSUED TO

EAGLE VALLEY IRRIGATION COMPANY
RICHLAND, Oregon 97870

confirms the right to use the waters of CRATER LAKE RESERVOIR constructed under Permit R-3215, a tributary of KETTLE CREEK, tributary of EAST FORK OF EAGLE CREEK, for the purpose of SUPPLEMENTAL IRRIGATION of 7637.47 ACRES. This right was perfected under Permit No. 28626. The date of priority is December 28, 1962. The amount of water to which this right is entitled is limited to an amount actually beneficially used for said purpose, and shall not exceed 190 acre-feet stored water only, or the equivalent in case of rotation.

The point of diversion is located as follows:

Crater Lake 1245 feet North and 1590 feet East from the Southwest Corner of Section 12, being within the SE $\frac{1}{4}$ SW $\frac{1}{4}$, Section 12, T. 6 S., R. 44 E., W.M.

The redistribution points from Eagle Creek are located as follows:

1. Stansberry Ditch NE $\frac{1}{4}$ SW $\frac{1}{4}$, Section 17, T8S, R45E, WM; 2640 feet North and 1560 feet East from SW corner Section 17. (1.9 acres)
2. Dry Gulch Ditch NE $\frac{1}{4}$ NW $\frac{1}{4}$, Section 20, T8S, R45E, WM; 30 feet South and 2540 feet East from NW corner Section 20. (2145.6 acres)
3. Tobin Ditch NE $\frac{1}{4}$ SE $\frac{1}{4}$, Section 29, T8S, R45E, WM; 1520 feet South and 1090 feet West from NE corner Section 29. (122.5 acres)
- 10 4. Newt Young Ditch SE $\frac{1}{4}$ NW $\frac{1}{4}$, Section 33, T8S, R45E, WM; 1950 feet South and 1400 feet East from NE corner Section 33. (1434.6 acres)
5. Waterbury-Allen Ditch SE $\frac{1}{4}$ SW $\frac{1}{4}$, Section 33, T8S, R45E, WM; 1250 feet North and 2480 feet East from SW corner Section 33. (787.1 acres)
6. Moody Ditch NW $\frac{1}{4}$ SW $\frac{1}{4}$, Section 3, T9S, R45E, WM; 2130 feet North and 650 feet East from SW corner Section 3 (240.27 acres)
7. Holstine Ditch NW $\frac{1}{4}$ SW $\frac{1}{4}$, Section 3, T9S, R45E, WM; 2060 feet North and 610 feet East from SW corner Section 3. (130.7 acres)
- From 8. Kay Young Ditch SE $\frac{1}{4}$ NW $\frac{1}{4}$, Section 4, T9S, R45E, WM; 1700 feet South and 2450 feet East from NW corner Section 10. (1477.5 acres)
9. Nash Ditch SW $\frac{1}{4}$ SE $\frac{1}{4}$, Section 10, T9S, R45E, WM; 590 feet North and 2720 feet East from SW corner Section 10. (768.8 acres)
10. Little Eagle Ditch SE $\frac{1}{4}$ SE $\frac{1}{4}$, Section 15, T9S, R45E, WM; 250 feet North and 1020 feet West from SE corner of Section 15. (410.2 acres)
11. Gover Ditch NE $\frac{1}{4}$ NE $\frac{1}{4}$, Section 22, T9S, R45E, WM; 1640 feet North and 2350 feet East from C $\frac{1}{4}$ corner Section 22. (118.3 acres)

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 3.5 acre-feet for each acre irrigated during the irrigation season of each year, and shall conform to any reasonable rotation system as may be ordered by the proper state officer.

A description of the place of use to which this right is appurtenant, is as follows:

Recorded in State Record of Water Right Certificates numbered 75354

MAR 14 2007

WATER RESOURCES DEPT

ACRES	¼	¼	SEC	Twp South	Rng East
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1. Stansberry Ditch

1.20	SE	NW	20	8	45
0.70	SW	SE	20	8	45
1.90	Acres				

2. Dry Gulch Ditch

1.60	NE	NE	13	9	44
9.70	SE	NE	13	9	44
0.60	NE	SE	13	9	44
5.00	NW	SW	13	9	44
0.40	NE	NE	09	9	45
1.30	NE	NE	09	9	45
10.10	NE	NE	09	9	45
6.20	NW	NE	09	9	45
7.00	NW	NE	09	9	45
3.00	SE	NE	09	9	45
8.40	SE	NE	09	9	45
0.10	SE	NE	09	9	45
2.00	NE	SE	09	9	45
7.20	NE	SE	09	9	45
7.30	NE	SE	09	9	45
1.40	SW	SE	09	9	45
34.50	SE	SE	09	9	45
23.60	NW	NW	10	9	45
21.30	SW	NW	10	9	45
0.40	SW	NW	10	9	45
1.20	NW	SW	10	9	45
3.60	NW	SW	10	9	45
7.00	SW	SW	10	9	45
4.40	SW	SW	10	9	45
13.60	SW	SW	10	9	45
24.70	NW	NW	15	9	45
8.10	SW	NW	15	9	45
20.20	SW	NW	15	9	45
6.10	NE	SW	15	9	45
17.00	NW	SW	15	9	45
17.80	NW	SW	15	9	45
10.30	SW	SW	15	9	45
25.20	SW	SW	15	9	45
12.40	SE	SW	15	9	45
2.80	NE	NE	16	9	45
24.30	SE	NE	16	9	45
0.60	NW	SW	16	9	45
0.80	NW	SW	16	9	45
33.10	SW	SW	16	9	45
10.10	SE	SW	16	9	45
20.70	SE	SW	16	9	45

ACRES	¼	¼	SEC	Twp South	Rng East
8.60	NE	SE	16	9	45
31.40	NE	SE	16	9	45
14.40	NW	SE	16	9	45
0.20	SW	SE	16	9	45
1.80	SW	SE	16	9	45
8.40	SW	SE	16	9	45
7.10	SW	SE	16	9	45
2.00	SW	SE	16	9	45
8.40	SW	SE	16	9	45
2.00	SW	SE	16	9	45
3.10	SW	SE	16	9	45
36.30	SE	SE	16	9	45
0.80	NE	NE	17	9	45
2.50	NE	NE	17	9	45
0.10	NW	NE	17	9	45
0.20	SE	NE	17	9	45
0.60	SW	NE	17	9	45
1.60	SW	NE	17	9	45
2.10	SW	NE	17	9	45
5.30	SE	NE	17	9	45
13.80	SE	NE	17	9	45
2.80	NE	NW	17	9	45
3.10	NW	NW	17	9	45
11.70	NW	NW	17	9	45
18.00	SE	NW	17	9	45
14.30	SE	NW	17	9	45
3.40	SW	NW	17	9	45
5.40	SW	NW	17	9	45
3.90	SW	NW	17	9	45
21.30	SW	NW	17	9	45
5.80	NE	SW	17	9	45
29.20	NE	SW	17	9	45
1.30	NW	SW	17	9	45
8.60	NW	SW	17	9	45
29.90	NW	SW	17	9	45
1.30	SW	SW	17	9	45
4.80	SW	SW	17	9	45
18.00	SW	SW	17	9	45
3.90	SE	SW	17	9	45
4.60	SE	SW	17	9	45
8.40	SE	SW	17	9	45
16.00	SE	SW	17	9	45
4.50	NE	SE	17	9	45
6.00	NE	SE	17	9	45
7.50	NE	SE	17	9	45
1.90	NE	SE	17	9	45
2.00	NE	SE	17	9	45
1.70	NW	SE	17	9	45
10.50	NW	SE	17	9	45

ACRES	¼	¼	SEC	Twp South	Rng East
19.00	NW	SE	17	9	45
15.30	SW	SE	17	9	45
23.40	SW	SE	17	9	45
6.70	SE	SE	17	9	45
8.40	SE	SE	17	9	45
19.90	SE	SE	17	9	45
11.40	NE	NE	18	9	45
1.10	NW	NE	18	9	45
19.90	NW	NE	18	9	45
9.10	SW	NE	18	9	45
29.50	SW	NE	18	9	45
33.40	SE	NE	18	9	45
31.80	NE	NW	18	9	45
4.90	NW	NW	18	9	45
15.10	NW	NW	18	9	45
5.50	SW	NW	18	9	45
32.20	SW	NW	18	9	45
38.50	SE	NW	18	9	45
9.10	NW	SW	18	9	45
9.00	NE	SE	18	9	45
16.90	NE	SE	18	9	45
7.00	SE	SE	18	9	45
6.40	SE	SE	18	9	45
15.20	SE	SE	18	9	45
13.10	NE	NE	19	9	45
16.40	NE	NE	19	9	45
0.70	NW	NE	19	9	45
5.90	NW	NE	19	9	45
13.50	SW	NE	19	9	45
10.80	SE	NE	19	9	45
5.40	NE	SE	19	9	45
6.60	NE	SE	19	9	45
2.90	NW	SE	19	9	45
5.40	NW	SE	19	9	45
0.80	SW	SE	19	9	45
8.60	SW	SE	19	9	45
2.00	SE	SE	19	9	45
10.70	SE	SE	19	9	45
31.50	NE	NE	20	9	45
0.60	NE	NE	20	9	45
1.90	NE	NE	20	9	45
2.30	NE	NE	20	9	45
37.10	NW	NE	20	9	45
8.90	SW	NE	20	9	45
31.20	SW	NE	20	9	45
8.60	SE	NE	20	9	45
23.30	SE	NE	20	9	45
0.90	NE	NW	20	9	45
8.10	NE	NW	20	9	45
12.30	NE	NW	20	9	45

ACRES	¼	¼	SEC	Twp South	Rng East
12.60	NE	NW	20	9	45
0.30	NW	NW	20	9	45
0.50	NW	NW	20	9	45
10.60	NW	NW	20	9	45
12.10	NW	NW	20	9	45
2.20	NW	NW	20	9	45
40.00	SE	NW	20	9	45
1.70	SW	NW	20	9	45
1.80	SW	NW	20	9	45
7.50	SW	NW	20	9	45
4.50	SW	NW	20	9	45
5.80	NE	SW	20	9	45
6.20	NE	SW	20	9	45
19.60	NE	SW	20	9	45
2.30	NW	SW	20	9	45
16.80	NW	SW	20	9	45
6.10	SW	SW	20	9	45
15.50	SE	SW	20	9	45
21.10	NE	SE	20	9	45
7.50	NW	SE	20	9	45
30.20	NW	SE	20	9	45
19.20	SW	SE	20	9	45
12.30	SW	SE	20	9	45
10.70	SE	SE	20	9	45
18.10	SE	SE	20	9	45
4.00	SE	SE	20	9	45
5.10	NE	NE	21	9	45
31.00	NE	NE	21	9	45
38.40	NW	NE	21	9	45
8.20	SW	NE	21	9	45
28.20	SW	NE	21	9	45
18.60	SE	NE	21	9	45
20.60	NE	NW	21	9	45
1.10	NE	NW	21	9	45
8.10	NE	NW	21	9	45
1.30	NW	NW	21	9	45
4.20	NW	NW	21	9	45
7.10	NW	NW	21	9	45
11.50	NW	NW	21	9	45
2.20	NW	NW	21	9	45
1.70	SE	NW	21	9	45
3.00	SE	NW	21	9	45
11.30	SE	NW	21	9	45
2.00	NW	NW	22	9	45
9.60	NW	NW	22	9	45
36.30	NW	NW	28	9	45
1.10	SW	NW	28	9	45
0.40	NE	SW	28	9	45
14.10	NW	SW	28	9	45

Certificate Number 75354

RECEIVED
MAR 14 2007

ACRES	¼	¼	SEC	Twp South	Rng East
8.40	SE	SW	28	9	45
24.40	SW	SW	28	9	45
37.20	NE	NE	29	9	45
16.30	NW	NE	29	9	45
17.00	SE	NE	29	9	45
10.20	NE	NE	30	9	45
3.10	NW	NE	30	9	45
0.60	SE	NE	30	9	45
0.30	SW	NE	30	9	45
2145.60	Acres				

3. Tobin Ditch

2.30	NE	SE	29	8	45
4.10	SE	SE	29	8	45
10.80	NE	NW	33	8	45
5.00	NW	NW	33	9	45
16.00	SE	NW	33	9	45
0.50	NE	SW	33	8	45
3.40	SE	NW	03	9	45
5.80	NE	SW	03	9	45
1.10	SE	SW	03	9	45
3.90	SW	SE	03	9	45
1.00	SW	SE	03	9	45
0.10	NE	NE	10	9	45
1.80	NE	NE	10	9	45
11.30	NE	NE	10	9	45
4.10	NW	NE	10	9	45
0.50	NW	NE	10	9	45
0.80	NW	NE	10	9	45
9.30	SE	NE	10	9	45
4.60	NW	NW	11	9	45
2.30	SW	NW	11	9	45
11.10	SW	NW	11	9	45
6.20	SE	NW	11	9	45
2.30	SE	NW	11	9	45
8.90	NE	SW	11	9	45
0.40	NE	SW	11	9	45
3.60	NE	SW	11	9	45
1.30	NW	SE	11	9	45
122.50	Acres				

4. Newt Young Ditch

3.20	NE	SW	33	8	45
4.60	NE	SW	33	8	45
0.10	SE	SW	33	8	45
1.00	NW	SE	33	8	45
3.00	NW	SE	33	8	45
0.80	SW	SE	33	8	45

ACRES	¼	¼	SEC	Twp South	Rng East
13.60	SW	SE	33	8	45
3.20	SW	NW	03	9	45
12.40	SW	NW	03	9	45
0.80	NE	SW	03	9	45
8.00	NE	SW	03	9	45
1.00	NW	SW	03	9	45
9.60	NW	SW	03	9	45
0.50	SE	SW	03	9	45
3.50	SE	SW	03	9	45
0.80	SW	SE	03	9	45
3.00	SW	SE	03	9	45
1.80	NE	NE	04	9	45
11.20	NE	NE	04	9	45
10.20	NW	NE	04	9	45
2.20	SE	NE	04	9	45
0.70	NE	NE	10	9	45
0.70	NE	NE	10	9	45
0.50	NW	NE	10	9	45
0.60	NW	NE	10	9	45
0.80	NW	NE	10	9	45
15.60	NW	NE	10	9	45
0.20	SW	NE	10	9	45
0.30	SW	NE	10	9	45
0.40	SW	NE	10	9	45
0.90	SW	NE	10	9	45
2.00	SW	NE	10	9	45
4.10	SW	NE	10	9	45
0.20	SW	NE	10	9	45
0.30	SW	NE	10	9	45
0.20	SW	NE	10	9	45
0.20	SW	NE	10	9	45
0.20	SE	NE	10	9	45
0.70	SE	NE	10	9	45
2.80	SE	NE	10	9	45
23.80	SE	NE	10	9	45
23.50	NE	SE	10	9	45
9.80	SE	SE	10	9	45
6.00	SW	NW	11	9	45
19.80	NE	SW	11	9	45
9.60	NW	SW	11	9	45
28.80	NW	SW	11	9	45
38.50	SE	SW	11	9	45
10.00	SW	SW	11	9	45
29.10	SW	SW	11	9	45
1.00	NW	SE	11	9	45
20.90	SW	SE	11	9	45
1.60	SE	NW	13	9	45
10.00	SW	NW	13	9	45
16.80	NE	SW	13	9	45

ACRES	¼	¼	SEC	Twp South	Rng East
22.80	NW	SW	13	9	45
0.50	SW	SW	13	9	45
9.70	SW	SW	13	9	45
28.40	SW	SW	13	9	45
8.80	SE	SW	13	9	45
17.40	SE	SW	13	9	45
19.40	NE	NE	14	9	45
5.00	NW	NE	14	9	45
27.50	NW	NE	14	9	45
1.50	SW	NE	14	9	45
2.30	SW	NE	14	9	45
16.20	SW	NE	14	9	45
17.80	SW	NE	14	9	45
34.00	SE	NE	14	9	45
0.90	NE	NW	14	9	45
16.00	NE	NW	14	9	45
23.10	NE	NW	14	9	45
18.60	NW	NW	14	9	45
1.80	SE	NW	14	9	45
2.80	SE	NW	14	9	45
4.60	SE	NW	14	9	45
17.50	SE	NW	14	9	45
0.60	SW	NW	14	9	45
2.20	NE	SW	14	9	45
6.10	NE	SW	14	9	45
39.60	NE	SE	14	9	45
6.10	NW	SE	14	9	45
33.90	NW	SE	14	9	45
38.70	SW	SE	14	9	45
0.60	SE	SE	14	9	45
2.40	SE	SE	14	9	45
36.80	SE	SE	14	9	45
2.80	NE	NE	24	9	45
30.80	NW	NE	24	9	45
35.00	SW	NE	24	9	45
13.00	SE	NE	24	9	45
17.60	SE	NE	24	9	45
38.10	NE	NW	24	9	45
38.20	NW	NW	24	9	45
36.20	SW	NW	24	9	45
0.90	NE	SW	24	9	45
8.50	NE	SW	24	9	45
1.00	NW	SW	24	9	45
3.40	NW	SW	24	9	45
5.30	NW	SW	24	9	45
9.20	NW	SW	24	9	45
15.60	NW	SW	24	9	45
19.20	SE	SW	24	9	45
19.20	SE	SW	24	9	45
31.90	SW	SW	24	9	45

ACRES	¼	¼	SEC	Twp South	Rng East
3.50	NE	SE	24	9	45
29.60	NE	NE	25	9	45
38.80	NW	NE	25	9	45
13.70	SE	NE	25	9	45
38.20	NE	NW	25	9	45
10.70	SW	NW	19	9	46
7.40	SE	NW	19	9	46
17.00	NE	SW	19	9	46
25.00	NW	SW	19	9	46
4.20	SE	SW	19	9	46
19.80	SE	SW	19	9	46
3.60	SW	SW	19	9	46
29.30	SW	SE	19	9	46
29.20	NW	NE	30	9	46
1434.60	Acres				

5. Waterbury Allen Ditch

1.00	SE	SW	33	8	45
10.80	SW	SE	33	8	45
6.00	NW	NE	04	9	45
3.10	NE	NW	10	9	45
3.70	NW	NW	10	9	45
0.60	SW	NW	10	9	45
1.80	SW	NW	10	9	45
0.70	SW	NW	10	9	45
1.90	SW	NW	10	9	45
0.30	SE	NW	10	9	45
1.90	SE	NW	10	9	45
0.20	NW	SW	10	9	45
12.20	NW	SW	10	9	45
0.90	NW	SW	10	9	45
6.30	SW	SW	10	9	45
0.50	SW	SW	10	9	45
2.00	NE	NW	15	9	45
0.50	NE	NW	15	9	45
1.90	SE	NW	15	9	45
0.40	SE	NW	15	9	45
9.30	SE	SW	15	9	45
9.30	SE	SW	15	9	45
0.10	SW	SE	15	9	45
3.40	SE	NE	20	9	45
20.20	SE	NE	21	9	45
10.60	SE	NW	21	9	45
28.80	SW	NW	21	9	45
15.20	NE	SW	21	9	45
12.60	NE	SW	21	9	45
32.40	NW	SW	21	9	45
37.40	SW	SW	21	9	45

Certificate Number 75354

ACRES	¼	¼	SEC	Twp South	Rng East
6.00	SE	SW	21	9	45
2.60	SE	SW	21	9	45
3.00	SE	SW	21	9	45
4.70	SE	SW	21	9	45
36.90	NE	SE	21	9	45
28.00	NW	SE	21	9	45
7.60	NW	SE	21	9	45
28.90	SW	SE	21	9	45
36.00	SE	SE	21	9	45
1.30	SE	SE	21	9	45
7.80	NE	NW	22	9	45
14.70	NE	NW	22	9	45
14.00	NE	NW	22	9	45
3.10	NW	NW	22	9	45
6.50	NW	NW	22	9	45
8.90	NW	NW	22	9	45
39.00	SW	NW	22	9	45
19.60	SE	NW	22	9	45
9.60	SE	NW	22	9	45
10.00	SE	NW	22	9	45
38.20	NE	SW	22	9	45
39.80	NW	SW	22	9	45
1.80	SW	SW	22	9	45
30.90	SW	SW	22	9	45
24.30	SE	SW	22	9	45
15.60	NW	NW	27	9	45
29.00	NE	NE	28	9	45
14.90	NW	NE	28	9	45
12.90	SW	NE	28	9	45
20.40	SE	NE	28	9	45
35.10	NE	NW	28	9	45
787.10	Acres				

6. Moody Ditch

3.00	NE	SW	03	9	45
5.20	NW	SW	03	9	45
2.20	SW	SW	03	9	45
5.30	SW	SW	03	9	45
3.10	SE	SW	03	9	45
6.00	SE	SW	03	9	45
10.40	SE	SW	03	9	45
0.60	SW	SE	03	9	45
0.20	NW	NE	10	9	45
1.10	NW	NE	10	9	45
1.80	NW	NE	10	9	45
5.30	NW	NE	10	9	45
0.80	NW	NE	10	9	45
0.10	SW	NE	10	9	45
3.20	SW	NE	10	9	45

ACRES	¼	¼	SEC	Twp South	Rng East
15.70	SW	NE	10	9	45
0.10	SW	NE	10	9	45
0.30	SW	NE	10	9	45
0.30	NE	NW	10	9	45
1.40	NE	NW	10	9	45
1.60	NE	NW	10	9	45
2.90	NE	NW	10	9	45
5.77	NE	NW	10	9	45
10.40	NE	NW	10	9	45
0.80	SE	NW	10	9	45
0.90	SE	NW	10	9	45
12.20	NE	SE	10	9	45
14.00	NW	SE	10	9	45
2.80	SE	SE	10	9	45
13.50	SE	SE	10	9	45
0.90	SW	SW	11	9	45
0.30	NW	NW	14	9	45
18.00	NW	NW	14	9	45
1.80	SW	NW	14	9	45
2.40	SW	NW	14	9	45
9.90	SW	NW	14	9	45
13.20	SW	NW	14	9	45
0.10	SE	NW	14	9	45
10.10	SE	NW	14	9	45
15.80	NE	SW	14	9	45
15.90	NE	SW	14	9	45
1.20	NW	SW	14	9	45
1.50	NW	SW	14	9	45
5.90	NW	SW	14	9	45
9.10	NW	SW	14	9	45
0.40	NE	NE	15	9	45
1.20	NE	NE	15	9	45
1.60	NE	NE	15	9	45
240.27	Acres				

7. Holstine Ditch

4.80	NE	NW	10	9	45
3.20	SE	NW	10	9	45
5.90	SE	NW	10	9	45
12.80	SE	NW	10	9	45
11.30	NE	SW	10	9	45
13.60	NE	SW	10	9	45
5.20	NW	SW	10	9	45
26.00	SE	SW	10	9	45
2.40	SW	NE	15	9	45
22.40	NE	NW	15	9	45
15.50	SE	NW	15	9	45

ACRES	¼	¼	SEC	Twp South	Rng East
7.60	NE	SW	15	9	45
130.70	Acres				

8. Kay Young Ditch

6.10	NE	SW	10	9	45
26.00	NW	SE	10	9	45
32.80	SW	SE	10	9	45
10.70	SE	SE	10	9	45
5.10	SW	NW	14	9	45
3.80	NW	SW	14	9	45
15.00	NW	SW	14	9	45
0.70	SW	SW	14	9	45
3.40	SW	SW	14	9	45
32.90	SW	SW	14	9	45
18.40	SE	SW	14	9	45
21.40	SE	SW	14	9	45
1.30	SW	SE	14	9	45
25.00	NE	NE	15	9	45
18.10	NW	NE	15	9	45
32.70	SE	NE	15	9	45
21.90	NE	SE	15	9	45
26.10	SE	SE	15	9	45
7.20	NE	NE	22	9	45
39.50	NE	NE	23	9	45
40.00	NW	NE	23	9	45
29.80	SW	NE	23	9	45
30.50	SE	NE	23	9	45
36.00	NE	NW	23	9	45
0.90	SE	NW	23	9	45
3.40	SE	NW	23	9	45
4.10	SE	NW	23	9	45
15.60	SE	NW	23	9	45
31.00	NE	SW	23	9	45
15.10	NW	SW	23	9	45
4.60	SW	SW	23	9	45
16.40	SE	SW	23	9	45
16.80	SE	SW	23	9	45
0.40	NE	SE	23	9	45
1.00	NE	SE	23	9	45
4.30	NE	SE	23	9	45
28.60	NE	SE	23	9	45
1.20	NW	SE	23	9	45
1.30	NW	SE	23	9	45
1.40	NW	SE	23	9	45
1.50	NW	SE	23	9	45
1.90	NW	SE	23	9	45
10.90	NW	SE	23	9	45
0.30	SW	SE	23	9	45
18.00	SW	SE	23	9	45

ACRES	¼	¼	SEC	Twp South	Rng East
19.60	SW	SE	23	9	45
0.30	SW	SE	23	9	45
0.30	SW	SE	23	9	45
18.10	SE	SE	23	9	45
19.80	SE	SE	23	9	45
0.80	SW	NE	24	9	45
1.60	SE	NE	24	9	45
37.00	SE	NW	24	9	45
30.60	NE	SW	24	9	45
34.50	NE	SE	24	9	45
8.50	NW	SE	24	9	45
28.90	NW	SE	24	9	45
2.80	SW	SE	24	9	45
36.20	SW	SE	24	9	45
39.00	SE	SE	24	9	45
8.10	SW	NE	25	9	45
37.20	NW	NW	25	9	45
29.80	SW	NW	25	9	45
19.60	SE	NW	25	9	45
7.80	NW	SW	25	9	45
19.10	NE	NE	26	9	45
19.10	NE	NE	26	9	45
39.60	NW	NE	26	9	45
32.50	SW	NE	26	9	45
39.00	SE	NE	26	9	45
22.30	NE	NW	26	9	45
6.10	SE	NW	26	9	45
1.40	NE	SE	26	9	45
28.20	NE	SE	26	9	45
1.60	NW	SE	26	9	45
26.70	NW	SE	26	9	45
20.00	SE	SE	26	9	45
14.90	SW	SE	26	9	45
3.00	NW	SW	19	9	46
35.20	SW	SW	19	9	46
11.50	SW	NE	30	9	46
28.60	NE	NW	30	9	46
14.50	NW	NW	30	9	46
23.80	NW	NW	30	9	46
16.90	SW	NW	30	9	46
29.90	SE	NW	30	9	46
1477.50	Acres				

9. Nash Ditch

11.60	NW	NE	15	9	45
3.30	SE	NE	15	9	45
1.40	SW	NE	15	9	45

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ACRES	¼	¼	SEC	Twp South	Rng East
35.90	SW	NE	15	9	45
5.60	NE	NW	15	9	45
2.40	NE	SW	15	9	45
0.50	SE	SW	15	9	45
9.60	NE	SE	15	9	45
5.60	NW	SE	15	9	45
34.40	NW	SE	15	9	45
38.40	SW	SE	15	9	45
7.20	SE	SE	15	9	45
3.10	NW	NE	22	9	45
9.50	NW	NE	22	9	45
23.30	NW	NE	22	9	45
7.00	SE	NE	22	9	45
4.00	SW	NE	22	9	45
34.30	SW	NE	22	9	45
1.20	NE	SW	22	9	45
6.80	SW	SW	22	9	45
8.60	SE	SW	22	9	45
1.40	NE	SE	22	9	45
6.60	NE	SE	22	9	45
9.50	NW	SE	22	9	45
27.90	NW	SE	22	9	45
39.00	SW	SE	22	9	45
5.50	SE	SE	22	9	45
8.50	NE	NE	27	9	45
9.30	NW	NE	27	9	45
28.80	NW	NE	27	9	45
39.50	SW	NE	27	9	45
11.50	SE	NE	27	9	45
36.60	NE	NW	27	9	45
22.00	NW	NW	27	9	45
39.60	SW	NW	27	9	45
40.00	SE	NW	27	9	45
39.60	NE	SW	27	9	45
31.60	NW	SW	27	9	45
20.00	SE	SW	27	9	45
6.00	NE	SE	27	9	45
20.00	NW	SE	27	9	45
18.30	SW	SE	27	9	45
1.50	NE	NE	28	9	45
15.40	SW	NE	28	9	45
1.20	SE	NE	28	9	45
6.60	SE	NE	28	9	45
4.20	SE	NW	28	9	45
16.00	NE	SE	28	9	45
9.00	NW	SE	28	9	45
768.80	Acres				

ACRES	¼	¼	SEC	Twp South	Rng East
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10. Little Eagle Ditch

5.10	NE	NE	22	9	45
2.70	NE	NE	22	9	45
2.70	SE	NE	22	9	45
29.00	SE	NE	22	9	45
7.30	NE	SE	22	9	45
15.10	NE	SE	22	9	45
24.00	SE	SE	22	9	45
6.40	SW	NW	26	9	45
28.60	SW	NW	26	9	45
5.20	NE	SW	26	9	45
10.10	NE	SW	26	9	45
29.00	NW	SW	26	9	45
30.00	SW	SW	26	9	45
24.70	SE	SW	26	9	45
30.00	NE	NE	27	9	45
28.30	SE	NE	27	9	45
33.00	NE	SE	27	9	45
12.80	NW	SE	27	9	45
13.20	SW	SE	27	9	45
38.90	SE	SE	27	9	45
6.20	NE	NE	34	9	45
17.50	NE	NW	35	9	45
10.40	NW	NW	35	9	45
410.20	Acres				

11. Gover Ditch

21.20	NW	SW	23	9	45
27.80	SW	SW	23	9	45
0.50	NE	NW	26	9	45
35.40	NW	NW	26	9	45
23.00	SE	NW	26	9	45
10.40	NE	SW	26	9	45
118.30	Acres				

7637.47 Total Certificate Acres

Locations are based on the Willamette Meridian.

This certificate describes that portion of the water right confirmed by Certificate 56452, State Record of Water Right Certificates, NOT modified by the provisions of orders of the Water Resources Director entered for Dry Gulch Ditch Company on FEB 16 1999; Waterbury Allen Ditch Improvement District on FEB 16 1999; Tobin Ditch Company in Special Order Volume 51, Page 364; Daniel L. Forsea and Sons, Inc., in Special Order Volume 50, Page 200; and John Wright in Special Order Volume 51, Page 385;

AND this certificate describes that portion of the water right confirmed by Certificate 56452, State Record of Water Right Certificates, modified by the provisions of orders of the Water Resources Director entered for Dry Gulch Ditch Company on FEB 16 1999; Waterbury Allen Ditch Improvement District on FEB 16 1999; Tobin Ditch Company in Special Order Volume 51, Page 364; Daniel L. Forsea and Sons, Inc., in Special Order Volume 50, Page 200; and John Wright in Special Order Volume 51, Page 385; approving petitions by Dry Gulch Ditch Company, Waterbury Allen Ditch Improvement District; Tobin Ditch Company; Daniel L. Forsea and Sons, Inc.; and John Wright under ORS 541.329.

The right to the use of the water for the above purposes is restricted to beneficial use on the lands or place of use described.

The issuance of this superseding certificate does not confirm the status of the water right pertaining to forfeiture or abandonment under ORS 540.610 for the portions NOT modified by the orders described above.

Witness the signature of the Water Resources Director, affixed 2/16/99.


Martha O. Pagel, Director

56452.TR

Recorded in State Records of Water Right Certificates numbered 75354.

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FEB 14 2007

WATER RESOURCES DEPT
SALEM OREGON

STATE OF OREGON

COUNTY OF BAKER

CERTIFICATE OF WATER RIGHT

This is to Certify, That GEORGE W. BYANS,

of Richland, State of Oregon, has a right to the use of
the waters of EAGLE CREEK, a tributary of Powder River,
for the purpose of Irrigation of 60.3 acres of land;

and that said right has been confirmed by decrees of the Circuit Court of the State of Oregon for
Baker County, and the said decree entered of record at Salem, in the Order
Record of the STATE WATER BOARD of the State of Oregon, in Volume six, at page 291;
that the priority of the right thereby confirmed dates from 1881 for 40.3 acres; 1886 for
40 acres;

that 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 one-fortieth of one
cubic foot per second per acre, and shall be subject to all other conditions and
limitations contained in said decrees.

A description of the lands irrigated under such right, and to which the water is appurtenant
(or, if for other purposes, the place where such water is put to beneficial use), is as follows:

Forty acres in Northwest quarter of Northeast quarter; forty acres in
Southwest quarter of Northeast quarter of Section Thirty, Township Nine South,
Range Forty-six East of Willamette Meridian, and 0.3 acre in Lot Five, and
South half of Lot Three, in Block Three of the town of Richland, Baker County,
Oregon.

The right to the use of the water for irrigation purposes is restricted to the lands or place
of use herein described.

WITNESS the seal and signature of the State
Water Board, affixed this 15th day
of February, 1923.

STATE WATER BOARD

(Seal of State Water Board)

By PERCY A. CUPPER
State Engineer, President

Attest:

R. W. POTTER
Secretary

Recorded in State Record of Water Right Certificates, Volume 5, page 4649.

These lands may be covered in part
by Brownlee Reservoir
See H.E. License File

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MAY 14 1923

WATER RESOURCES DEPT
SALEM OREGON

BEFORE THE OREGON WATER RESOURCES DEPARTMENT

IN THE MATTER OF THE PROPOSED CANCELLATION)
OR PARTIAL CANCELLATION OF THE WATER RIGHTS)
EVIDENCED BY CERTIFICATES 2061, 2750, 4028, 4231, 4264,) FINAL ORDER
4590, 4592, 4611, 4649, 4665, 10203, 14128, 23035, 23417, 28855,) Case No. PC97-1
33891 and 44243 FOR THE USE OF WATER FROM EAGLE)
CREEK, POWDER RIVER, SQUAW GULCH, DALY CREEK,)
AND LITTLE EAGLE CREEK, BAKER COUNTY, OREGON)

Notice of the proposed cancellation or partial cancellation of the water rights described below was served on Idaho Power Company, PO Box 70, Boise, ID 83707, the owner of record of certain real property to which these rights are appurtenant, on February 14, 1997.

The proposal to cancel all or part of the right in question was based on information received from Vernon Church, Thomas Rudolph, Kent Searles, Steve Shold, and Tim Heater, alledging that right, or the portion of the water right, as described below, had been forfeited by failure to make beneficial use of the water under the terms of the water right for a period of five or more consecutive years, from 1989 through May 1996.

No protest having been filed within the 60 days allowed by law, this FINAL ORDER is now entered.

NOW, THEREFORE, IT IS ORDERED that the portion of certificate 2061, and the water right evidenced thereby, for irrigation of 2.3 acres in the SE $\frac{1}{4}$ NE $\frac{1}{4}$ Section 30, T9S R46E, be and the same is hereby CANCELLED.

It is further ORDERED that a new certificate shall be issued for irrigation under a priority of June 10, 1912 of 6.94 acres SE $\frac{1}{4}$ NE $\frac{1}{4}$, Section 30, 28.67 acres NE $\frac{1}{4}$ NW $\frac{1}{4}$ and 7.24 acres NW $\frac{1}{4}$ NE $\frac{1}{4}$, Section 29, T9S R46E not cancelled in this proceeding.

It is further ORDERED that the portion of certificate 2750, and the water right evidenced thereby, for supplemental irrigation of the following lands, all in Section 30, T9S, R46E:

40 acres NE $\frac{1}{4}$ SW $\frac{1}{4}$, 28.0 acres NW $\frac{1}{4}$ SW $\frac{1}{4}$, 39.3 acres SW $\frac{1}{4}$ SW $\frac{1}{4}$,

21.4 acres SE $\frac{1}{4}$ SW $\frac{1}{4}$, 33.6 acres NW $\frac{1}{4}$ SE $\frac{1}{4}$, 6.6 acres SW $\frac{1}{4}$ SE $\frac{1}{4}$

be and the same is hereby CANCELLED.

It is further ORDERED that a new certificate shall be issued for supplemental irrigation under a priority of April 21, 1915 for the following lands in T9S, R46E, WM:

18.6 acres SE $\frac{1}{4}$ SW $\frac{1}{4}$ 5.4 acres NW $\frac{1}{4}$ SE $\frac{1}{4}$ 9.0 acres NW $\frac{1}{4}$ NE $\frac{1}{4}$

0.7 acres SW $\frac{1}{4}$ SW $\frac{1}{4}$ 24.9 acres SW $\frac{1}{4}$ SE $\frac{1}{4}$ Section 31

Section 30

evidencing the portion of the right not cancelled in this proceeding.

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SALEM, OREGON

It is further ORDERED that Certificate 4028 is for irrigation on the following lands in Section 30, T9S R46E, WM:

38.0 acres NE $\frac{1}{4}$ SW $\frac{1}{4}$ and 28.0 acres NW $\frac{1}{4}$ SW $\frac{1}{4}$ under a priority of 1876;

10.0 acres NW $\frac{1}{4}$ SW $\frac{1}{4}$ under a priority of 1907

and the water right evidenced by same, be and the same is hereby CANCELLED in its entirety.

It is further ORDERED that Certificate 4231 and that portion of the right evidenced by Certificate 4231 for irrigation of the following lands in Township 9 South, Range 45 East, WM, be and the same is hereby CANCELLED:

37.0 acres SE $\frac{1}{4}$ SE $\frac{1}{4}$

3.5 acres NE $\frac{1}{4}$ NW $\frac{1}{4}$

Section 25

14.0 acres NW $\frac{1}{4}$ NW $\frac{1}{4}$

6.0 acres NE $\frac{1}{4}$ NE $\frac{1}{4}$

Section 36

Section 36

under priority 1890

under priority August 1863

30.0 acres SW $\frac{1}{4}$ SE $\frac{1}{4}$ in Section 25, under priority May 20, 1909

It is further ORDERED that a new certificate shall be issued evidencing the portion of the right for irrigation of the following lands not cancelled in this proceeding:

17.0 acres NE $\frac{1}{4}$ NE $\frac{1}{4}$ under priority August 1863, 10.0 acres NW $\frac{1}{4}$ NE $\frac{1}{4}$, 16.5 acres NE $\frac{1}{4}$ NW $\frac{1}{4}$, and 16.0 acres NW $\frac{1}{4}$ NW $\frac{1}{4}$, under priority 1890, all in Section 36, T9S, R45E, W.M.

It is further ORDERED that Certificate 4264 for irrigation on 38.0 acres in the NE $\frac{1}{4}$ SE $\frac{1}{4}$, Section 25, T9S, R45E, W.M., under priority dates of 1902 and 1904, and the water right evidence by said certificate, be and the same is hereby CANCELLED in its entirety.

It is further ORDERED that Certificate 4590, and the portion of the right evidenced thereby, for primary irrigation of 26.3 acres located in the SE $\frac{1}{4}$ NE $\frac{1}{4}$ and supplemental irrigation of 1.3 acres in the SE $\frac{1}{4}$ NE $\frac{1}{4}$ of Section 25, T9S, R45E, WM, be and the same is hereby CANCELLED.

It is further ORDERED that a new certificate shall be issued evidencing the portion of the right for irrigation of the following lands not cancelled in this proceeding:

Primary irrigation 40.0 acres NW $\frac{1}{4}$ NE $\frac{1}{4}$ and 13.7 acres SE $\frac{1}{4}$ NE $\frac{1}{4}$ in Section 25, T9S, R45E, W.M., from Eagle Creek under a priority of 1885, and supplemental irrigation of 13.7 acres SE $\frac{1}{4}$ NE $\frac{1}{4}$ Section 25, T9S, R45E, WM from Powder River, Augustus or Jeffords Ditch under priority 1880.

It is further ORDERED that Certificate 4611, and the portion of the right evidenced thereby, for irrigation use on 21.4 acres SE $\frac{1}{4}$ SW $\frac{1}{4}$ and 6.6 acres SW $\frac{1}{4}$ SE $\frac{1}{4}$ in Section 30, T9S R46E W.M. under priority July 12, 1900, be and the same is hereby CANCELLED.

It is further ORDERED that a new certificate shall be issued evidencing the portion of the right for irrigation of the following lands not cancelled in this proceeding:

10.0 acres SW $\frac{1}{4}$ SW $\frac{1}{4}$
Section 13 T9S R45E W.M.
0.2 acre in Lots 7 and 8, Duffey's
North Addition to Richland, Oregon
under priority 1881

18.6 acres SE $\frac{1}{4}$ SW $\frac{1}{4}$
3.4 acres SW $\frac{1}{4}$ SE $\frac{1}{4}$
Section 30 T9S R46E W.M.
under priority July 12, 1900

X

It is further ORDERED that Certificate 4649, and the portion of the right evidenced thereby, for irrigation of 24.4 acres in the SW $\frac{1}{4}$ NE $\frac{1}{4}$ under priority 1881 and 2.1 acres in the NW $\frac{1}{4}$ NE $\frac{1}{4}$ under priority 1886, all in Section 30 T9S R46E, W.M., be and the same is hereby CANCELLED.

It is further ORDERED that a new certificate shall be issued evidencing the portion of the right for irrigation of the following lands in Section 30 T9S R46E, W.M. not cancelled in this proceeding:

0.3 acres in Lot 5 and the S $\frac{1}{2}$ of Lot 3, Block 3, Town of Richland, Oregon
15.6 acres in the SW $\frac{1}{4}$ NE $\frac{1}{4}$
under priority 1881
37.9 acres NW $\frac{1}{4}$ NE $\frac{1}{4}$, under priority 1886

It is further ORDERED that Certificate 4665, and the portion of the right evidenced thereby, for irrigation of 0.2 acre located in the NE $\frac{1}{4}$ SE $\frac{1}{4}$ and 8.5 acres in the SE $\frac{1}{4}$ NE $\frac{1}{4}$ in Section 30, under priority of 1909, all in T9S, R46E, WM, be and the same is hereby CANCELLED.

It is further ORDERED that a new certificate shall be issued evidencing the portion of the right for irrigation of the following lands in Section 30 T9S R46E, W.M. not cancelled in this proceeding:

under priority 1897, 3.5 acres in the SE $\frac{1}{4}$ NE $\frac{1}{4}$, Section 30;
under priority 1901 (12.0 acres) and under priority 1909 (24.3 acres):
1.5 acres NE $\frac{1}{4}$ NW $\frac{1}{4}$ 7.0 acres SW $\frac{1}{4}$ NW $\frac{1}{4}$
7.5 acres NW $\frac{1}{4}$ NW $\frac{1}{4}$ 16.5 acres SE $\frac{1}{4}$ NW $\frac{1}{4}$
Section 29
3.8 acres NE $\frac{1}{4}$ SE $\frac{1}{4}$ Section 30

It is further ORDERED that Certificate 10203, and the right evidenced thereby, for irrigation of 20.0 acres in the NW $\frac{1}{4}$ SW $\frac{1}{4}$, Section 30, T9S R46E, W.M., under a priority of July 5, 1933, be and the same is hereby CANCELLED in its entirety.

It is further ORDERED that Certificate 14128, and the portion of the right evidenced thereby, for supplemental irrigation of the following lands under a priority date of October 29, 1936, be and the same is hereby CANCELLED:

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0.2 acre SW¼ SE¼
26.9 acres SE¼ SE¼
Section 25, T9S R45E

22.6 acres NE¼ NE¼
12.0 acres NW¼ NE¼
5.9 acres NE¼ NW¼
Section 36, T9S R45E

9.6 acres NW¼ NW¼
Section 31, T9S R46E

28.8 acres NE¼ SW¼
9.3 acres NW¼ SW¼
16.3 acres SE¼ SW¼

38.6 acres SW¼ SW¼
16.9 acres NW¼ SE¼
1.7 acres SW¼ SE¼

Section 30 T9S R46E

It is further ORDERED that a new certificate shall be issued evidencing the portion of the right for irrigation of 4.1 acres in the NE¼ NE¼ Section 36, T9S R45E and 0.3 acre in the NW¼ NW¼, Section 31, T9S R46E, W.M. **not** cancelled in this proceeding.

It is further ORDERED that Certificate 23035, and the portion of the right for supplemental irrigation of 2.6 acres NW¼ SW¼ 14.8 acres SW¼ SW¼ Section 25 and 0.95 acres in the SE¼ SE¼ of Section 26, all in T9S, R45E, WM, be and the same is hereby CANCELLED.

It is further ORDERED that a new certificate shall be issued evidencing the portion of the right for supplemental irrigation under a priority date of June 22, 1951 on 11.4 acres NW¼ SE¼, 16.2 acres SW¼ SE¼, and 23.05 acres SE¼ SE¼, all in Section 26, T9S R45E WM, which are **not** cancelled in this proceeding.

It is further ORDERED that Certificate 23417, and the portion of the right appurtenant to 21.4 acres SE¼ SE¼, Section 25, 22.6 acres NE¼ NE¼ and 5.7 acres NE¼ NW¼ Section 36, all in T9S R45E WM, under priority May 3, 1947, be and the same is hereby CANCELLED.

It is further ORDERED that a new certificate shall be issued evidencing the portion of the right for irrigation of the following lands **not** cancelled in this proceeding:

11 acres NE¼ NE¼ 14.9 acres NE¼ NW¼
7.8 acres NW¼ NE¼ 10.2 acres NW¼ NW¼
Section 36 T9S R45E WM

It is further ORDERED that Certificate 28855, and that portion of the right for primary irrigation under primary irrigation under priority 1882 and supplemental supply from Eagle Creek under priority of 1901 through the Howell Ditch for 39.3 acres in the SW¼ SW¼ Section 30, T9S R46E, WM, be and the same is hereby CANCELLED.

It is further ORDERED that a new certificate shall be issued evidencing the portion of the right for irrigation of the following lands not cancelled in this proceeding, all located in T9S R46E, WM:

*28.0 acres SW¼ NW¼	*0.7 acres SW¼ SW¼
*18.0 acres NW¼ SW¼	Section 30, Priority 1882
10.5 acres SW¼ SW¼ (*1 ac. supp)	
4.0 acres SE¼ SW¼	
Section 31, Priority 1862	

*Lands marked with an asterisk also have a supplemental supply from Eagle Creek under priority 1901 via the Howell ditch.

It is further ORDERED that Certificate 33891, and that portion of the right evidenced thereby, for irrigation of 21.7 acres SW¼ NW¼, 11.1 acres SE¼ NW¼ and 0.1 acre NW¼ NW¼ all in Section 30, T9S R46E, WM, under a priority of 1881, be and the same is hereby CANCELLED.

It is further ORDERED that a new certificate shall be issued evidencing the portion of the right for irrigation of the following lands not cancelled in this proceeding:

under priority 1868	under priority 1886
5.0 acres SW¼ NW¼	18.0 acres SE¼ SW¼
Section 26 T9S R45E	Section 19 T9S R46E

under priorities 1886 (12.0 acres) and 1881 (8.0 acres):
7.4 acres SE¼ NW¼ 12.6 acres NE¼ SW¼
Section 19 T9S R46E

under priority 1881	
32.0 acres NE¼ NW¼	1.0 acre NW¼ SE¼
39.9 acres NW¼ NW¼	Section 23 T9S R45E
18.3 acres SW¼ NW¼	0.25 acre in Lot 9, Block 4, in the
28.9 acres SE¼ NW¼	town of Richland T9S R45E WM
Section 30 T9S R46E	

It is further ORDERED that Certificate 44243, and the portion of the right evidenced thereby, for irrigation under a priority of 1885 of 0.5 acre in the SW¼ NW¼, Section 25, T9S R46E, WM, be and the same is hereby CANCELLED.

It is further ORDERED that a new certificate shall be issued evidencing the portion of the right for irrigation of the following lands not cancelled in this proceeding:

under priority date 1879	under priority date 1885
22.0 acres SW¼ SW¼	40.0 acres NW¼ NW¼
Section 23	39.5 acres SW¼ NW¼
	Section 25

Special Order Volume 51 Page 427

RECEIVED
MAR 14 2007
WATER RESOURCES DEPT
SALEM, OREGON

under priority date 1879
11.0 acres NE $\frac{1}{4}$ NW $\frac{1}{4}$
38.0 acres NW $\frac{1}{4}$ NW $\frac{1}{4}$
Section 26

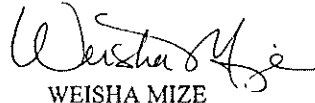
under priority 1888
10.0 acres NE $\frac{1}{4}$ SW $\frac{1}{4}$
Section 10

all in T9S R46E, WM.

It is further ORDERED that Certificate 4592, and the right evidenced thereby, for irrigation of 40.0 acres NE $\frac{1}{4}$ SW $\frac{1}{4}$, 40.0 acres SE $\frac{1}{4}$ SW $\frac{1}{4}$, and 40.0 acres NW $\frac{1}{4}$ SE $\frac{1}{4}$, Section 25, T9S R45E WM, under priority 1901 from Powder River, be and the same is hereby CANCELLED.

It is further ORDERED that a new certificate shall be issued evidencing the portion of the right for irrigation of 40.0 acres SW $\frac{1}{4}$ NE $\frac{1}{4}$ and 40.0 acres SE $\frac{1}{4}$ NW $\frac{1}{4}$ in Section 25, T9S R45E WM, under priority 1878 from Eagle Creek not cancelled in this proceeding.

DATED and PLACED in the US Postal Service this 6th day of May, 1997


WEISHA MIZE
Administrative Law Judge

NOTICE: You are entitled to judicial review of this Order. Judicial review may be obtained by filing a petition for review within 60 days from the date of service (date of mailing) of this Order. Judicial review is pursuant to the provisions of ORS 536.075.



Oregon

Theodore R. Kulongoski, Governor

Water Resources Department

North Mall Office Building
725 Summer Street NE, Suite A
Salem, OR 97301-1266
503-986-0900
FAX 503-986-0904

November 9, 2007

EDWARD & PATRICIA ELMS
ELMS FAMILY TRUST
42543 POCAHONTAS RD
BAKER CITY OR 97814

J & S MANAGEMENT, LLC
C/O JOHN KIRKPATRICK
2321 ROLLING HILLS DRIVE
CLARKSTON WA 99403

GARNET KALELI, MILO GOSS
SUSAN HUGHES, MARK GOSS
PO BOX 519
LA GRANDE OR 97850

ANNE KIRKPATRICK
3140 NORTH 2ND STREET
BAKER CITY OR 97814

Reference: Transfer 10339

Enclosed is a copy of the order approving your water right transfer application.

Also enclosed is the certificate issued to confirm a historic change in point of diversion approved by the order herein. Please read this document carefully and abide by the requirements.

Sincerely,

Sarah Henderson

for Doug Parrow
Natural Resource Specialist

DP:sh

cc: Watermaster #8
Thomas Hanley, CWRE
Eagle Valley Irrigation Company

Enclosure

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

In the Matter of Transfer Application)	FINAL ORDER APPROVING
T-10339, Baker County)	A CHANGE IN POINT OF DIVERSION
)	TO REFLECT HISTORIC USE

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.

Applicants

Elms Family Trust
c/o Edward and Patricia Elms
42543 Pocahontas Road
Baker City, OR 97814

J & S Management, LLC
c/o John Kirkpatrick
2321 Rolling Hills Drive
Clarkston, WA 99403

Garnet Kaleli, Milo Goss,
Susan Hughes and Mark Goss
P.O. Box 519
La Grande, OR 97850

Anne Kirkpatrick
3140 North 2nd Street
Baker City, OR 97814

Findings of Fact

1. On March 19, 2007, Edward and Patricia Elms, John Kirkpatrick, Anne Kirkpatrick, Garnet Kaleli, Milo Goss, Mark Goss, and Susan Hughes filed a complete transfer application to change the point of diversion under Certificate 4649. The Department assigned the application number T-10339.
2. The portion of the right to be transferred is as follows:
Certificate: 4649 in the name of GEORGE W. EVANS (confirmed by Powder River decree, and not previously canceled by an order recorded in Volume 51, Pages 423-428.)
Use: IRRIGATION of 1.0 ACRE
Priority Date: 1881
Limit/Duty: ONE-FORTIETH cfs per acre and shall be subject to all other conditions and limitations contained in said decree
Source: EAGLE CREEK, tributary to POWDER RIVER

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.

3. Certificate 4649 does not describe the location of the authorized point of diversion, however the decree tabulation indicates the point of diversion as Kay Young Ditch and the Department received information that better describes the point of diversion location as follows:

Authorized Point of Diversion:

Twp	Rng	Mer	Sec	Q-Q	Survey Coordinates
9 S	45 E	WM	10	SE NW	KAY YOUNG DITCH - 1700 FEET SOUTH AND 2450 FEET EAST FROM THE NW CORNER OF SECTION 10

Authorized Place of Use:

Twp	Rng	Mer	Sec	Q-Q	Acres
9 S	46 E	WM	30	SW NE	1.0

4. Application T-10339 proposes to move the authorized point of diversion to reflect historic use approximately 7.5 miles upstream to:

Twp	Rng	Mer	Sec	Q-Q	Survey Coordinates
8 S	45 E	WM	33	SE NW	NEWT YOUNG DITCH - 1950 FEET SOUTH AND 1400 FEET EAST FROM THE NW CORNER OF SECTION 33

5. Notice of the application for transfer was published on March 27, 2007 pursuant to ORS 540.520 and OAR 690-380-4000. Comments were received in response to the notice, however no protests were filed.
6. 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 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 not currently equipped with an appropriate fish screening and/or by-pass device.
7. Pursuant to OAR 690-380-2120(2)(a), evidence has been submitted that the actual, current point of diversion for the water right in question, as described in Finding #4, has been in use for more than 10 years.
8. 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.
9. Notice of the proposed transfer on all affected water right holders was mailed on August 15, 2007, pursuant to 690-380-2120(4).
10. 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.
11. A diversion structure and ditch sufficient to use the full amount of water allowed under the existing right are present.
12. The proposed change would not result in enlargement of the right.

13. The proposed change would not result in injury to other water rights.

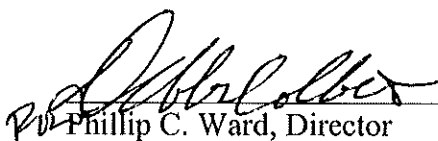
Conclusions of Law

The change in point of diversion to reflect historic use proposed in application T-10339 appears to be consistent with the requirements of ORS 540.505 to 540.580, and OAR 690-380-5000.

Now, therefore, it is ORDERED:

1. The change in point of diversion to reflect historic use proposed in T-10339 is 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 Certificate 4649 and any related decree.
3. Water Right Certificate 4649 is cancelled. A new water right certificate will be issued confirming the change in point of diversion for the portion of the right affected by the transfer, and a new certificate will be issued to describe the remaining portion of the right not affected by the transfer.
4. The proposed change shall be effective immediately upon issuance of this final order approving T-10339.
5. 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.
6. The water user shall maintain the existing headgate and shall make such improvements as may be required by the Department.
7. 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 a screening and/or 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.

Dated at Salem, Oregon this 8 day of November 2007.


Phillip C. Ward, Director

Mailing Date NOV 13 2007

STATE OF OREGON
COUNTY OF BAKER
CERTIFICATE OF WATER RIGHT

THIS CERTIFICATE ISSUED TO

EDWARD AND PATRICIA ELMS
42543 POCAHONTAS RD.
BAKER CITY, OR 97814

JOHN KIRKPATRICK
2321 ROLLING HILLS DRIVE
CLARKSTON, WA 99403

GARNET KALELI, MILO GOSS,
SUSAN HUGHES and MARK GOSS
P.O. BOX 519
LA GRANDE, OR 97850

ANNE KIRKPATRICK
3140 N 2ND STREET
BAKER CITY, OR 97814

confirms the right to use the waters of EAGLE CREEK, tributary to POWDER RIVER, for IRRIGATION of 1.0 ACRE.

This right was confirmed by decree of the Circuit Court of the State of Oregon for Baker County. The decree is of record at Salem, in the Order Record of the Water Resources Director in Volume 6, at Page 291. The date of priority is 1881 FOR 1.0 ACRE.

The point of diversion is located as follows:

Twp	Rng	Mer	Sec	Q-Q	Survey Coordinates
8 S	45 E	WM	33	SE NW	NEWT YOUNG DITCH - 1950 feet South and 1400 feet East from the NW corner of Section 33

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, and shall be subject to all other conditions and limitations contained in said decree.

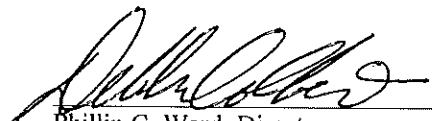
A description of the place of use to which this right is appurtenant is as follows:

Twp	Rng	Mer	Sec	Q-Q	Acres
9 S	46 E	WM	30	SW NE	1.0

The water user shall maintain the existing headgate and shall make such improvements as may be required by the Department.

This certificate is issued to confirm an HISTORIC CHANGE IN POINT OF DIVERSION approved by an order of the Water Resources Director entered November 8, 2007, approving Transfer Application T-10339, and supersedes Certificate 4649, State Record of Water Right Certificates.

WITNESS the signature of the Water Resources Director, affixed November 8, 2007.


Phillip C. Ward, Director

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.

STATE OF OREGON

COUNTY OF BAKER

CERTIFICATE OF WATER RIGHT

THIS CERTIFICATE ISSUED TO

GEORGE W. EVANS

RICHLAND, OR 97870

confirms the right to use the waters of EAGLE CREEK, tributary to POWDER RIVER for IRRIGATION of 52.8 ACRES.

This right was confirmed by decree of the Circuit Court of the State of Oregon for Baker County. The decree is of record at Salem, in the Order Record of the Water Resources Director in Volume 6, at Page 291. The dates of priority are 1881 for 14.9 acres, and 1886 for 37.9 acres.

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 subject to all other conditions and limitations contained in said decree.

A description of the place of use to which this right is appurtenant is as follows:

Twp	Rng	Mer	Sec	Q-Q	Lot/Block	Tax Lot	Acres	Priority
9 S	45 E	WM	23	NW SE	Lot 5 and the South ½ of Lot 3, Block 3	4100	0.3	1881
9 S	46 E	WM	30	NW NE			37.9	1886
9 S	46 E	WM	30	SW NE			14.6	1881

This certificate describes that portion of the water right confirmed by Certificate 4649, State Record of Water Right Certificates, NOT modified by the provisions of an order of the Water Resources Director entered November 8, 2007, approving Transfer Application T-10339, nor cancelled by Special Order Vol. 51, Pages 423-428.

The issuance of this superseding certificate does not confirm the status of the water right in regard to the provisions of ORS 540.610 pertaining to forfeiture or abandonment.

WITNESS the signature of the Water Resources Director, affixed November 8, 2007.



PR Phillip C. Ward, Director

Water Right Transfer Checklist

Transfer T-10339

Transfer Specialist: J. Spriet

Transfer Type: HPOD

Applicant Name/Address: Edward & Patricia Elms 42543 Pocahontas Rd. Baker City, OR, Anne Kirkpatrick 3140 N 2nd Street, Baker City, OR, J&S Management C/O John Kirkpatrick 2321 Rolling Hills Dr. Clarkston, WA, Garret Kaleli, Milo & Mark Goss, & Susan Hughes C/O Mark Goss P.O. Box 519 LaGrande, OR 97850

Agent Name/Address: _____

CWRE Name/Number: Thomas Hanley, #241

Rec Landowner Name/Address: _____

Irr. District Name/Address: Eagle Valley Irrigation Company

← copy of
order to

Affected Gov'ts Name/Address: Baker County

Commentors: Name/Address: _____

Water Rights Affected

Records Marked	Records Copied	App File No. or Decree Name	Permit No.	Certificate No.	RR/CR Needed	RR/CR Nos.
<input type="checkbox"/>	<input type="checkbox"/>	Powder River Decree		4649	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	83630 CF
<input type="checkbox"/>	<input type="checkbox"/>				<input type="checkbox"/> Yes <input type="checkbox"/> No	83631 RR
<input type="checkbox"/>	<input type="checkbox"/>				<input type="checkbox"/> Yes <input type="checkbox"/> No	

Key Dates & Initial Actions

Rec'd: <u>3/19/07</u>	Proposed Action(s): POU POD HST APOD USE OTHER:	
Fees Pd: <u>350</u>	WM District: <u>8</u>	ODFW District: _____
Initial Notice: <u>3/27/07</u>	WM Review sent: <u>4/17/07</u>	ODFW Review sent: _____
Acknowledgement Letter Sent <input type="checkbox"/>		GW Review sent: _____

Processing Dates & Actions

Deficiency Contacts: _____

Newspaper Pub Affid Due: _____

☐ not required

DPD Mailed: _____

Affid of Pub Rec'd: _____

☐ ODFW contact sheet sent with DPD, or ☐ N/A

Last Day Published: _____

PD Mailed: _____

Affidavit Reminder Sent: _____

PD Weekly Notice: _____

Reminder Deadline: _____

Preliminary Determination

☐ Electronic Files uploaded

☐ Preliminary Determination

☐ PD Cover letter

☐ Fee Refund Due

☐ PD Notice

☐ Remaining Rights

☐ File Assigned/ ModPod updated

DPD Review (Optional)	PD Review (Salem)	Final Order Review (Salem)
Reviewer: _____	Reviewer: _____	Reviewer: _____
Date: _____	Date: _____	Date: <u>10-26-07</u>
Coordinator: _____	Coordinator: _____	Coordinator: <u>ASP</u>
Date: _____	Date: _____	Date: <u>10/29/07</u>
Comments/Special Issues:		

Special Order Volume: Vol 73 Pages 604

Final Order Signature Date: 11-8-07

Notice of FO email'd to processors Jason S.

Application

- ☒ The type of change is clearly indicated.
- ☒ The application is appropriately signed.
- ☒ Appropriate fees were paid. ☐ If overpayment, Refund Request to be sent with FO
- ☒ Land use form matches affected tax lots and is signed by proper official. (from ALL affected Govt's)
- ☒ Ditch company, district and/or BOR, sent a copy of the application and map, if appropriate.
- ☒ All required attachments received.

Water right subject to transfer

- ☒ Certificated right or Proof accepted "to the satisfaction...."
- ☒ The right been exercised according to terms & conditions of certificate.
- ☒ Delivery system has the capacity to fully divert the rate/duty of the right.
- ☒ No information in record that suggests forfeiture.
- ☒ No conflicts identified on the plat cards and plat card reports printed.
- ☐ Affidavits prepared for rights that need to be canceled or diminished.

Application Map

- ☒ The map has an original CWRE signature.
- ☒ The map size and scale accurate and appropriate per OAR 690-380-3100(1)(b)(c)&(d).
- ☒ All authorized and proposed POD's/POA's and POU's shown and clearly labeled.
- ☒ Metes and bounds for the POD's/POA's are properly described on the map.
- ☒ The POD/POA dimensions & 1/4 1/4 on map match the transfer application and certificate descriptions.
- ☒ Map acres match the tabulation on the certificate.
- ☒ Have final proof maps/deed maps for the rights. ☐ Application map matches certificate FPS.
- ☐ Have necessary aerial photos.

Determining the "From" and "To" Lands (make working copy of application and certificates to mark on)

- ☐ Only the authorized POD's/POA's and POUs to be transferred.
- ☒ Application & certificate tabulations match. (Mark on app)
- ☒ Marked on certificate the acreage being transferred, canceled

Ownership

- ☒ The deed/ROLI matches the "from" lands. (Don't need
- ☒ Have current tax lot map. (If transfer application is sever
- ☐ The applicant is the owner of the "from" lands.
- ☒ All owners on the deed/ROLI have signed the application
- ☐ If necessary, there is a notarized, signed statement of c
- ☐ If necessary, there is a copy of written notification to e
- ☐ Agent has authorization to make decisions.

Evaluation (materials needed for peer reviewer in bold)

- | | | |
|--|---|--|
| <input checked="" type="checkbox"/> application complete | <input checked="" type="checkbox"/> map | <input checked="" type="checkbox"/> FF |
| <input checked="" type="checkbox"/> deed/ROLI | <input checked="" type="checkbox"/> certificate | <input checked="" type="checkbox"/> fe |
| <input type="checkbox"/> audit | <input checked="" type="checkbox"/> dpd | |

Reviews/comments/conditions received?

☐ Watermaster

☐ ODFW

☐ SW

Headgate

☐ When in the judgment

☒ Prior to diverting

☐ Existing and maintain

Measuring Devices

☐ When in the judgment

☒ Prior to diverting

☐ Existing and maintain

Injury: Y N

Enlargement: Y N

Conditions to avoid enlargement/injury -

Proof of Service

- See Jason

Spruet's email

dated 10-26-07.

- If the "holder of the water right" is the District, does that suffice?

Water Right Transfer Checklist

Transfer T-10339

Transfer Specialist: J. Spriet

Transfer Type: HPOD

Applicant Name/Address: Edward & Patricia Elms 42543 Pocahontas Rd. Baker City, OR, Anne Kirkpatrick 3140 N 2nd Street, Baker City, OR, J&S Management C/O John Kirkpatrick 2321 Rolling Hills Dr. Clarkston, WA, Garret Kaleli, Milo & Mark Goss, & Susan Hughes C/O Mark Goss P.O. Box 519 LaGrande, OR 97850

Agent Name/Address: _____

CWRE Name/Number: Thomas Hanley, #241

Rec Landowner Name/Address: _____

Irr. District Name/Address: Eagle Valley Irrigation Company

Affected Gov'ts Name/Address: Baker County

Commentors: Name/Address: _____

Water Rights Affected

Records Marked	Records Copied	App File No. or Decree Name	Permit No.	Certificate No.	RR/CR Needed	RR/CR Nos.
<input type="checkbox"/>	<input type="checkbox"/>	Powder River Decree		4649	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	
<input type="checkbox"/>	<input type="checkbox"/>				<input type="checkbox"/> Yes <input type="checkbox"/> No	
<input type="checkbox"/>	<input type="checkbox"/>				<input type="checkbox"/> Yes <input type="checkbox"/> No	

Key Dates & Initial Actions

Rec'd: <u>3/19/07</u>	Proposed Action(s): POU POD HST APOD USE OTHER:	
Fees Pd: <u>350</u>	WM District: <u>8</u>	ODFW District: _____
Initial Notice: <u>3/27/07</u>	WM Review sent: <u>4/17/07</u>	ODFW Review sent: _____
Acknowledgement Letter Sent <input type="checkbox"/>		GW Review sent: _____

Processing Dates & Actions

Deficiency Contacts: _____

Newspaper Pub Affid Due: _____

☐ not required

DPD Mailed: _____

Affid of Pub Rec'd: _____

☐ ODFW contact sheet sent with DPD, or ☐ N/A

Last Day Published: _____

PD Mailed: _____

Affidavit Reminder Sent: _____

PD Weekly Notice: _____

Reminder Deadline: _____

Preliminary Determination

☐ Electronic Files uploaded

☐ Preliminary Determination

☐ PD Cover letter

☐ Fee Refund Due

☐ PD Notice

☐ Remaining Rights

☐ File Assigned/ ModPod updated

DPD Review (Optional)	PD Review (Salem)	Final Order Review (Salem)
Reviewer: _____	Reviewer: _____	Reviewer: _____
Date: _____	Date: _____	Date: _____
Coordinator: _____	Coordinator: _____	Coordinator: _____
Date: _____	Date: _____	Date: _____
Comments/Special Issues: 		

Special Order Volume: Vol _____ Pages _____ Final Order Signature Date: _____

Notice of FO email'd to processors _____

Application

- ☒ The type of change is clearly indicated.
- ☒ The application is appropriately signed.
- ☒ Appropriate fees were paid. ☐ If overpayment, Refund Request to be sent with FO
- ☒ Land use form matches affected tax lots and is signed by proper official. *(from ALL affected Govt's)*
- ☒ Ditch company, district and/or BOR, sent a copy of the application and map, if appropriate.
- ☒ All required attachments received.

Water right subject to transfer

- ☒ Certificated right or Proof accepted "to the satisfaction...."
- ☒ The right been exercised according to terms & conditions of certificate.
- ☒ Delivery system has the capacity to fully divert the rate/duty of the right.
- ☒ No information in record that suggests forfeiture.
- ☒ No conflicts identified on the plat cards and plat card reports printed.
- ☐ Affidavits prepared for rights that need to be canceled or diminished.

Application Map

- ☒ The map has an original CWRE signature.
- ☒ The map size and scale accurate and appropriate per OAR 690-380-3100(1)(b)(c)&(d).
- ☒ All authorized and proposed POD's/POA's and POU's shown and clearly labeled.
- ☒ Metes and bounds for the POD's/POA's are properly described on the map.
- ☒ The POD/POA dimensions & 1/4 1/4 on map match the transfer application and certificate descriptions.
- ☒ Map acres match the tabulation on the certificate.
- ☒ Have final proof maps/deed maps for the rights. ☐ Application map matches certificate FPS.
- ☐ Have necessary aerial photos.

Determining the "From" and "To" Lands *(make working copy of application and certificates to mark on)*

- ☐ Only the authorized POD's/POA's and POU's to be transferred are listed.
- ☒ Application & certificate tabulations match. *(Mark on appl. and cert. copies and note corrections needed)*
- ☒ Marked on certificate the acreage being transferred, cancelled and remaining by 1/4 1/4.

Ownership

- ☒ The deed/ROLI matches the "from" lands. (Don't need to check "to" lands.)
- ☒ Have current tax lot map. *(If transfer application is several years old, contact assessor's office)*
- ☐ The applicant is the owner of the "from" lands.
- ☒ All owners on the deed/ROLI have signed the application.
- ☐ If necessary, there is a notarized, signed statement of consent from landowners other than applicant.
- ☐ If necessary, there is a copy of written notification to each lien holder identified on ROLI.
- ☐ Agent has authorization to make decisions.

Evaluation (materials needed for peer reviewer in bold)

- | | | | | |
|--|---|---|---|---|
| <input checked="" type="checkbox"/> application complete | <input checked="" type="checkbox"/> map | <input checked="" type="checkbox"/> FPS | <input checked="" type="checkbox"/> evidence of use | <input checked="" type="checkbox"/> land-use form |
| <input checked="" type="checkbox"/> deed/ROLI | <input checked="" type="checkbox"/> certificate | <input checked="" type="checkbox"/> fees paid | <input type="checkbox"/> well logs | <input checked="" type="checkbox"/> plat card |
| <input type="checkbox"/> audit | <input checked="" type="checkbox"/> dpd | | | |

Reviews/comments/conditions received? ☐ Watermaster ☐ ODFW ☐ GW

Headgate ☐ When in the judgment ☒ Prior to diverting ☐ Existing and maintain

Measuring Devices ☐ When in the judgment ☒ Prior to diverting ☐ Existing and maintain

Injury: Y N Enlargement: Y N

Conditions to avoid enlargement/injury –

Lisa Jaramillo

From: Jason Spriet
Sent: Friday, October 26, 2007 2:19 PM
To: Lisa Jaramillo
Subject: T-10339

Lisa -

On August 15, 2007 a notice regarding Historic POD transfer 10339 was sent from the East Region Watermaster office to both the Kay Young Ditch Company (Gary Chamberlin, Richland Or.) and the Newt Young Ditch Company (Eldon Deardorff, Richland Or.) to satisfy the requirements of OAR 690-380-2120 (4). We also met with both ditch companies to discuss the transfer.

Thanks, Jason

Jason Spriet
Natural Resource/GIS Specialist
Oregon Water Resources Dept.
Eastern Region
1995 3rd Street, Suite #180
Baker City, OR 97814

Phone: (541) 523-8224 Ext. 35
FAX: 1-866-214-3493

10/26/2007

Dorothy Pedersen

From: Jason Spriet
Sent: Thursday, October 18, 2007 11:27 AM
To: Dorothy Pedersen
Subject: FW: Transfer 10339

Hi Dorothy -

Ivan brought T-10339 to Salem earlier this week. I had pretty much ironed out ODFW's position on fish screens, but didn't have a confirmation from them at the time. They changed their opinion since the transfer is for such a small acreage from a large ditch. This e-mail details the change to Option 4 on the review sheet.

I wrote the order to reflect the change, but didn't have a confirmation e-mail from ODFW until today. Could you please add this e-mail to the file?

Thanks, Jason

From: Timothy Bailey [mailto:Timothy.D.Bailey@state.or.us]
Sent: Thursday, October 18, 2007 9:33 AM
To: Jason Spriet
Cc: Nadine Craft
Subject: Transfer 10339

Jason,

Based on information that you recently provided me regarding water right transfer 10339, I would like to change our screening recommendation. Nadine Craft had previously commented on this transfer indicating that a fish screen should be required before water is diverted. You indicated on the telephone recently that this transfer involves a small amount of water, irrigation of 1 acre, on a large ditch that carries 40 cfs. The screening requirement would apply to the large 40 cfs ditch, the authorized POD. The cost of screening this ditch seems like a large financial burden for the transfer applicants in this case. You also indicated that a cooperative project is being developed that would result in screening of this ditch. Based on this set of conditions, I would like to change our recommendation to that of Box 4 on the Transfer Comment Form, "the new point of diversion (POD) does not currently require a fish screen and/or by-pass device, however, the permittee may be required in the future to install, maintain and operate fish screening and/or by-pass devices". The applicants should be aware that if the Newt Young Ditch is not screened in the next few years, that ODFW will require the users under this transfer to screen their individual take-outs from this ditch.

Tim Bailey
La Grande District Fish Biologist
Oregon Department of Fish & Wildlife
107 20th Street
La Grande, OR 97850
541-962-1829

TO: FILE
FROM: JASON SPRIET
SUBJECT: TRANSFER 10339
DATE: 10/11/2007

Comments were received verbally from local ditch companies with concerns about having to deliver water to the lands affected by this transfer. As of September 10, the ditch companies' intention was to draft an agreement with the landowners stating that the ditch company was not obligated to deliver water for the historic point of diversion.

The lands involved in the transfer are at the end of the ditch system and have not historically called for water from the historic POD. The amount of tail water at the end of the ditch has previously been sufficient to serve the 0.025 CFS being transferred.



Oregon Water Resources Department
725 Summer Street NE, Suite A
Salem, Oregon 97301-1271
(503) 986-0900
www.wrd.state.or.us

Watermaster Review Form: Water Right Transfer

Transfer Application: T-10339

Review Due Date: 4.17.2007

Applicant Name: Elms/Kirkpatrick/Goss

Proposed Changes: ☐ POU ☒ POD ☐ POA ☐ USE ☐ OTHER

Reviewer(s): Rick Lusk

Date of Review: Apr. 17, 2007

1. Do you have information suggesting that the water rights may be subject to forfeiture?
☐ Yes ☒ No If "Yes", describe the information and indicate if you intend to file a cancellation affidavit or if you need additional time to determine if a cancellation affidavit should be filed: _____
2. Is there a history of regulation on the source that serves the right proposed for transfer that has involved the right and downstream water rights? ☒ Yes ☐ No Generally characterize the frequency of any regulation or explain why regulation has not occurred:
Eagle Creek is regulated every year for prior rights
3. Check here if it appears that downstream water rights benefit from return flows resulting from the current use of the right? ☐ If you check the box, generally characterize the locations where the return flows likely occur and list the water rights that benefit most: N/A
4. Are there upstream water rights that would be affected by the proposed change?
☐ Yes ☒ No If "Yes", describe how the rights would be affected and list the rights most affected: _____
5. For POD changes and instream transfers, check here if there are channel losses between the old and new PODs or within the proposed instream reach? ☒ If you check the box, describe and, if possible, estimate the losses: An educated guess, given the cobble and gravel channel and the gravelly adjacent lands, the reach between authorized and proposed pod's is a losing reach. Estimated loss at 5-10%.
6. Would distribution of water for the right after the proposed change result in regulation of other water rights that would not have occurred if use of the existing right was maximized?
☐ Yes ☒ No If "Yes", explain: _____
7. For POU changes, would the original place of use continue to receive water from the same source? ☐ Yes ☐ No ☒ N/A If "Yes", explain: _____
8. For POU or USE changes, would use of the existing right at "full face value," result in the diversion of more water than can be used beneficially and without waste? ☐ Yes ☒ No If "Yes", explain: N/A
9. Are there other issues not identified through the above questions? ☐ Yes ☒ No If "Yes", explain: _____

10. What alternatives may be available for addressing any issues identified above: This transfer involves historical use for a small amount of water.
11. Have headgate notices been issued for the source that serves the right? ☐ Yes ☒ No
12. What water control and measurement conditions should be included in the transfer:

Measurement Devices	<input type="checkbox"/> Present and should be maintained.	<input checked="" type="checkbox"/> Should be required prior to diverting water.	<input type="checkbox"/> May be required in the future.
Headgates	<input checked="" type="checkbox"/> Present and should be maintained.	<input checked="" type="checkbox"/> Should be required prior to diverting water.	<input type="checkbox"/> May be required in the future.

RML

STATE OF OREGON

COUNTY OF BAKER

CERTIFICATE OF WATER RIGHT

This is to Certify, That GEORGE W. EVANS,

of Richland, State of Oregon, has a right to the use of
the waters of EAGLE CREEK, a tributary of Powder River,
for the purpose of Irrigation of 80.3 acres of land;

and that said right has been confirmed by decree of the Circuit Court of the State of Oregon for
Baker County, and the said decree entered of record at Salem, in the Order
Record of the STATE WATER BOARD of the State of Oregon, in Volume six, at page 291;
that the priority of the right thereby confirmed dates from 1881 for 40.3 acres; 1886 for
40 acres;

that 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 one-fortieth of one
cubic foot per second per acre, and shall be subject to all other conditions and
limitations contained in said decree.

A description of the lands irrigated under such right, and to which the water is appurtenant
(or, if for other purposes, the place where such water is put to beneficial use), is as follows:

Forty acres in Northwest quarter of Northeast quarter; forty acres in
Southwest quarter of Northeast quarter of Section Thirty, Township Nine South,
Range Forty-six East of Willamette Meridian, and 0.3 acre in Lot Five, and
South half of Lot Three, in Block Three of the town of Richland, Baker County,
Oregon.

Newt Young
1880 NWNE 40^{ac} - 2¹ cancelled = 37⁹ Rem ✓
1881 SWNE 40^{ac} - 24¹ cancelled = 15² - 1⁰ = 14² Rem
+ 0³ (14²) Rem
Kay Young Sec Vol 51, P. 425 for cancellation

Newt Young + Kay Young Ditches

The right to the use of the water for irrigation purposes is restricted to the lands or place
of use herein described.

WITNESS the seal and signature of the State
Water Board, affixed this 15th day
of February, 1923.

STATE WATER BOARD

(Seal of State Water Board)

ByPERCY A. CUPPER.....
State Engineer, President

Attest:

R. W. POTTER
Secretary

Recorded in State Record of Water Right Certificates, Volume 5, page 4649.

These lands may be covered in part
by Brownlee Reservoir
See H.E. License File

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Name and Postoffice Address of Appropriator	Date of Relative Priority	Amount Cubic Feet Per Second	Number Acres	Use	Name of Ditch	Stream	Description of Land or Place of Use
449 Evans, George W Richland, Oregon (Finding #30)	1886 1881		40 40.3	Irrigation Irrigation	Newt Young Kay Young	Eagle Creek Eagle Creek	40 acres in NW $\frac{1}{4}$ NE $\frac{1}{4}$ Lot 5; S $\frac{1}{2}$ of Lot 3, Block 3, Town of Richland, Oregon 40 acres in SW $\frac{1}{4}$ NE $\frac{1}{4}$ Section 30 T 9 S. R. 46 E. W. M. 12-39
450 Fraser, John Richland, Oregon (Finding #30)	1878 (1) T-7397 Δ POD δ 2.2		129.3	Irrigation	Kay Young	Eagle Creek	12 acres in SW $\frac{1}{4}$ SW $\frac{1}{4}$ (1) 40 acres in SE $\frac{1}{4}$ SW $\frac{1}{4}$ 39 acres in SW $\frac{1}{4}$ SE $\frac{1}{4}$ Section 23. Lots 1 and 2, Block 1 Duffy's North Addition to Richland, Oregon. 27 acres in NE $\frac{1}{4}$ NW $\frac{1}{4}$ 1 acre in NW $\frac{1}{4}$ NW $\frac{1}{4}$ Section 26. T 9 S. R. 45 E. W. M.
451 Gibson, Julia Richland, Oregon (Finding #30)	1886		41	Irrigation	Kay Young	Eagle Creek	20 acres in NE $\frac{1}{4}$ NE $\frac{1}{4}$ Section 26 21 acres in SE $\frac{1}{4}$ SE $\frac{1}{4}$ Section 23 T 9 S. R. 45 E. W. M.
452 Givens, Medora L Richland, Oregon (Finding #30)	1880		.5	Irrigation	Kay Young	Eagle Creek	Lots 10, 11 and 12, Block 1, Halley's Addition to Richland, Oregon.
453 Gordon, George W Richland, Oregon (Finding #30)	1881		1/3	Irrigation	Kay Young	Eagle Creek	1/3 acre in NW $\frac{1}{4}$ SE $\frac{1}{4}$ Section 23 T 9 S. R. 45 E. W. M.
454 Goss, Leonard New Bridge, Oregon (Finding #30)	1903 1889		15 16.5	Irrigation	Tobin Newt Young	Eagle Creek	15 acres in NE $\frac{1}{4}$ SW $\frac{1}{4}$ 18.5 acres in SE $\frac{1}{4}$ SW $\frac{1}{4}$ Section 11 T 9 S. R. 45 E. W. M.
455 Gover, David S New Bridge, Oregon (Finding #30 & 101)	1893		40	Irrigation	Allen and Arthur	Eagle Creek	12 acres in SE $\frac{1}{4}$ NW $\frac{1}{4}$ 10 acres in NW $\frac{1}{4}$ SE $\frac{1}{4}$ 5 acres in SW $\frac{1}{4}$ SE $\frac{1}{4}$ 13 acres in NE $\frac{1}{4}$ SW $\frac{1}{4}$ Section 20 T 8 S. R. 45 E. W. M.
456 Gover, O. A. New Bridge, Oregon (Finding #30)	1884		9	Irrigation	Holstine	Eagle Creek	9 acres in NE $\frac{1}{4}$ SW $\frac{1}{4}$ Section 10 T 9 S. R. 45 E. W. M.
							POWDER RIVER -182 - (EAGLE CREEK)

BEFORE THE OREGON WATER RESOURCES DEPARTMENT

IN THE MATTER OF THE PROPOSED CANCELLATION)
OR PARTIAL CANCELLATION OF THE WATER RIGHTS)
EVIDENCED BY CERTIFICATES 2061, 2750, 4028, 4231, 4264,) FINAL ORDER
4590, 4592, 4611, 4649, 4665, 10203, 14128, 23035, 23417, 28855,) Case No. PC97-1
33891 and 44243 FOR THE USE OF WATER FROM EAGLE)
CREEK, POWDER RIVER, SQUAW GULCH, DALY CREEK,)
AND LITTLE EAGLE CREEK, BAKER COUNTY, OREGON)

Notice of the proposed cancellation or partial cancellation of the water rights described below was served on Idaho Power Company, PO Box 70, Boise, ID 83707, the owner of record of certain real property to which these rights are appurtenant, on February 14, 1997.

The proposal to cancel all or part of the right in question was based on information received from Vernon Church, Thomas Rudolph, Kent Searles, Steve Shold, and Tim Heater, alledging that right, or the portion of the water right, as described below, had been forfeited by failure to make beneficial use of the water under the terms of the water right for a period of five or more consecutive years, from 1989 through May 1996.

No protest having been filed within the 60 days allowed by law, this FINAL ORDER is now entered.

NOW, THEREFORE, IT IS ORDERED that the portion of certificate 2061, and the water right evidenced thereby, for irrigation of 2.3 acres in the SE $\frac{1}{4}$ NE $\frac{1}{4}$ Section 30, T9S R46E, be and the same is hereby CANCELLED.

It is further ORDERED that a new certificate shall be issued for irrigation under a priority of June 10, 1912 of 6.94 acres SE $\frac{1}{4}$ NE $\frac{1}{4}$, Section 30, 28.67 acres NE $\frac{1}{4}$ NW $\frac{1}{4}$ and 7.24 acres NW $\frac{1}{4}$ NE $\frac{1}{4}$, Section 29, T9S R46E not cancelled in this proceeding.

It is further ORDERED that the portion of certificate 2750, and the water right evidenced thereby, for supplemental irrigation of the following lands, all in Section 30, T9S, R46E:
40 acres NE $\frac{1}{4}$ SW $\frac{1}{4}$, 28.0 acres NW $\frac{1}{4}$ SW $\frac{1}{4}$, 39.3 acres SW $\frac{1}{4}$ SW $\frac{1}{4}$,
21.4 acres SE $\frac{1}{4}$ SW $\frac{1}{4}$, 33.6 acres NW $\frac{1}{4}$ SE $\frac{1}{4}$, 6.6 acres SW $\frac{1}{4}$ SE $\frac{1}{4}$
be and the same is hereby CANCELLED.

It is further ORDERED that a new certificate shall be issued for supplemental irrigation under a priority of April 21, 1915 for the following lands in T9S, R46E, WM:
18.6 acres SE $\frac{1}{4}$ SW $\frac{1}{4}$ 5.4 acres NW $\frac{1}{4}$ SE $\frac{1}{4}$ 9.0 acres NW $\frac{1}{4}$ NE $\frac{1}{4}$
0.7 acres SW $\frac{1}{4}$ SW $\frac{1}{4}$ 24.9 acres SW $\frac{1}{4}$ SE $\frac{1}{4}$ Section 31
Section 30
evidencing the portion of the right not cancelled in this proceeding.

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It is further ORDERED that Certificate 4028 is for irrigation on the following lands in Section 30, T9S R46E, WM:

38.0 acres NE $\frac{1}{4}$ SW $\frac{1}{4}$ and 28.0 acres NW $\frac{1}{4}$ SW $\frac{1}{4}$ under a priority of 1876;

10.0 acres NW $\frac{1}{4}$ SW $\frac{1}{4}$ under a priority of 1907

and the water right evidenced by same, be and the same is hereby CANCELLED in its entirety.

It is further ORDERED that Certificate 4231 and that portion of the right evidenced by Certificate 4231 for irrigation of the following lands in Township 9 South, Range 45 East, WM, be and the same is hereby CANCELLED:

37.0 acres SE $\frac{1}{4}$ SE $\frac{1}{4}$

Section 25

6.0 acres NE $\frac{1}{4}$ NE $\frac{1}{4}$

Section 36

under priority August 1863

30.0 acres SW $\frac{1}{4}$ SE $\frac{1}{4}$ in Section 25, under priority May 20, 1909

3.5 acres NE $\frac{1}{4}$ NW $\frac{1}{4}$

14.0 acres NW $\frac{1}{4}$ NW $\frac{1}{4}$

Section 36

under priority 1890

It is further ORDERED that a new certificate shall be issued evidencing the portion of the right for irrigation of the following lands **not** cancelled in this proceeding:

17.0 acres NE $\frac{1}{4}$ NE $\frac{1}{4}$ under priority August 1863, 10.0 acres NW $\frac{1}{4}$ NE $\frac{1}{4}$, 16.5 acres NE $\frac{1}{4}$ NW $\frac{1}{4}$, and 16.0 acres NW $\frac{1}{4}$ NW $\frac{1}{4}$, under priority 1890, all in Section 36, T9S, R45E, W.M.

It is further ORDERED that Certificate 4264 for irrigation on 38.0 acres in the NE $\frac{1}{4}$ SE $\frac{1}{4}$, Section 25, T9S, R45E, W.M., under priority dates of 1902 and 1904, and the water right evidence by said certificate, be and the same is hereby CANCELLED in its entirety.

It is further ORDERED that Certificate 4590, and the portion of the right evidenced thereby, for primary irrigation of 26.3 acres located in the SE $\frac{1}{4}$ NE $\frac{1}{4}$ and supplemental irrigation of 1.3 acres in the SE $\frac{1}{4}$ NE $\frac{1}{4}$ of Section 25, T9S, R45E, WM, be and the same is hereby CANCELLED.

It is further ORDERED that a new certificate shall be issued evidencing the portion of the right for irrigation of the following lands **not** cancelled in this proceeding:

Primary irrigation 40.0 acres NW $\frac{1}{4}$ NE $\frac{1}{4}$ and 13.7 acres SE $\frac{1}{4}$ NE $\frac{1}{4}$ in Section 25, T9S, R45E, W.M., from Eagle Creek under a priority of 1885, and supplemental irrigation of 13.7 acres SE $\frac{1}{4}$ NE $\frac{1}{4}$ Section 25, T9S, R45E, WM from Powder River, Augustus or Jeffords Ditch under priority 1880.

It is further ORDERED that Certificate 4611, and the portion of the right evidenced thereby, for irrigation use on 21.4 acres SE $\frac{1}{4}$ SW $\frac{1}{4}$ and 6.6 acres SW $\frac{1}{4}$ SE $\frac{1}{4}$ in Section 30, T9S R46E W.M. under priority July 12, 1900, be and the same is hereby CANCELLED.

It is further ORDERED that a new certificate shall be issued evidencing the portion of the right for irrigation of the following lands **not** cancelled in this proceeding:

10.0 acres SW $\frac{1}{4}$ SW $\frac{1}{4}$
Section 13 T9S R45E W.M.
0.2 acre in Lots 7 and 8, Duffey's
North Addition to Richland, Oregon
under priority 1881

18.6 acres SE $\frac{1}{4}$ SW $\frac{1}{4}$
3.4 acres SW $\frac{1}{4}$ SE $\frac{1}{4}$
Section 30 T9S R46E W.M.
under priority July 12, 1900

X

It is further ORDERED that Certificate 4649, and the portion of the right evidenced thereby, for irrigation of 24.4 acres in the SW $\frac{1}{4}$ NE $\frac{1}{4}$ under priority 1881 and 2.1 acres in the NW $\frac{1}{4}$ NE $\frac{1}{4}$ under priority 1886, all in Section 30 T9S R46E, W.M., be and the same is hereby CANCELLED.

It is further ORDERED that a new certificate shall be issued evidencing the portion of the right for irrigation of the following lands in Section 30 T9S R46E, W.M. **not** cancelled in this proceeding:

0.3 acres in Lot 5 and the S $\frac{1}{2}$ of Lot 3, Block 3, Town of Richland, Oregon
15.6 acres in the SW $\frac{1}{4}$ NE $\frac{1}{4}$
under priority 1881
37.9 acres NW $\frac{1}{4}$ NE $\frac{1}{4}$, under priority 1886

It is further ORDERED that Certificate 4665, and the portion of the right evidenced thereby, for irrigation of 0.2 acre located in the NE $\frac{1}{4}$ SE $\frac{1}{4}$ and 8.5 acres in the SE $\frac{1}{4}$ NE $\frac{1}{4}$ in Section 30, under priority of 1909, all in T9S, R46E, WM, be and the same is hereby CANCELLED.

It is further ORDERED that a new certificate shall be issued evidencing the portion of the right for irrigation of the following lands in Section 30 T9S R46E, W.M. **not** cancelled in this proceeding:

under priority 1897, 3.5 acres in the SE $\frac{1}{4}$ NE $\frac{1}{4}$, Section 30;
under priority 1901 (12.0 acres) and under priority 1909 (24.3 acres):
1.5 acres NE $\frac{1}{4}$ NW $\frac{1}{4}$ 7.0 acres SW $\frac{1}{4}$ NW $\frac{1}{4}$
7.5 acres NW $\frac{1}{4}$ NW $\frac{1}{4}$ 16.5 acres SE $\frac{1}{4}$ NW $\frac{1}{4}$
Section 29
3.8 acres NE $\frac{1}{4}$ SE $\frac{1}{4}$ Section 30

It is further ORDERED that Certificate 10203, and the right evidenced thereby, for irrigation of 20.0 acres in the NW $\frac{1}{4}$ SW $\frac{1}{4}$, Section 30, T9S R46E, W.M., under a priority of July 5, 1933, be and the same is hereby CANCELLED in its entirety.

It is further ORDERED that Certificate 14128, and the portion of the right evidenced thereby, for supplemental irrigation of the following lands under a priority date of October 29, 1936, be and the same is hereby CANCELLED:

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0.2 acre SW¼ SE¼
26.9 acres SE¼ SE¼
Section 25, T9S R45E

22.6 acres NE¼ NE¼
12.0 acres NW¼ NE¼
5.9 acres NE¼ NW¼
Section 36, T9S R45E

9.6 acres NW¼ NW¼
Section 31, T9S R46E

28.8 acres NE¼ SW¼
9.3 acres NW¼ SW¼
16.3 acres SE¼ SW¼
Section 30 T9S R46E

38.6 acres SW¼ SW¼
16.9 acres NW¼ SE¼
1.7 acres SW¼ SE¼

It is further ORDERED that a new certificate shall be issued evidencing the portion of the right for irrigation of 4.1 acres in the NE¼ NE¼ Section 36, T9S R45E and 0.3 acre in the NW¼ NW¼, Section 31, T9S R46E, W.M. **not** cancelled in this proceeding.

It is further ORDERED that Certificate 23035, and the portion of the right for supplemental irrigation of 2.6 acres NW¼ SW¼ 14.8 acres SW¼ SW¼ Section 25 and 0.95 acres in the SE¼ SE¼ of Section 26, all in T9S, R45E, WM, be and the same is hereby CANCELLED.

It is further ORDERED that a new certificate shall be issued evidencing the portion of the right for supplemental irrigation under a priority date of June 22, 1951 on 11.4 acres NW¼ SE¼, 16.2 acres SW¼ SE¼, and 23.05 acres SE¼ SE¼, all in Section 26, T9S R45E WM, which are **not** cancelled in this proceeding.

It is further ORDERED that Certificate 23417, and the portion of the right appurtenant to 21.4 acres SE¼ SE¼, Section 25, 22.6 acres NE¼ NE¼ and 5.7 acres NE¼ NW¼ Section 36, all in T9S R45E WM, under priority May 3, 1947, be and the same is hereby CANCELLED.

It is further ORDERED that a new certificate shall be issued evidencing the portion of the right for irrigation of the following lands **not** cancelled in this proceeding:

11 acres NE¼ NE¼
7.8 acres NW¼ NE¼
Section 36 T9S R45E WM

14.9 acres NE¼ NW¼
10.2 acres NW¼ NW¼

It is further ORDERED that Certificate 28855, and that portion of the right for primary irrigation under primary irrigation under priority 1882 and supplemental supply from Eagle Creek under priority of 1901 through the Howell Ditch for 39.3 acres in the SW¼ SW¼ Section 30, T9S R46E, WM, be and the same is hereby CANCELLED.

It is further ORDERED that a new certificate shall be issued evidencing the portion of the right for irrigation of the following lands not cancelled in this proceeding, all located in T9S R46E, WM:

*28.0 acres SW¼ NW¼	*0.7 acres SW¼ SW¼
*18.0 acres NW¼ SW¼	Section 30, Priority 1882
10.5 acres SW¼ SW¼ (*1 ac. supp)	
4.0 acres SE¼ SW¼	
Section 31, Priority 1862	

*Lands marked with an asterisk also have a supplemental supply from Eagle Creek under priority 1901 via the Howell ditch.

It is further ORDERED that Certificate 33891, and that portion of the right evidenced thereby, for irrigation of 21.7 acres SW¼ NW¼, 11.1 acres SE¼ NW¼ and 0.1 acre NW¼ NW¼ all in Section 30, T9S R46E, WM, under a priority of 1881, be and the same is hereby CANCELLED.

It is further ORDERED that a new certificate shall be issued evidencing the portion of the right for irrigation of the following lands not cancelled in this proceeding:

under priority 1868	under priority 1886
5.0 acres SW¼ NW¼	18.0 acres SE¼ SW¼
Section 26 T9S R45E	Section 19 T9S R46E

under priorities 1886 (12.0 acres) and 1881 (8.0 acres):

7.4 acres SE¼ NW¼	12.6 acres NE¼ SW¼
Section 19 T9S R46E	

under priority 1881	
32.0 acres NE¼ NW¼	1.0 acre NW¼ SE¼
39.9 acres NW¼ NW¼	Section 23 T9S R45E
18.3 acres SW¼ NW¼	0.25 acre in Lot 9, Block 4, in the
28.9 acres SE¼ NW¼	town of Richland T9S R45E WM
Section 30 T9S R46E	

It is further ORDERED that Certificate 44243, and the portion of the right evidenced thereby, for irrigation under a priority of 1885 of 0.5 acre in the SW¼ NW¼, Section 25, T9S R46E, WM, be and the same is hereby CANCELLED.

It is further ORDERED that a new certificate shall be issued evidencing the portion of the right for irrigation of the following lands not cancelled in this proceeding:

under priority date 1879	under priority date 1885
22.0 acres SW¼ SW¼	40.0 acres NW¼ NW¼
Section 23	39.5 acres SW¼ NW¼
	Section 25

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under priority date 1879
11.0 acres NE¼ NW¼
38.0 acres NW¼ NW¼
Section 26

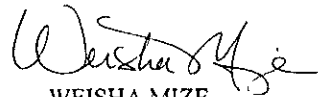
under priority 1888
10.0 acres NE¼ SW¼
Section 10

all in T9S R46E, WM.

It is further ORDERED that Certificate 4592, and the right evidenced thereby, for irrigation of 40.0 acres NE¼ SW¼, 40.0 acres SE¼ SW¼, and 40.0 acres NW¼ SE¼, Section 25, T9S R45E WM, under priority 1901 from Powder River, be and the same is hereby CANCELLED.

It is further ORDERED that a new certificate shall be issued evidencing the portion of the right for irrigation of 40.0 acres SW¼ NE¼ and 40.0 acres SE¼ NW¼ in Section 25, T9S R45E WM, under priority 1878 from Eagle Creek not cancelled in this proceeding.

DATED and PLACED in the US Postal Service this 6th day of May, 1997



WEISHA MIZE
Administrative Law Judge

NOTICE: You are entitled to judicial review of this Order. Judicial review may be obtained by filing a petition for review within 60 days from the date of service (date of mailing) of this Order. Judicial review is pursuant to the provisions of ORS 536.075.

INTEROFFICE MEMO
WATERMASTER DISTRICT # 8
WATER RESOURCES DEPARTMENT
Phone: (541) 523-8224
Fax: (541) 523-7866
E-mail: Rick.M.LUSK@ wrd.state.or.us

TO: Transfer File - Kirkpatrick

DATE: March 14, 2007

FROM: RICK LUSK

SUBJECT: HISTORICAL POD REVIEW- Eagle Creek - John Kirkpatrick

To my knowledge, and based on departmental records, there has been no complaint of injury prior to the request for the change in point of diversion for the John Kirkpatrick et.al. transfer at the actual, current point of diversion.

Jason Spriet

From: Timothy Bailey [Timothy.D.Bailey@state.or.us]
Sent: Thursday, August 02, 2007 11:21 AM
To: Jason Spriet
Subject: FW: Transfer 10339

From: Timothy Bailey
Sent: Thursday, August 02, 2007 11:17 AM
To: Jason Spriet
Cc: Nadine Craft
Subject: Transfer 10339

Jason,

Per your request, I discussed the screening requirement for water right transfer application T-10339 with Nadine Craft as she completed the review for it. While Nadine checked Box #2 for the screening requirement, we agree that the requirement per Box #3 would be appropriate since this is a historic point of diversion change and T & E fish species are not known to be present in Eagle Creek. You have our authorization to modify the screening requirement for this transfer to Box #3 on the ODFW Water Right and Diversion Transfer Comment Form. This would give the applicant two years to screen the POD, giving time to secure ODFW cost share funding.

Tim Bailey
La Grande District Fish Biologist
Oregon Department of Fish & Wildlife
107 20th Street
La Grande, OR 97850
(541) 962-1829

Due by 4-26-07

Carrie

**Oregon Department of Fish and Wildlife
Water Right and Diversion Transfer Comment Form**

(ODFW provides to WRD so that WRD can make findings according to statutory requirements.)

Reference Transfer #: 10339

A. Please check box if you believe there is a potential for injury to an instream water right.

- ☐ The Oregon Department of Fish and Wildlife (ODFW) believes this proposed transfer may injure an instream water right(s) on

_____, tributary to _____. Because,
(Stream)

(Please attach any available supporting information.)

Note: This will prompt WRD to further evaluate and make a determination whether the transfer will injure an instream water right. *(WRD is the agency that makes the determination of injury to a water right, while ODFW's role is to raise concerns and to evaluate proposed mitigation and net benefit to the resource if WRD requests concurrence with injury to an instream water right.)*

B. Please check one of the following four boxes related to requiring a fish screen and/or by-pass device pursuant to ORS 540.525 or 540.532:

- ☐ 1. The new Point of Diversion (POD) requires a fish screening and/or by-pass device and is currently equipped with an appropriate fish screening and/or by-pass device.

Note: This option will yield the following:

Finding of Fact: *The Oregon Department of Fish and Wildlife 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.*

Condition: *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.*

- ☒ 2. The new Point of Diversion (POD) requires a fish screening and/or by-pass device prior to water being diverted. The diversion may be eligible for cost share assistance under ODFW's cost share program.

Option 2 should generally be selected if listed fish species are present at the point of diversion and/or the originating water right diversion is currently screened. If Option 2 is

*Please return all 4 pages to: Transfers Section, Water Resources Department,
725 Summer St. NE, Suite A, Salem, OR 97301-1271*

The electronic version of this form is available at: <http://www1.wrd.state.or.us/msword/ODFWScreen.doc>.

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WATER RESOURCES DEPT
SALEM OREGON

selected, provide contact information on the "Fish Screening and Passage Information" sheet. The new diversion may be eligible for cost-share.

Note: This option will yield the following:

Finding of Fact: *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 not currently equipped with an appropriate fish screening and/or by-pass device. This diversion may be eligible for screening cost share funds.*

Condition: *Prior to diverting water, the water user shall install a fish screening and/or by-pass device, as appropriate, at the new point of diversion consistent with the Oregon Department of Fish and Wildlife's (ODFW) design and construction standards. Prior to installation, the water user shall obtain written approval from ODFW that the required screen and/or by-pass device meets ODFW's criteria. Prior to submitting a Claim of Beneficial Use, the water user must obtain written approval from ODFW that the required screening and/or by-pass device was installed to the state's criteria. The water user shall maintain and operate the fish screen and/or by-pass device, as appropriate, at the point of diversion consistent with ODFW's operational and maintenance standards.*

- ☐ 3. The new Point of Diversion (POD) requires a fish screening and/or by-pass device. However, the diversion may be used for up to two years pending a determination of whether cost share assistance under ODFW's cost share program is available.

*If Option 3 is selected, provide contact information on the "Fish Screening and Passage Information" sheet. Except in extraordinary circumstances, Option 3 should **NOT** be checked if listed fish species are present at the point of diversion, the originating water right diversion is screened, cost-share funds are currently available, or the diversion is not eligible for ODFW's cost-share program. If extraordinary circumstances are present, please explain:*

Note: This option will yield the following:

Finding of Fact: *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 not currently equipped with an appropriate fish screening and/or by-pass device. Listed fish species are not present at the point of diversion, the originating water right diversion is not screened, cost-share funds are not currently available, and the proposed diversion may be eligible for ODFW's cost-share program. A grace period of two years is appropriate until such time as cost share funds become available to assist in the construction of a fish screening and/or by-pass device. If cost share funds do not become available, the water user must screen within the indicated time period regardless of the availability of cost share funding.*

Condition: *Within two years after the date of this order, the water user shall install a fish screening and/or by-pass device, as appropriate, at the new point of diversion consistent with the Oregon Department of Fish and Wildlife's (ODFW) design and construction standards. Prior to installation, the water user shall obtain written approval from ODFW that the required screen and/or by-pass device meets ODFW's criteria. The water user may withdraw water at the new point of diversion without screening or by-pass devices until two years after the date of this order. Prior to submitting a Claim of Beneficial Use, the water user must obtain written approval from ODFW that the required screening and/or by-pass device was installed to the state's criteria. The water user shall maintain and operate the fish screen and/or by-pass device, as appropriate, at the point of diversion consistent with ODFW's operational and maintenance standards.*

- ☐ 4. The new Point of Diversion (POD) does not currently require a fish screen and/or by-pass device, however, the permittee may be required in the future to install, maintain, and operate fish screening and/or by-pass devices.

Note: This option will yield the following:

Finding of Fact: *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 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 not currently equipped with an appropriate fish screening and/or by-pass device.*

Condition: *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 a screening and/or 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.*

Nadin Craft
Signature

Nadine Craft
Printed Name

Asst. Fish Biol.
Title

(541) 962-1830
Phone

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WATER RESOURCES DEPT
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Oregon Department of Fish and Wildlife
Additional Fish Screening and Passage Information for the Applicant
(To be completed by ODFW for WRD to provide to the applicant.)

Transfer # 10339

The applicant should be aware that fish screening and passage may be required for certain changes in point of diversion if the boxes below are checked.

- ☒ Fish screening and/or fish by-pass devices are required as a condition of this transfer. The fish screen and/or by-pass device must meet ODFW's design, construction, operational and maintenance standards. Fish screening prevents fish from entering the diversion, while a by-pass device safely transports fish back to the body of water from which the fish were diverted.

a. appropriate Screens should be on pumps.

Pursuant to ORS 498.306, cost share funds may be available to assist in the installation of fish screening and by-pass devices at diversions.

The applicant should contact the ODFW staff below to obtain additional information on the design, construction, operational, and maintenance standards for the required fish screening and/or by-pass device and to obtain information about ODFW's cost sharing program for screening and by-pass devices. **Prior to installation, the water user must obtain written approval from ODFW that the required screening and/or by-pass device meets ODFW's criteria.**

ODFW staff name: Kelly Stoker John Day Fish Screens
Address: W. Hwy 26 Patterson Bridge Rd, PO Box 515
City/State/Zip: John Day, OR 97845
Phone: (541) 575 0561

- ☐ This transfer may trigger requirements for fish passage under ORS 509.585 because a new point of diversion will be constructed, an existing point of diversion's capacity will be increased, or an existing point of diversion will be abandoned. The applicant should contact the ODFW staff below for a determination of whether native migratory fish are or were present at the applicable location, which will determine whether fish passage must be addressed.

ODFW staff name: _____
Address: _____
City/State/Zip: _____
Phone: () _____

IMPORTANT NOTICE OF PROPOSED CHANGE IN A WATER RIGHT POINT OF DIVERSION

Edward and Patricia Elms, Anne Kirkpatrick, John Kirkpatrick, Garnet Kaleli, Milo Goss, Mark Goss, and Susan Hughes submitted a transfer application under ORS 540.532 to the Oregon Water Resources Department requesting a change in point of diversion of Water Right Certificate numbered 4649 to reflect more than 10 years of historical use of water at a point of diversion other than that described in the water rights. The Transfer Application number is 10339.

The authorized point of diversion under Water Right 4649 is: KAY YOUNG DITCH – 1700' S and 2450' E from the NW corner of Sec. 10, T. 9 S., R. 45 E., W.M.

Edward and Patricia Elms, Anne Kirkpatrick, John Kirkpatrick, Garnet Kaleli, Milo Goss, Mark Goss, and Susan Hughes propose to officially change the point of diversion for 1.0 acre to the following location:

NEWT YOUNG DITCH: 1950' S and 1400' E from the NW corner, Sec. 33, T. 8 S, R. 45 E, W.M.

Why You Received This Notice

You have received this notice because the Oregon Water Resources Department has identified you as the owner of the land on which a water right exists that may be affected by the proposed change in point of diversion. By law, it is the responsibility of the applicant to provide you notice of the proposed change in point of diversion. The applicant also is required to provide the Department written proof that this notice was delivered to you.

The Purpose of This Notice

The purpose of this notice is to provide you an opportunity to comment upon whether the proposed change will cause injury to the exercise of your water right. A **30-day comment period** begins upon receipt of this notice. Comments should reference the Transfer Application number, identify the water right subject to injury by permit or certificate number or decree name, and describe the nature of the injury caused by the change in point of diversion.

Mail Your Comments To:

Oregon Water Resources Department
Transfer Section, Field Service Division
Attn: Jason Spriet
1995 3RD Street, Suite 180
Baker City, OR 97814

Or Call Jason Spriet at: 541-523-8224 Ext 35, or Carrie Jones Ext. 36

How the Department Will Use Your Comments

The Department will use these comments to determine whether the proposed change in point of diversion would injure other water rights. The transfer application shall be approved if the Department finds no injury to other water rights.



Oregon

Theodore R. Kulongoski, Governor

Water Resources Department

Eastern Region

Baker County Courthouse

1995 3rd Street, Suite 180

Baker City, OR 97814

Phone: (541) 523-8224

Fax: (541) 523-7866

www.wrd.state.or.us

August 2, 2007

Edward and Patricia Elms
42543 Pocahontas Rd.
Baker City, OR 97814

John Kirkpatrick
2321 Rolling Hills Drive
Clarkston, WA 99403

Garnet Kaleli, Milo Goss,
Susan Hughes, Mark Goss
P.O. Box 519
La Grande, OR 97850

Anne Kirkpatrick
3140 N 2nd Street
Baker City, OR 97814

SUBJECT: Application T-10200

Enclosed find a draft of our Preliminary Determination regarding transfer application T-10339. The draft Preliminary Determination reflects the Department's conclusion that, based on the information currently available, the transfer will be approved.

This draft is intended to provide you with an opportunity to comment on our findings and conclusions should you wish to do so. Please review the Preliminary Determination carefully to evaluate whether the document is consistent with your intent in seeking the transfer and whether you agree with the proposed action.

Issuance of the Preliminary Determination will occur shortly after September 10, 2007. You may provide your comments or approval to proceed in writing or via e-mail.

Please do not hesitate to contact me at 541-523-8224 or Jason.D.Spriet@ wrd.state.or.us if you have questions.

Sincerely,

Jason Spriet
Field Services Division

cc: Rick Lusk, District 8 Watermaster


enc

MAILED

Aug. 10

MAILED w/ LETTER
AUG 10

BEFORE THE WATER RESOURCES DEPARTMENT
OF THE
STATE OF OREGON

AND NOTICE 

In the Matter of Transfer Application)
T-10339, Baker County)

DRAFT

FINAL ORDER APPROVING A CHANGE
IN POINT OF DIVERSION TO REFLECT
HISTORIC USE

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

Edward and Patricia Elms
42543 Pocahontas Rd.
Baker City, OR 97814

John Kirkpatrick
2321 Rolling Hills Drive
Clarkston, WA 99403

Garnet Kaleli, Mil *ELDON DEARDORFF* ne Kirkpatrick
Susan Hughes, Mi *893-6400* 40 N 2nd Street
P.O. Box 519
La Grande, OR 97850
Baker City, OR 97814

Findings of Fact

1. On March 19, 2007, Edward and Patricia Elms, John Kirkpatrick, Anne Kirkpatrick, Garnet Kaleli, Milo Goss, Mark Goss, and Susan Hughes filed a transfer application to change the point of diversion under Certificate 4649. The Department assigned the application number T-10339.

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

Certificate: 4649 in the name of George W Evans (confirmed by Powder River decree, and not previously canceled by an order recorded in Volume 51, Page 423)

Use: IRRIGATION of 1.0 ACRE

Priority Date: 1881

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.

Limit/Duty: ONE-FORTIETH cfs per acre

Source: EAGLE CREEK, tributary to POWDER RIVER

3. Certificate 4649 does not describe the location of the point of diversion, however information is available from the decree tabulation and Certificate 75354 indicating that the point of diversion is located as follows:

Authorized Point of Diversion:

Twp	Rng	Mer	Sec	Q-Q	Survey Coordinates
9 S	45 E	WM	33	SE NW	KAY YOUNG DITCH - 1700 FEET SOUTH & 2450 FEET EAST FROM THE NW CORNER OF SECTION 10

Authorized Place of Use:

Twp	Rng	Mer	Sec	Q-Q	Acres
9 S	46 E	WM	30	SW NE	1.00

4. Application T-10339 proposes to move the authorized point of diversion to reflect historic use approximately 7.5 miles upstream to:

Twp	Rng	Mer	Sec	Q-Q	Survey Coordinates
8 S	45 E	WM	33	SE NW	NEWT YOUNG DITCH - 1950 FEET SOUTH & 1400 FEET EAST FROM THE NW CORNER OF SECTION 33

5. Notice of the application for transfer was published pursuant to ORS 540.520 and OAR 690-380-4000. No comments were filed in response to the notice. However, the Oregon Department of Fish and Wildlife did request inclusion of a condition requiring installation of proper fish screens.
6. 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 not currently equipped with an appropriate fish screening and/or by-pass device. Listed fish species are not present at the point of diversion, the originating water right diversion is not screened, cost-share funds are not currently available, and the proposed diversion may be eligible for ODFW's cost-share program. A grace period of two years is appropriate until such time as cost share funds become available to assist in the construction of a fish screening and/or by-pass device. If cost share funds do not become available, the water user must screen within the indicated time period regardless of the availability of cost share funding.
7. Pursuant to OAR 690-380-2121 (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.

8. Notice of the proposed transfer on all affected water right holders was mailed on August 15, 2007, pursuant to 690-380-2120 (4).
9. Water has been used within the last five years 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.
10. A diversion structure and ditch sufficient to use the full amount of water allowed under the existing right are present.
11. The proposed change would not result in enlargement of the right.
12. The proposed change would not result in injury to other water rights.

Conclusions of Law

The proposed change in point of diversion in application T-10339 appears to be 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-10339 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 Certificate 4649 and any related decree.
3. The proposed change shall be effective immediately upon issuance of the special order approving T-10339.
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 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.
6. Within two years after the date of this order, the water user shall install a fish screening and/or by-pass device, as appropriate, at the new point of diversion consistent with the Oregon Department of Fish and Wildlife's (ODFW) design and construction standards. Prior to installation, the water user shall obtain written approval from ODFW that the required screen and/or by-pass device meets ODFW's criteria. The water user may withdraw water at the new point of diversion without screening or by-pass devices until two years after the date of this order. Prior to submitting a Claim of Beneficial Use, the water user must obtain written approval from ODFW that the required screening and/or by-pass device was installed.

to the state's criteria. The water user shall maintain and operate the fish screen and/or by-pass device, as appropriate, at the point of diversion consistent with ODFW's operational and maintenance standards.

Dated at Salem, Oregon this _____ day of _____ 2007.

Phillip C. Ward, Director

Mailing Date _____

Jason Spriet

From: Jason Spriet
Sent: Monday, July 02, 2007 9:46 AM
To: Doug Parrow; Dorothy Pedersen
Cc: Carrie Jones; 'Rick.M.LUSK@wrд.state.or.us'
Subject: Transfer 10339 (Historic POD)

Doug/Dorothy:

Transfer 10339 is a pretty straight forward Historic POD transfer on lands irrigated by one primary water right and one supplemental water right. The primary water right is a decreed right from Eagle Creek and the supplemental is from Crater Lake Reservoir (high mountain lake on East Eagle Cr.). The supplemental right lists the point of diversion as the Crater Lake dam, and also lists redistribution points for stored water down the system. The redistribution points were added for regulation and distribution use by the watermaster.

It is my opinion that the supplemental right does not need to be a part of this transfer because the actual point of diversion is the dam itself, not the redistribution points. Since I am not aware of a process to transfer the POR (Point of Redistribution), this is correct, yes? If this is not correct, please explain.

Thanks,

Jason

Jason Spriet
Natural Resource/GIS Specialist
Oregon Water Resources Dept.
Eastern Region
1995 3rd Street, Suite #180
Baker City, OR 97814

Phone: (541) 523-8224 Ext. 35
FAX: 1-866-214-3493

6/1

Dorothy P. said to proceed without transferring, the supplemental on this transfer. Further discussion with watermasters and RMs will address the more general issue.

7/23/2007

Carrie Jones

From: Dorothy Pedersen
Sent: Friday, May 04, 2007 3:56 PM
To: Carrie Jones
Subject: RE: Certificate 75354

Carrie,

We will certainly try to remember to do this. I've made a note on the T-9979/T-9980 cover sheet and highlighted it to remind us.

Have a good weekend!

Dorothy

Dorothy Pedersen
(503) 986-0890

From: Carrie Jones
Sent: Friday, May 04, 2007 11:51 AM
To: Dorothy Pedersen
Subject: Certificate 75354

Hi Dorothy;

I just processed T-9979 & T-9980 and sent the file to you folks recently. These transfers affect the same Certificate as a transfer that I just received (T-10339). The Certificate number they both affect is 75354. The Cert will be a living Certificate. When you get the special order volume and page would you let me know what they are so I can write it on the hard copy of the certificate.

Thanks Dorothy

Have a great weekend!

Carrie Jones
Transfer Specialist
541-523-8224 Ext 36

Water Resources Department
1995 3rd Street
Baker City, OR 97814

5/25/2007

**STATE OF OREGON
WATER RESOURCES DEPARTMENT**

725 Summer St. N.E. Ste. A
SALEM, OR 97301-4172

(503) 986-0900 / (503) 986-0904 (fax)

RECEIPT # **86717**

INVOICE # _____

RECEIVED FROM: Edward Elms

BY: _____

CASH: ☐ CHECK: # 200 OTHER: (IDENTIFY) ☐

APPLICATION	
PERMIT	
TRANSFER	<u>T-10339</u>

TOTAL REC'D \$ 350.00

1083 TREASURY 4170 WRD MISC CASH ACCT

0407 COPIES \$ _____

OTHER: (IDENTIFY) \$ _____

0243 I/S Lease _____ 0244 Muni Water Mgmt. Plan _____ 0245 Cons. Water _____

4270 WRD OPERATING ACCT

MISCELLANEOUS

0407 COPY & TAPE FEES \$ _____

0410 RESEARCH FEES \$ _____

0408 MISC REVENUE: (IDENTIFY) \$ _____

TC162 DEPOSIT LIAB. (IDENTIFY) \$ _____

0240 EXTENSION OF TIME \$ _____

WATER RIGHTS:

0201 SURFACE WATER \$ _____ 0202 \$ _____

0203 GROUND WATER \$ _____ 0204 \$ _____

0205 TRANSFER \$ 350.00

WELL CONSTRUCTION

0218 WELL DRILL CONSTRUCTOR \$ _____ 0219 \$ _____

LANDOWNER'S PERMIT

0220 \$ _____

OTHER (IDENTIFY) _____

0536 TREASURY 0437 WELL CONST. START FEE

0211 WELL CONST START FEE \$ _____ CARD # _____

0210 MONITORING WELLS \$ _____ CARD # _____

OTHER (IDENTIFY) _____

0607 TREASURY 0467 HYDRO ACTIVITY LIC NUMBER

0233 POWER LICENSE FEE (FW/WRD) \$ _____

0231 HYDRO LICENSE FEE (FW/WRD) \$ _____

HYDRO APPLICATION \$ _____

TREASURY OTHER / RDX

FUND _____ TITLE _____

OBJ. CODE _____ VENDOR # _____

DESCRIPTION \$ _____

RECEIPT: **86717**

DATED: 2/19/07 BY: [Signature]



Oregon Water Resources Department
725 Summer Street NE, Suite A
Salem Oregon 97301-1266
(503) 986-0900
www.wrd.state.or.us

Application for Water Right Transfer

Please type or print legibly in dark ink. If your application is incomplete or inaccurate, we will return it to you. If any requested information does not apply to your application, insert "N/A" to indicate "Not Applicable." As you complete this form, please refer to notes and guidance included on the application. A summary of review criteria and procedures that are generally applicable to these applications is available at www.wrd.state.or.us/OWRD/PUBS/forms.shtml.

1. TYPE OF TRANSFER APPLICATION

Please check one	
<input checked="" type="checkbox"/> Permanent Transfer	<input type="checkbox"/> Instream Transfer
<input type="checkbox"/> Temporary Transfer	<input type="checkbox"/> Permanent
• total number of years: _____	<input type="checkbox"/> Time-Limited
(begin year: _____)	<input type="checkbox"/> Drought Transfer
(end year: _____)	<input type="checkbox"/> Other

2. APPLICANT INFORMATION

Name: See attachment A
First Last

Address: _____

City State Zip

Phone: _____
Home Work Other

Fax: _____ E-Mail address: _____

3. AGENT INFORMATION

(The agent listed is authorized to represent the applicant in all matters relating to this transfer application.)

Name: John Kirkpatrick
First Last

Address: 2321 Rolling Hills Drive
Clarkston Wa 99403
City State Zip

Phone: 208-413-2339
Home Work Other

Fax: 208-743-5286 E-Mail address: _____

- If an agent is listed above, please check one of the following:
- ☐ Please send all correspondence to Agent. Send *copies* of correspondence to Applicant; or
- ☒ Please send all correspondence to Applicant. Send *copies* of correspondence to Agent.

RECEIVED

MAR 14 2007

WATER RESOURCES DEPT
SALEM OREGON

INTEROFFICE MEMO
WATERMASTER DISTRICT # 8
WATER RESOURCES DEPARTMENT
Phone: (541) 523-8224
Fax: (541) 523-7866
E-mail: Rick.M.LUSK@ wrd.state.or.us

TO: Transfer File - Kirkpatrick

DATE: March 14, 2007

FROM: RICK LUSK

SUBJECT: HISTORICAL POD REVIEW- Eagle Creek - John Kirkpatrick

To my knowledge, and based on departmental records, there has been no complaint of injury prior to the request for the change in point of diversion for the John Kirkpatrick et.al. transfer at the actual, current point of diversion.

Attachment "A"

① Elms Family Trust
c/o Edward & Patricia Elms
42543 Pocahontus Rd.
Baker City, OR 97814
541-523-4393

② Anne Kirkpatrick
3140 N 2nd Street
Baker City, OR 97814
541-523-4181

③ J & S Management, LLC
c/o John Kirkpatrick
2321 Rolling Hills Drive
Clankston, Wa 99403
208-413-2339

④ ^{Garnet} Kaeli, Milo, Mark: Susan Hughes
Gross
c/o Mark Gross
P.O. Box 519
La Grande, OR 97850
541-963-4161

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MAR 14 2007
WATER RESOURCES DEPT
SALEM, OREGON

4. PROPOSED CHANGE(S) TO WATER RIGHT(S)

- List **all** water rights to be affected by this transfer. Indicate the certificate, permit, decree or other identifying number(s) in the table below: *(Attach additional pages as necessary.)*

	Application / Decree	Permit / Previous Transfer	Certificate
1.	<i>Powder River</i>	<i>N/A</i>	<i>4649 Part cancelled by V. 51 p. 423</i>
2.		<i>S- 28626</i>	<i>75354</i>
3.			
4.			
5.			
6.			

- Attach a **separate** *Supplemental Form A (Description of Proposed Change(s) to a Water Right)* for **each** water right listed above.

- Check **all** proposed change(s) included in this transfer application:

- ☐ Place of Use ☒ Point of Diversion ☐ Additional Point of Diversion
☐ Character of Use ☐ Point of Appropriation ☐ Additional Point of Appropriation
☐ Instream Transfer ☐ Surface Water source to Ground Water source

- Reason(s) for change(s): *Change point of diversion to reflect historical use since 1966.*

5. WATER DELIVERY SYSTEM

- Describe the **current** water delivery system or the system that **was in place** at some time within the last 5 years. Include information on the pumps, canals, pipelines and sprinklers used to divert, convey and apply the water at the authorized place of use. If the transfer involves multiple rights that have independent systems, describe each system separately.

The description must be sufficient to demonstrate that the full quantity of water to be transferred can be conveyed from the authorized source and applied at the authorized location and that the applicant is ready, willing, and able to exercise the right.

Newt Young ditch is the current system. It is an open ditch 8 miles long, average width is about 4 feet.

- System capacity: *40* cubic feet per second (cfs). If the transfer involves multiple rights that have independent systems, describe the capacity for each system separately.

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MAR 14 2007

WATER RESOURCES DEPT
SALEM, OREGON

6. EVIDENCE OF BENEFICIAL WATER USE

- Attach one or more **Evidence of Use Affidavits** (Supplemental Form B) demonstrating that each of the right(s) involved in the transfer have been exercised in the last five years in accordance with the terms and conditions of the right or that a presumption of forfeiture for non-use could be rebutted. The Evidence of Use Affidavit(s) **must include supporting documentation** such as the following:
 - ▶ Copies of receipts from sales of irrigated crops or for expenditures relating to use of water;
 - ▶ Records such as Farm Service Agency crop reports, irrigation district records, an NRCS farm management plan, or records of other water suppliers;
 - ▶ Dated aerial photographs of the lands or other photographs containing sufficient detail to establish location and date of the photograph; *or*
 - ▶ If the right has not been used during the past five years, documentation that the presumption of forfeiture would be rebutted under ORS 540.610(2).

7. AFFECTED DISTRICTS AND LOCAL GOVERNMENTS

- Are any of the water rights proposed for transfer located within or served by an irrigation or other water district? ☒ Yes ☐ No
- Will any of the water rights be located within or served by an irrigation or other water district after the proposed transfer? ☒ Yes ☐ No
- Is water for any of the rights supplied under a water service agreement or other contract for stored water with a federal agency or other entity? ☐ Yes ☐ No

If "Yes", for any of the above, list the name and mailing address of the district, agency and/or entity:

Eagle Valley Irrigation Company.
Richland, OR 97870

- List the name and mailing address of all affected local governments (e.g., county, city, municipal corporation, and tribal governments within whose jurisdiction the rights are located).

County Planning, Baker County Courthouse

8. LAND OWNERSHIP

- Does the applicant own the lands **FROM** which the right is being transferred? ☒ Yes ☐ No
If "No", provide the following information. For Temporary Transfers, also include a notarized statement granting consent to the transfer from each of the landowners:

Names of Current Landowner(s): _____
First Last

Address: _____

City State Zip

- Does the applicant own the lands **TO** which the right is being transferred?
☐ Yes ☐ No ☐ N/A - NOT APPLICABLE TO INSTREAM TRANSFERS

If "No", provide the following information:

Names of Receiving Landowner(s): _____
First Last *N/A*

Address: _____

City State Zip

- Check one of the following:

☐ The receiving landowner will be responsible for completion of the proposed changes after the final order is issued. All notices and correspondence should be sent to this landowner.

☒ The applicant will remain responsible for completion of changes. Notices and correspondence should continue to be sent to the applicant and applicant's agent.

☐ N/A. (Not applicable. Application is for an Instream Water Right Transfer.)

9. ATTACHMENTS

Check each of the following attachments included with this application.
The application will be returned if all required attachments are not included.

Supplemental Form A –

Description of Proposed Change(s) to a Water Right

- ☐ A separate Supplemental Form A is enclosed for each water right to be affected by this transfer.

Supplemental Form B –

Evidence of Use Affidavit(s)

- ☐ At least one Evidence of Use Affidavit documenting that the right has been used during the last five years or that the right is not subject to forfeiture under ORS 540.610 is attached. The affidavit provided must be the original (not a copy), and
- ☐ The Evidence of Use Affidavit **must** be accompanied by supporting documentation.

Map

- ☐ *Water Right Transfer*
The map must be prepared by a Certified Water Right Examiner and meet the requirements of OAR 690-380-3100 unless a waiver has been granted. The map provided must be the original, not a copy.
- ☐ *Temporary Transfer or Historical POD Change*
A map meeting the requirements of OAR 690-380-3100 must be included but need not be prepared by a Certified Water Right Examiner.

Water Well Report(s)/Well Log(s):

- ☐ The application is for a change in point of appropriation or change from surface water to ground water and copies of all water well reports are attached.
- ☐ Water well reports are not available and a description of construction details including well depth, static water level, and information necessary to establish the ground water body developed or proposed to be developed is attached.
- ☐ N/A. The application does not involve a change in point of appropriation or a change from surface water to ground water, so water well reports are not required.)

Land Use Information Form:

- ☐ Enclosed; *or*
- ☐ Not Required if all of the following are met:
- ❶ In EFU zone or irrigation district,
 - ❷ Change in place of use only,
 - ❸ No structural changes needed, including diversion works, delivery facilities, other structures, *and*
 - ❹ Irrigation only.

Fees:

- ☐ Amount enclosed: \$ _____
See the Department's Fee Schedule at www.wrd.state.or.us or call (503) 986-0900.

Instream Water Right Transfers, also include:

Supplemental Form C –

Instream Water Right Transfer

- ☐ Complete this form to describe the desired nature and attributes for the proposed instream water right.

Temporary Transfers, also include:

Recorded Deed:

- ☐ The applicant must submit a copy of the current deed of record for the land **from** which the authorized place of use or point of diversion/appropriation is being moved.

Affidavit of Consent:

- ☐ If the applicant is **NOT** the owner of record for the land **from** which the authorized place of use or point of diversion/appropriation is being moved, a notarized statement from the actual owner of record consenting to the proposed transfer must be submitted.

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SALEM OREGON

Before submitting your application to the Department, be sure you have:

- Answered each question completely.
- Included all the required attachments.
- Provided original signatures for **all** named deed holders, or other parties, with an interest in the water right.
- Included a check payable to the Oregon Water Resources Department for the appropriate amount.

10. SIGNATURES

- Check one of the following, as appropriate, and sign the application in the signature box below:


☒ In accordance with OAR 690-380-3000(13)(a), I (we) understand that prior to Department approval of a permanent transfer and upon my receipt of a draft Preliminary Determination for the proposed transfer, I (we) will be required [pursuant to OAR 690-380-4010(5)] to provide the following landownership information and evidence demonstrating that I (we) are authorized to pursue the transfer:

- (a) A report of ownership and lien information that has been prepared by a title company *within the last three months;*
- (b) A copy of written notification of the proposed transfer provided by the applicant to **all** lien holders on the subject lands unless the report of ownership and lien information shows that a water right conveyance agreement has been recorded for the subject lands. *If a water right conveyance agreement has been recorded for the subject lands, a copy of the agreement and identification of the owner of the lands at the time the agreement was recorded must be submitted; and*
- (c) If the landowner identified in the report of ownership and lien information is **not** the applicant, a notarized statement consenting to the transfer (*attached*) signed by the landowner identified in the report or an authorized representative of the entity to whom the interest in the water right has been conveyed as identified in a water right conveyance agreement or other documentation demonstrating that the applicant is authorized to pursue the transfer in the absence of the consent of the landowner.

☐ I (we) affirm that the applicant is a municipality, as defined in ORS 540.510(3)(b), and that the right is in the name of the municipality or a predecessor. Therefore, pursuant to OAR 690-380-3000(13)(b), the applicant is **NOT** required to provide the above described report of ownership and lien information.

☐ I (we) affirm that the applicant is an entity with the authority to condemn property and is acquiring the property to which the water right proposed for transfer is appurtenant by condemnation. Documentation is provided with this application supporting this statement. Therefore, pursuant to OAR 690-380-3000(13)(c), the applicant is **NOT** required to provide the above described report of ownership and lien information. (NOTE: Such an entity may only apply for a transfer under this subsection if it has filed a condemnation action to acquire the property.)

- I (we) affirm that the information contained in this application is true and accurate.

 applicant signature	<u>Edward A. Elms</u> name (print)	<u>March 09, 2007</u> date
_____ applicant signature	_____ name (print)	_____ date

Before submitting your application to the Department, be sure you have:

- Answered each question completely
- Included all the required attachments
- Provided original signatures for all named deed holders, or other parties with an interest in the water right
- Included a check payable to the Oregon Water Resources Department for the appropriate amount

10. SIGNATURES

■ Check one of the following, as appropriate, and sign the application in the signature box below:



☒ In accordance with OAR 690-380-3000(13)(a), I (we) understand that prior to Department approval of a permanent transfer and upon my receipt of a draft Preliminary Determination for the proposed transfer, I (we) will be required [pursuant to OAR 690-380-4010(5)] to provide the following landownership information and evidence demonstrating that I (we) are authorized to pursue the transfer:

- A report of ownership and lien information that has been prepared by a title company *within the last three months*;
- A copy of written notification of the proposed transfer provided by the applicant to all lien holders on the subject lands unless the report of ownership and lien information shows that a water right conveyance agreement has been recorded for the subject lands. *If a water right conveyance agreement has been recorded for the subject lands, a copy of the agreement and identification of the owner of the lands at the time the agreement was recorded must be submitted; and*
- If the landowner identified in the report of ownership and lien information is not the applicant, a notarized statement consenting to the transfer (*attached*) signed by the landowner identified in the report or an authorized representative of the entity to whom the interest in the water right has been conveyed as identified in a water right conveyance agreement or other documentation demonstrating that the applicant is authorized to pursue the transfer in the absence of the consent of the landowner.

☐ I (we) affirm that the applicant is a municipality, as defined in ORS 540.510(3)(b), and that the right is in the name of the municipality or a predecessor. Therefore, pursuant to OAR 690-380-3000(13)(b), the applicant is NOT required to provide the above described report of ownership and lien information.

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■ I (we) affirm that the information contained in this application is true and accurate.

X		MARK GOSS	3/9/07
	applicant signature	name (print)	date
			
	applicant signature	name (print)	date

Before submitting your application to the Department, be sure you have:

- Answered each question completely.
- Included all the required attachments.
- Provided original signatures for all named deedholders, or other parties, with an interest in the water right.
- Included a check payable to the Oregon Water Resources Department for the appropriate amount.

10. SIGNATURES

- Check one of the following, as appropriate, and sign the application in the signature box below:



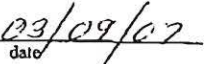
☒ In accordance with OAR 690-380-3000(13)(a), I (we) understand that prior to Department approval of a permanent transfer and upon my receipt of a draft Preliminary Determination for the proposed transfer, I (we) will be required [pursuant to OAR 690-380-4010(5)] to provide the following landownership information and evidence demonstrating that I (we) are authorized to pursue the transfer:

- (a) A report of ownership and lien information that has been prepared by a title company within the last three months;
- (b) A copy of written notification of the proposed transfer provided by the applicant to all lien holders on the subject lands unless the report of ownership and lien information shows that a water right conveyance agreement has been recorded for the subject lands. *If a water right conveyance agreement has been recorded for the subject lands, a copy of the agreement and identification of the owner of the lands at the time the agreement was recorded must be submitted; and*
- (c) If the landowner identified in the report of ownership and lien information is not the applicant, a notarized statement consenting to the transfer (*attached*) signed by the landowner identified in the report or an authorized representative of the entity to whom the interest in the water right has been conveyed as identified in a water right conveyance agreement or other documentation demonstrating that the applicant is authorized to pursue the transfer in the absence of the consent of the landowner.

☐ I (we) affirm that the applicant is a municipality, as defined in ORS 540.510(3)(b), and that the right is in the name of the municipality or a predecessor. Therefore, pursuant to OAR 690-380-3000(13)(b), the applicant is NOT required to provide the above described report of ownership and lien information.

☐ I (we) affirm that the applicant is an entity with the authority to condemn property and is acquiring the property to which the water right proposed for transfer is appurtenant by condemnation. Documentation is provided with this application supporting this statement. Therefore, pursuant to OAR 690-380-3000(13)(c), the applicant is NOT required to provide the above described report of ownership and lien information. (NOTE: Such an entity may only apply for a transfer under this subsection if it has filed a condemnation action to acquire the property.)

- I (we) affirm that the information contained in this application is true and accurate.

 applicant signature	 name (print)	 date
_____ applicant signature	_____ name (print)	_____ date

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10. SIGNATURES

- Check one of the following, as appropriate, and sign the application in the signature box below:

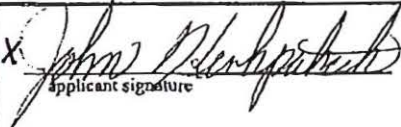
☒ In accordance with OAR 690-380-3000(13)(a), I (we) understand that prior to Department approval of a permanent transfer and upon my receipt of a draft Preliminary Determination for the proposed transfer, I (we) will be required [pursuant to OAR 690-380-4010(5)] to provide the following landownership information and evidence demonstrating that I (we) are authorized to pursue the transfer:

- (a) A report of ownership and lien information that has been prepared by a title company *within the last three months*;
- (b) A copy of written notification of the proposed transfer provided by the applicant to all lien holders on the subject lands unless the report of ownership and lien information shows that a water right conveyance agreement has been recorded for the subject lands. *If a water right conveyance agreement has been recorded for the subject lands, a copy of the agreement and identification of the owner of the lands at the time the agreement was recorded must be submitted; and*
- (c) If the landowner identified in the report of ownership and lien information is not the applicant, a notarized statement consenting to the transfer (*attached*) signed by the landowner identified in the report or an authorized representative of the entity to whom the interest in the water right has been conveyed as identified in a water right conveyance agreement or other documentation demonstrating that the applicant is authorized to pursue the transfer in the absence of the consent of the landowner.

☐ I (we) affirm that the applicant is a municipality, as defined in ORS 540.510(3)(b), and that the right is in the name of the municipality or a predecessor. Therefore, pursuant to OAR 690-380-3000(13)(b), the applicant is NOT required to provide the above described report of ownership and lien information.

☐ I (we) affirm that the applicant is an entity with the authority to condemn property and is acquiring the property to which the water right proposed for transfer is appurtenant by condemnation. Documentation is provided with this application supporting this statement. Therefore, pursuant to OAR 690-380-3000(13)(c), the applicant is NOT required to provide the above described report of ownership and lien information. (NOTE: Such an entity may only apply for a transfer under this subsection if it has filed a condemnation action to acquire the property.)

- I (we) affirm that the information contained in this application is true and accurate.

 applicant signature	<u>John Kirkpatrick</u> name (print)	<u>3/8/07</u> date
_____ applicant signature	_____ name (print)	_____ date

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WATER RESOURCES DEPT
SALEM OREGON

Water Right Transfer Supplemental Form A

DESCRIPTION OF PROPOSED CHANGE(S) TO A WATER RIGHT

List only one water right per page. A separate Supplemental Form A must be completed for each certificate, permit, decree, or other right involved in the proposed transfer.

Attach additional copies of Supplemental Form A as needed to describe other certificates, permits, decrees or other rights involved in this transfer.

▪ Certificate Number or other identifying number: 75354

1. TYPE OF CHANGE(S) PROPOSED

(Check *all* that apply.)

Point of Diversion or Appropriation	Place of Use	Character of Use
<input type="checkbox"/> Change (The old point of diversion or appropriation will <u>not</u> be used for the portion of the water right affected by the transfer.) <input type="checkbox"/> Additional (Both the old <u>and</u> new points of diversion or appropriation will be used for the portion of the water right affected by the transfer.) <input checked="" type="checkbox"/> Historic Point of Diversion or Appropriation Change (Unauthorized point of diversion or appropriation used for more than 10 years.) <input type="checkbox"/> Surface Water to Ground Water (A new point of appropriation will be used <u>instead of</u> the old point of diversion. The old point of diversion will <u>not</u> be used.) <input type="checkbox"/> Point of Diversion Change due to Government Action (The old point of diversion or appropriation can no longer be used due to government action.) <input type="checkbox"/> Exchange (Water from another source will be used in exchange for supplying an equal amount of replacement water to that source.)	<input type="checkbox"/> All of the right will be exercised at a different location than currently authorized (Use of water at the current location will be discontinued.) <input type="checkbox"/> Only a portion of the right will be exercised at a different location than currently authorized (Use of water at the current location will be discontinued.)	Proposed new use: <input type="checkbox"/> Irrigation <input type="checkbox"/> Municipal <input type="checkbox"/> Quasi-municipal <input type="checkbox"/> Commercial <input type="checkbox"/> Industrial <input type="checkbox"/> Instream (complete and attach <i>Supplemental Form C</i>) <input type="checkbox"/> Domestic (indicate number of households) _____ <input type="checkbox"/> Other _____ <input type="checkbox"/> Substitution (A supplemental ground water right will be substituted for a primary surface water right.) <input type="checkbox"/> Supplemental Use to Primary Use (Primary water right shall be cancelled and the supplemental water right will change to primary use.)

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2. CURRENT WATER RIGHT INFORMATION

Water Right Subject to Transfer (check and complete one of the following):

<input checked="" type="checkbox"/> Certificated Right	75354 <small>Certificate Number</small>	28626 <small>Permit Number or Decree Name</small>
<input type="checkbox"/> Adjudicated, Non-certificated Right	<small>Name of Decree</small>	<small>Page Number</small>
<input type="checkbox"/> Permit for which Proof has been Approved	<small>Permit Number</small>	<small>Date Claim of Beneficial Use Submitted</small>
<input type="checkbox"/> Transferred Right for which Proof has been Filed	<small>Previous Transfer Number</small>	<small>Date Claim of Beneficial Use Submitted</small>

- Name on Permit, Certificate, or Decree: Eagle Valley Irr. Company
- County: Baker
- Authorized Use(s) to be Affected by Transfer: Supplemental Irrigation
- Priority Date(s): Dec. 28, 1962

If there are multiple Priority Dates identified on the water right, any information provided on pages 3 through 6 of this form must identify which priority date is associated with each of the authorized and proposed points of diversion or appropriation and places of use.

- Source(s) of Water to be Affected by Transfer: Crater Lake Reservoir

Tributary to: Kettle Creek

If there are multiple Sources listed on the water right, any information provided on pages 3 through 6 of this form must identify which source is associated with each of the authorized and proposed points of diversion or appropriation and places of use.

For applications proposing a Change in Place of Use or Character of Use:

- Are there Other Water Rights, Permits or Ground Water Registrations associated with this land?

N/A

☐ Yes ☐ No ☐ N/A – No Change in Place of Use or Character of Use

If "Yes", what are the Permit, Registration or Certificate Numbers? _____

Pursuant to ORS 540.510, any "layered" water use or a right that is supplemental to a primary right proposed for transfer must be included in the transfer or be cancelled, except as provided in OAR 690-380-2240(5).

▪ Certificate Number or other identifying number: 75354

The following information **must be provided** only for those points of diversion or appropriation that are involved in the transfer (i.e., list only the portion of the water right you propose to transfer.) Attach additional pages as necessary.

Government lot and donation land claim numbers must be included in the tables below **only** if the information is reflected on the existing water right.

Location of Existing Authorized Point(s) of Diversion or Appropriation to be Changed:

(i.e., the allowed point(s) of diversion or appropriation listed on the water right that will be affected by the proposed transfer, the "FROM" point(s) of diversion or appropriation)

If Ground Water, OWRD Well Log ID No. (or Well ID Tag No. L-)	Source and Priority Date	Township	Range	Mer	Sec	¼ ¼	Tax Lot, DLC or Gov't Lot	Survey Coordinates (coordinates from a recognized survey corner)
	Crater Lake 12/28/1962	9S	45E	WM	10	SE NW		1700'S & 2450'E FM NW cor, Sec 10; Kay Young

- Does the water right being transferred involve a ground water source(s)?

☐ Yes ☒ No (Surface water source only.)

If "Yes", for each authorized point of appropriation (well) involved, you must either:

- A. Supply a copy of the well log(s) for each point of appropriation that is **clearly labeled** and associated with the corresponding well in the table above and on the accompanying application map. (NOTE: You may search for well logs on the Department's web page at: <http://www.wrd.state.or.us>)
- or
- B. If a well log is **not** available, you must describe the construction of the authorized point of appropriation by completing the table below. Attach additional copies as necessary.

Construction of Existing Authorized Point(s) of Appropriation – (Only needed if no well log is available.)

Wells in this listing must be **clearly tied** to corresponding well location(s) described in the table above and shown on the accompanying application map.

OWRD Well No. as identified in table above	Diameter	Type and size of casing	No. of feet of casing	Intervals casing is perforated (in feet)	Seal depth	Est. depth to water	Est. depth to water bearing stratum	Type of access port or measuring device	Total well depth
	N/A								

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75354

*Government lot and donation land claim numbers must be included in the tables below **only** if the information is reflected on the existing water right.*

(i.e., the allowed lands listed on the water right that will be affected by the proposed transfer, the "FROM" lands)

[illegible]

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▪ Certificate Number or other identifying number: 75 354

3. PROPOSED CHANGES TO THE WATER RIGHT

Describe proposed changes to the water right involving point(s) of diversion and/or appropriation. Survey coordinates described below should accurately correspond to the points shown on the accompanying application map. Attach additional pages as necessary.

Location of Proposed Point(s) of Diversion or Appropriation:

(i.e., the "TO" point(s) of diversion or appropriation)

☐ N/A – Instream Water Right Transfer

(NOTE: Complete this table only if a Change in Point of Diversion or Appropriation is being proposed.)

Source	Township	Range	Mer	Sec	¼ ¼ Section	Tax Lot, DLC or Gov't Lot	Survey Coordinates (coordinates from a recognized survey corner)
Crater Lake	8S	45E	WM	33	SE NW		1950'S & 1400'E AM NW cor, sec 33; Newt Young

- If there are proposed point(s) of appropriation (wells) listed in the table above, are the well(s) already constructed? ☐ Yes ☐ No ☒ N/A - No proposed well(s) listed above.

If "Yes", attach and clearly label the corresponding well log(s) for each proposed well, or if well log(s) are not available, describe the construction of the well(s) using the table below. (NOTE: You may search for well logs on the Department's web page at: <http://www.wrd.state.or.us>)

If "No", describe the anticipated construction for the proposed well(s) in the following table:

Construction of Proposed Point(s) of Appropriation or Well(s)

Well numbers in this listing must be clearly tied to corresponding well location(s) described in the table above and shown on the accompanying application map.

Well already built? (Yes/No)	If an existing well, OWRD Well Log ID No. (or Well ID Tag No. L-)	Diameter	Type and size of casing	No. of feet of casing	Intervals casing is perforated (in feet)	Seal depth	Est. depth to water	Est. depth to water bearing stratum	Type of access port or measuring device	Total well depth
		N/A								

▪ Certificate Number or other identifying number:

75354

Describe proposed changes to the water right involving place of use. Information described below should accurately correspond to the proposed place of use shown on the accompanying application map. Attach additional pages as necessary.

Location of Proposed Place of Use: (i.e., the "TO" lands) ☐ N/A – Instream Water Right Transfer
(NOTE: Complete this table only if a Change in Place of Use is being proposed.)

[illegible]

Remarks: We have a use easement from Idaho Power for property located from elevation 2077' to 2085'.

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Supplemental Form A

- 6 -

Description of Proposed Change(s) to a Water Right

WATER RESOURCES DEPT
SALEM OREGON

Water Right Transfer Supplemental Form A

DESCRIPTION OF PROPOSED CHANGE(S) TO A WATER RIGHT

List only one water right per page. A separate Supplemental Form A must be completed for each certificate, permit, decree, or other right involved in the proposed transfer.

Attach additional copies of Supplemental Form A as needed to describe other certificates, permits, decrees or other rights involved in this transfer.

▪ Certificate Number or other identifying number: 4649

1. TYPE OF CHANGE(S) PROPOSED

(Check *all* that apply.)

Point of Diversion or Appropriation	Place of Use	Character of Use
<input type="checkbox"/> Change (The old point of diversion or appropriation will <u>not</u> be used for the portion of the water right affected by the transfer.) <input type="checkbox"/> Additional (Both the old <u>and</u> new points of diversion or appropriation will be used for the portion of the water right affected by the transfer.) <input checked="" type="checkbox"/> Historic Point of Diversion or Appropriation Change (Unauthorized point of diversion or appropriation used for more than 10 years.) <input type="checkbox"/> Surface Water to Ground Water (A new point of appropriation will be used <u>instead of</u> the old point of diversion. The old point of diversion will <u>not</u> be used.) <input type="checkbox"/> Point of Diversion Change due to Government Action (The old point of diversion or appropriation can no longer be used due to government action.) <input type="checkbox"/> Exchange (Water from another source will be used in exchange for supplying an equal amount of replacement water to that source.)	<input type="checkbox"/> All of the right will be exercised at a different location than currently authorized (Use of water at the current location will be discontinued.) <input type="checkbox"/> Only a portion of the right will be exercised at a different location than currently authorized (Use of water at the current location will be discontinued.)	Proposed new use: <input type="checkbox"/> Irrigation <input type="checkbox"/> Municipal <input type="checkbox"/> Quasi-municipal <input type="checkbox"/> Commercial <input type="checkbox"/> Industrial <input type="checkbox"/> Instream (complete and attach <i>Supplemental Form C</i>) <input type="checkbox"/> Domestic (indicate number of households) _____ <input type="checkbox"/> Other _____ <input type="checkbox"/> Substitution (A supplemental ground water right will be substituted for a primary surface water right.) <input type="checkbox"/> Supplemental Use to Primary Use (Primary water right shall be cancelled and the supplemental water right will change to primary use.)

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2. CURRENT WATER RIGHT INFORMATION

Water Right Subject to Transfer (check and complete one of the following):

<input checked="" type="checkbox"/> Certificated Right	4649 <small>Certificate Number</small>	Powder R. Decree <small>Permit Number or Decree Name</small>
<input type="checkbox"/> Adjudicated, Non-certificated Right	<small>Name of Decree</small>	<small>Page Number</small>
<input type="checkbox"/> Permit for which Proof has been Approved	<small>Permit Number</small>	<small>Date Claim of Beneficial Use Submitted</small>
<input type="checkbox"/> Transferred Right for which Proof has been Filed	<small>Previous Transfer Number</small>	<small>Date Claim of Beneficial Use Submitted</small>

- Name on Permit, Certificate, or Decree: George W. Evans
- County: Baker
- Authorized Use(s) to be Affected by Transfer: Irrigation
- Priority Date(s): 1881

If there are multiple Priority Dates identified on the water right, any information provided on pages 3 through 6 of this form must identify which priority date is associated with each of the authorized and proposed points of diversion or appropriation and places of use.

- Source(s) of Water to be Affected by Transfer: Eagle Creek

Tributary to: Powder River

If there are multiple Sources listed on the water right, any information provided on pages 3 through 6 of this form must identify which source is associated with each of the authorized and proposed points of diversion or appropriation and places of use.

For applications proposing a Change in Place of Use or Character of Use:

- Are there **Other Water Rights**, Permits or Ground Water Registrations associated with this land?

☒ Yes ☐ No ☐ N/A – No Change in Place of Use or Character of Use

If "Yes", what are the Permit, Registration or Certificate Numbers? 75354

Pursuant to ORS 540.510, any "layered" water use or a right that is supplemental to a primary right proposed for transfer must be included in the transfer or be cancelled, except as provided in OAR 690-380-2240(5).

▪ Certificate Number or other identifying number: 4649

The following information **must be provided only** for those points of diversion or appropriation that are involved in the transfer (i.e., list only the portion of the water right you propose to transfer.) Attach additional pages as necessary.

Government lot and donation land claim numbers must be included in the tables below **only** if the information is reflected on the existing water right.

Location of Existing Authorized Point(s) of Diversion or Appropriation to be Changed:

(i.e., the allowed point(s) of diversion or appropriation listed on the water right that will be affected by the proposed transfer, the "FROM" point(s) of diversion or appropriation)

If Ground Water, OWRD Well Log ID No. (or Well ID Tag No. L-)	Source and Priority Date	Township	Range	Mer	Sec	¼ ¼	Tax Lot, DLC or Gov't Lot	Survey Coordinates (coordinates from a recognized survey corner)
	<i>Eagle Creek 1881</i>	<i>9S</i>	<i>45E</i>	<i>WM</i>	<i>10</i>	<i>SE NW</i>		<i>1700'S & 2450'E PM NW cor. Sec 10, Twp 9S, R. 45E</i>

▪ Does the water right being transferred involve a ground water source(s)?

☐ Yes ☒ No (Surface water source only.)

If "Yes", for each authorized point of appropriation (well) involved, you must either:

A. Supply a copy of the well log(s) for each point of appropriation that is **clearly labeled** and associated with the corresponding well in the table above and on the accompanying application map. (NOTE: You may search for well logs on the Department's web page at: <http://www.wrd.state.or.us>)

or

B. If a well log is **not** available, you must describe the construction of the authorized point of appropriation by completing the table below. Attach additional copies as necessary.

Construction of Existing Authorized Point(s) of Appropriation – (Only needed if no well log is available.)

Wells in this listing must be clearly tied to corresponding well location(s) described in the table above and shown on the accompanying application map.

OWRD Well No. as identified in table above	Diameter	Type and size of casing	No. of feet of casing	Intervals casing is perforated (in feet)	Seal depth	Est. depth to water	Est. depth to water bearing stratum	Type of access port or measuring device	Total well depth
		<i>N/A</i>							

▪ Certificate Number or other identifying number: 4649

The following information must be provided only for those places of use that are involved in the transfer (i.e., list only the portion of the water right you propose to transfer.) Attach additional pages as necessary.

*Government lot and donation land claim numbers must be included in the tables below **only** if the information is reflected on the existing water right.*

Location of Existing Authorized Place of Use to be Affected:

(i.e., the allowed lands listed on the water right that will be affected by the proposed transfer, the "FROM" lands)

[illegible]

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Water Right
MAR 14 2007

▪ Certificate Number or other identifying number: 4649

3. PROPOSED CHANGES TO THE WATER RIGHT

Describe proposed changes to the water right involving point(s) of diversion and/or appropriation. Survey coordinates described below should accurately correspond to the points shown on the accompanying application map. Attach additional pages as necessary.

Location of Proposed Point(s) of Diversion or Appropriation:

(i.e., the "TO" point(s) of diversion or appropriation)

☐ N/A - Instream Water Right Transfer

(NOTE: Complete this table only if a Change in Point of Diversion or Appropriation is being proposed.)

Source	Township	Range	Mer	Sec	¼ ¼ Section	Tax Lot, DLC or Gov't Lot	Survey Coordinates (coordinates from a recognized survey corner)
Eagle Creek	8S	45E	WM	33	SE NW		1950'S & 1400'E Fm NW Cor, Sec 33; New Young

- If there are proposed point(s) of appropriation (wells) listed in the table above, are the well(s) already constructed? ☐ Yes ☐ No ☒ N/A - No proposed well(s) listed above.

If "Yes", attach and clearly label the corresponding well log(s) for each proposed well, or if well log(s) are not available, describe the construction of the well(s) using the table below. (NOTE: You may search for well logs on the Department's web page at: <http://www.wrd.state.or.us>)

If "No", describe the anticipated construction for the proposed well(s) in the following table:

Construction of Proposed Point(s) of Appropriation or Well(s)

Well numbers in this listing must be clearly tied to corresponding well location(s) described in the table above and shown on the accompanying application map.

Well already built? (Yes/No)	If an existing well, OWRD Well Log ID No. (or Well ID Tag No. L-)	Diameter	Type and size of casing	No. of feet of casing	Intervals casing is perforated (in feet)	Seal depth	Est. depth to water	Est. depth to water bearing stratum	Type of access port or measuring device	Total well depth

▪ Certificate Number or other identifying number: 4649

Describe proposed changes to the water right involving place of use. Information described below should accurately correspond to the proposed place of use shown on the accompanying application map. Attach additional pages as necessary.

Location of Proposed Place of Use: (i.e., the "TO" lands) ☐ N/A – Instream Water Right Transfer

(NOTE: Complete this table only if a Change in Place of Use is being proposed.)

[illegible]

Remarks: No have an easement which is attached, that authorizes us to use the property within the free board of Brownlee reservoir.

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Water Right
WATER RESOURCES DEPT
SALEM, OREGON

STATE OF OREGON
COUNTY OF BAKER
CERTIFICATE OF WATER RIGHT

THIS CERTIFICATE ISSUED TO

EAGLE VALLEY IRRIGATION COMPANY
RICHLAND, Oregon 97870

confirms the right to use the waters of CRATER LAKE RESERVOIR constructed under Permit R-3215, a tributary of KETTLE CREEK, tributary of EAST FORK OF EAGLE CREEK, for the purpose of SUPPLEMENTAL IRRIGATION of 7637.47 ACRES. This right was perfected under Permit No. 28626. The date of priority is December 28, 1962. The amount of water to which this right is entitled is limited to an amount actually beneficially used for said purpose, and shall not exceed 190 acre-feet stored water only, or the equivalent in case of rotation.

The point of diversion is located as follows:

Crater Lake 1245 feet North and 1590 feet East from the Southwest Corner of Section 12, being within the SE $\frac{1}{4}$ SW $\frac{1}{4}$, Section 12, T. 6 S., R. 44 E., W.M.

The redistribution points from Eagle Creek are located as follows:

1. Stansberry Ditch NE $\frac{1}{4}$ SW $\frac{1}{4}$, Section 17, T8S, R45E, WM; 2640 feet North and 1560 feet East from SW corner Section 17. (1.9 acres)
2. Dry Gulch Ditch NE $\frac{1}{4}$ NW $\frac{1}{4}$, Section 20, T8S, R45E, WM; 30 feet South and 2540 feet East from NW corner Section 20. (2145.6 acres)
3. Tobin Ditch NE $\frac{1}{4}$ SE $\frac{1}{4}$, Section 29, T8S, R45E, WM; 1520 feet South and 1090 feet West from NE corner Section 29. (122.5 acres)
4. ^{To} Newt Young Ditch SE $\frac{1}{4}$ NW $\frac{1}{4}$, Section 33, T8S, R45E, WM; 1950 feet South and 1400 feet East from NE corner Section 33. (1434.6 acres)
5. Waterbury-Allen Ditch SE $\frac{1}{4}$ SW $\frac{1}{4}$, Section 33, T8S, R45E, WM; 1250 feet North and 2480 feet East from SW corner Section 33. (787.1 acres)
6. Moody Ditch NW $\frac{1}{4}$ SW $\frac{1}{4}$, Section 3, T9S, R45E, WM; 2130 feet North and 650 feet East from SW corner Section 3 (240.27 acres)
7. Holstine Ditch NW $\frac{1}{4}$ SW $\frac{1}{4}$, Section 3, T9S, R45E, WM; 2060 feet North and 610 feet East from SW corner Section 3. (130.7 acres)
8. ^{From} Kay Young Ditch SE $\frac{1}{4}$ NW $\frac{1}{4}$, Section 4, T9S, R45E, WM; 1700 feet South and 2450 feet East from NW corner Section 10. (1477.5 acres)
9. Nash Ditch SW $\frac{1}{4}$ SE $\frac{1}{4}$, Section 10, T9S, R45E, WM; 590 feet North and 2720 feet East from SW corner Section 10. (768.8 acres)
10. Little Eagle Ditch SE $\frac{1}{4}$ SE $\frac{1}{4}$, Section 15, T9S, R45E, WM; 250 feet North and 1020 feet West from SE corner of Section 15. (410.2 acres)
11. Gover Ditch NE $\frac{1}{4}$ NE $\frac{1}{4}$, Section 22, T9S, R45E, WM; 1640 feet North and 2350 feet East from C $\frac{1}{4}$ corner Section 22. (118.3 acres)

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 3.5 acre-feet for each acre irrigated during the irrigation season of each year, and shall conform to any reasonable rotation system as may be ordered by the proper state officer.

A description of the place of use to which this right is appurtenant, is as follows:

Recorded in State Record of Water Right Certificates numbered 75354.

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SALEM OREGON

ACRES	¼	¼	SEC	Twp South	Rng East
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1. Stansberry Ditch

1.20	SE	NW	20	8	45
0.70	SW	SE	20	8	45
1.90	Acres				

2. Dry Gulch Ditch

1.60	NE	NE	13	9	44
9.70	SE	NE	13	9	44
0.60	NE	SE	13	9	44
5.00	NW	SW	13	9	44
0.40	NE	NE	09	9	45
1.30	NE	NE	09	9	45
10.10	NE	NE	09	9	45
6.20	NW	NE	09	9	45
7.00	NW	NE	09	9	45
3.00	SE	NE	09	9	45
8.40	SE	NE	09	9	45
0.10	SE	NE	09	9	45
2.00	NE	SE	09	9	45
7.20	NE	SE	09	9	45
7.30	NE	SE	09	9	45
1.40	SW	SE	09	9	45
34.50	SE	SE	09	9	45
23.60	NW	NW	10	9	45
21.30	SW	NW	10	9	45
0.40	SW	NW	10	9	45
1.20	NW	SW	10	9	45
3.60	NW	SW	10	9	45
7.00	SW	SW	10	9	45
4.40	SW	SW	10	9	45
13.60	SW	SW	10	9	45
24.70	NW	NW	15	9	45
8.10	SW	NW	15	9	45
20.20	SW	NW	15	9	45
6.10	NE	SW	15	9	45
17.00	NW	SW	15	9	45
17.80	NW	SW	15	9	45
10.30	SW	SW	15	9	45
25.20	SW	SW	15	9	45
12.40	SE	SW	15	9	45
2.80	NE	NE	16	9	45
24.30	SE	NE	16	9	45
0.60	NW	SW	16	9	45
0.80	NW	SW	16	9	45
33.10	SW	SW	16	9	45
10.10	SE	SW	16	9	45
20.70	SE	SW	16	9	45

ACRES	¼	¼	SEC	Twp South	Rng East
8.60	NE	SE	16	9	45
31.40	NE	SE	16	9	45
14.40	NW	SE	16	9	45
0.20	SW	SE	16	9	45
1.80	SW	SE	16	9	45
8.40	SW	SE	16	9	45
7.10	SW	SE	16	9	45
2.00	SW	SE	16	9	45
8.40	SW	SE	16	9	45
2.00	SW	SE	16	9	45
3.10	SW	SE	16	9	45
36.30	SE	SE	16	9	45
0.80	NE	NE	17	9	45
2.50	NE	NE	17	9	45
0.10	NW	NE	17	9	45
0.20	SE	NE	17	9	45
0.60	SW	NE	17	9	45
1.60	SW	NE	17	9	45
2.10	SW	NE	17	9	45
5.30	SE	NE	17	9	45
13.80	SE	NE	17	9	45
2.80	NE	NW	17	9	45
3.10	NW	NW	17	9	45
11.70	NW	NW	17	9	45
18.00	SE	NW	17	9	45
14.30	SE	NW	17	9	45
3.40	SW	NW	17	9	45
5.40	SW	NW	17	9	45
3.90	SW	NW	17	9	45
21.30	SW	NW	17	9	45
5.80	NE	SW	17	9	45
29.20	NE	SW	17	9	45
1.30	NW	SW	17	9	45
8.60	NW	SW	17	9	45
29.90	NW	SW	17	9	45
1.30	SW	SW	17	9	45
4.80	SW	SW	17	9	45
18.00	SW	SW	17	9	45
3.90	SE	SW	17	9	45
4.60	SE	SW	17	9	45
8.40	SE	SW	17	9	45
16.00	SE	SW	17	9	45
4.50	NE	SE	17	9	45
6.00	NE	SE	17	9	45
7.50	NE	SE	17	9	45
1.90	NE	SE	17	9	45
2.00	NE	SE	17	9	45
1.70	NW	SE	17	9	45
10.50	NW	SE	17	9	45

ACRES	¼	¼	SEC	Twp South	Rng East
19.00	NW	SE	17	9	45
15.30	SW	SE	17	9	45
23.40	SW	SE	17	9	45
6.70	SE	SE	17	9	45
8.40	SE	SE	17	9	45
19.90	SE	SE	17	9	45
11.40	NE	NE	18	9	45
1.10	NW	NE	18	9	45
19.90	NW	NE	18	9	45
9.10	SW	NE	18	9	45
29.50	SW	NE	18	9	45
33.40	SE	NE	18	9	45
31.80	NE	NW	18	9	45
4.90	NW	NW	18	9	45
15.10	NW	NW	18	9	45
5.50	SW	NW	18	9	45
32.20	SW	NW	18	9	45
38.50	SE	NW	18	9	45
9.10	NW	SW	18	9	45
9.00	NE	SE	18	9	45
16.90	NE	SE	18	9	45
7.00	SE	SE	18	9	45
6.40	SE	SE	18	9	45
15.20	SE	SE	18	9	45
13.10	NE	NE	19	9	45
16.40	NE	NE	19	9	45
0.70	NW	NE	19	9	45
5.90	NW	NE	19	9	45
13.50	SW	NE	19	9	45
10.80	SE	NE	19	9	45
5.40	NE	SE	19	9	45
6.60	NE	SE	19	9	45
2.90	NW	SE	19	9	45
5.40	NW	SE	19	9	45
0.80	SW	SE	19	9	45
8.60	SW	SE	19	9	45
2.00	SE	SE	19	9	45
10.70	SE	SE	19	9	45
31.50	NE	NE	20	9	45
0.60	NE	NE	20	9	45
1.90	NE	NE	20	9	45
2.30	NE	NE	20	9	45
37.10	NW	NE	20	9	45
8.90	SW	NE	20	9	45
31.20	SW	NE	20	9	45
8.60	SE	NE	20	9	45
23.30	SE	NE	20	9	45
0.90	NE	NW	20	9	45
8.10	NE	NW	20	9	45
12.30	NE	NW	20	9	45

ACRES	¼	¼	SEC	Twp South	Rng East
12.60	NE	NW	20	9	45
0.30	NW	NW	20	9	45
0.50	NW	NW	20	9	45
10.60	NW	NW	20	9	45
12.10	NW	NW	20	9	45
2.20	NW	NW	20	9	45
40.00	SE	NW	20	9	45
1.70	SW	NW	20	9	45
1.80	SW	NW	20	9	45
7.50	SW	NW	20	9	45
4.50	SW	NW	20	9	45
5.80	NE	SW	20	9	45
6.20	NE	SW	20	9	45
19.60	NE	SW	20	9	45
2.30	NW	SW	20	9	45
16.80	NW	SW	20	9	45
6.10	SW	SW	20	9	45
15.50	SE	SW	20	9	45
21.10	NE	SE	20	9	45
7.50	NW	SE	20	9	45
30.20	NW	SE	20	9	45
19.20	SW	SE	20	9	45
12.30	SW	SE	20	9	45
10.70	SE	SE	20	9	45
18.10	SE	SE	20	9	45
4.00	SE	SE	20	9	45
5.10	NE	NE	21	9	45
31.00	NE	NE	21	9	45
38.40	NW	NE	21	9	45
8.20	SW	NE	21	9	45
28.20	SW	NE	21	9	45
18.60	SE	NE	21	9	45
20.60	NE	NW	21	9	45
1.10	NE	NW	21	9	45
8.10	NE	NW	21	9	45
1.30	NW	NW	21	9	45
4.20	NW	NW	21	9	45
7.10	NW	NW	21	9	45
11.50	NW	NW	21	9	45
2.20	NW	NW	21	9	45
1.70	SE	NW	21	9	45
3.00	SE	NW	21	9	45
11.30	SE	NW	21	9	45
2.00	NW	NW	22	9	45
9.60	NW	NW	22	9	45
36.30	NW	NW	28	9	45
1.10	SW	NW	28	9	45
0.40	NE	SW	28	9	45
14.10	NW	SW	28	9	45

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ACRES	¼	¼	SEC	Twp South	Rng East
8.40	SE	SW	28	9	45
24.40	SW	SW	28	9	45
37.20	NE	NE	29	9	45
16.30	NW	NE	29	9	45
17.00	SE	NE	29	9	45
10.20	NE	NE	30	9	45
3.10	NW	NE	30	9	45
0.60	SE	NE	30	9	45
0.30	SW	NE	30	9	45
2145.60	Acres				

3. Tobin Ditch

2.30	NE	SE	29	8	45
4.10	SE	SE	29	8	45
10.80	NE	NW	33	8	45
5.00	NW	NW	33	9	45
16.00	SE	NW	33	9	45
0.50	NE	SW	33	8	45
3.40	SE	NW	03	9	45
5.80	NE	SW	03	9	45
1.10	SE	SW	03	9	45
3.90	SW	SE	03	9	45
1.00	SW	SE	03	9	45
0.10	NE	NE	10	9	45
1.80	NE	NE	10	9	45
11.30	NE	NE	10	9	45
4.10	NW	NE	10	9	45
0.50	NW	NE	10	9	45
0.80	NW	NE	10	9	45
9.30	SE	NE	10	9	45
4.60	NW	NW	11	9	45
2.30	SW	NW	11	9	45
11.10	SW	NW	11	9	45
6.20	SE	NW	11	9	45
2.30	SE	NW	11	9	45
8.90	NE	SW	11	9	45
0.40	NE	SW	11	9	45
3.60	NE	SW	11	9	45
1.30	NW	SE	11	9	45
122.50	Acres				

4. Newt Young Ditch

3.20	NE	SW	33	8	45
4.60	NE	SW	33	8	45
0.10	SE	SW	33	8	45
1.00	NW	SE	33	8	45
3.00	NW	SE	33	8	45
0.80	SW	SE	33	8	45

ACRES	¼	¼	SEC	Twp South	Rng East
13.60	SW	SE	33	8	45
3.20	SW	NW	03	9	45
12.40	SW	NW	03	9	45
0.80	NE	SW	03	9	45
8.00	NE	SW	03	9	45
1.00	NW	SW	03	9	45
9.60	NW	SW	03	9	45
0.50	SE	SW	03	9	45
3.50	SE	SW	03	9	45
0.80	SW	SE	03	9	45
3.00	SW	SE	03	9	45
1.80	NE	NE	04	9	45
11.20	NE	NE	04	9	45
10.20	NW	NE	04	9	45
2.20	SE	NE	04	9	45
0.70	NE	NE	10	9	45
0.70	NE	NE	10	9	45
0.50	NW	NE	10	9	45
0.60	NW	NE	10	9	45
0.80	NW	NE	10	9	45
15.60	NW	NE	10	9	45
0.20	SW	NE	10	9	45
0.30	SW	NE	10	9	45
0.40	SW	NE	10	9	45
0.90	SW	NE	10	9	45
2.00	SW	NE	10	9	45
4.10	SW	NE	10	9	45
0.20	SW	NE	10	9	45
0.30	SW	NE	10	9	45
0.20	SW	NE	10	9	45
0.20	SW	NE	10	9	45
0.20	SE	NE	10	9	45
0.70	SE	NE	10	9	45
2.80	SE	NE	10	9	45
23.80	SE	NE	10	9	45
23.50	NE	SE	10	9	45
9.80	SE	SE	10	9	45
6.00	SW	NW	11	9	45
19.80	NE	SW	11	9	45
9.60	NW	SW	11	9	45
28.80	NW	SW	11	9	45
38.50	SE	SW	11	9	45
10.00	SW	SW	11	9	45
29.10	SW	SW	11	9	45
1.00	NW	SE	11	9	45
20.90	SW	SE	11	9	45
1.60	SE	NW	13	9	45
10.00	SW	NW	13	9	45
16.80	NE	SW	13	9	45

ACRES	¼	¼	SEC	Twp South	Rng East
22.80	NW	SW	13	9	45
0.50	SW	SW	13	9	45
9.70	SW	SW	13	9	45
28.40	SW	SW	13	9	45
8.80	SE	SW	13	9	45
17.40	SE	SW	13	9	45
19.40	NE	NE	14	9	45
5.00	NW	NE	14	9	45
27.50	NW	NE	14	9	45
1.50	SW	NE	14	9	45
2.30	SW	NE	14	9	45
16.20	SW	NE	14	9	45
17.80	SW	NE	14	9	45
34.00	SE	NE	14	9	45
0.90	NE	NW	14	9	45
16.00	NE	NW	14	9	45
23.10	NE	NW	14	9	45
18.60	NW	NW	14	9	45
1.80	SE	NW	14	9	45
2.80	SE	NW	14	9	45
4.60	SE	NW	14	9	45
17.50	SE	NW	14	9	45
0.60	SW	NW	14	9	45
2.20	NE	SW	14	9	45
6.10	NE	SW	14	9	45
39.60	NE	SE	14	9	45
6.10	NW	SE	14	9	45
33.90	NW	SE	14	9	45
38.70	SW	SE	14	9	45
0.60	SE	SE	14	9	45
2.40	SE	SE	14	9	45
36.80	SE	SE	14	9	45
2.80	NE	NE	24	9	45
30.80	NW	NE	24	9	45
35.00	SW	NE	24	9	45
13.00	SE	NE	24	9	45
17.60	SE	NE	24	9	45
38.10	NE	NW	24	9	45
38.20	NW	NW	24	9	45
36.20	SW	NW	24	9	45
0.90	NE	SW	24	9	45
8.50	NE	SW	24	9	45
1.00	NW	SW	24	9	45
3.40	NW	SW	24	9	45
5.30	NW	SW	24	9	45
9.20	NW	SW	24	9	45
15.60	NW	SW	24	9	45
19.20	SE	SW	24	9	45
19.20	SE	SW	24	9	45
31.90	SW	SW	24	9	45

ACRES	¼	¼	SEC	Twp South	Rng East
3.50	NE	SE	24	9	45
29.60	NE	NE	25	9	45
38.80	NW	NE	25	9	45
13.70	SE	NE	25	9	45
38.20	NE	NW	25	9	45
10.70	SW	NW	19	9	46
7.40	SE	NW	19	9	46
17.00	NE	SW	19	9	46
25.00	NW	SW	19	9	46
4.20	SE	SW	19	9	46
19.80	SE	SW	19	9	46
3.60	SW	SW	19	9	46
29.30	SW	SE	19	9	46
29.20	NW	NE	30	9	46
1434.60	Acres				

5. Waterbury Allen Ditch

1.00	SE	SW	33	8	45
10.80	SW	SE	33	8	45
6.00	NW	NE	04	9	45
3.10	NE	NW	10	9	45
3.70	NW	NW	10	9	45
0.60	SW	NW	10	9	45
1.80	SW	NW	10	9	45
0.70	SW	NW	10	9	45
1.90	SW	NW	10	9	45
0.30	SE	NW	10	9	45
1.90	SE	NW	10	9	45
0.20	NW	SW	10	9	45
12.20	NW	SW	10	9	45
0.90	NW	SW	10	9	45
6.30	SW	SW	10	9	45
0.50	SW	SW	10	9	45
2.00	NE	NW	15	9	45
0.50	NE	NW	15	9	45
1.90	SE	NW	15	9	45
0.40	SE	NW	15	9	45
9.30	SE	SW	15	9	45
9.30	SE	SW	15	9	45
0.10	SW	SE	15	9	45
3.40	SE	NE	20	9	45
20.20	SE	NE	21	9	45
10.60	SE	NW	21	9	45
28.80	SW	NW	21	9	45
15.20	NE	SW	21	9	45
12.60	NE	SW	21	9	45
32.40	NW	SW	21	9	45
37.40	SW	SW	21	9	45

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ACRES	¼	¼	SEC	Twp South	Rng East
6.00	SE	SW	21	9	45
2.60	SE	SW	21	9	45
3.00	SE	SW	21	9	45
4.70	SE	SW	21	9	45
36.90	NE	SE	21	9	45
28.00	NW	SE	21	9	45
7.60	NW	SE	21	9	45
28.90	SW	SE	21	9	45
36.00	SE	SE	21	9	45
1.30	SE	SE	21	9	45
7.80	NE	NW	22	9	45
14.70	NE	NW	22	9	45
14.00	NE	NW	22	9	45
3.10	NW	NW	22	9	45
6.50	NW	NW	22	9	45
8.90	NW	NW	22	9	45
39.00	SW	NW	22	9	45
19.60	SE	NW	22	9	45
9.60	SE	NW	22	9	45
10.00	SE	NW	22	9	45
38.20	NE	SW	22	9	45
39.80	NW	SW	22	9	45
1.80	SW	SW	22	9	45
30.90	SW	SW	22	9	45
24.30	SE	SW	22	9	45
15.60	NW	NW	27	9	45
29.00	NE	NE	28	9	45
14.90	NW	NE	28	9	45
12.90	SW	NE	28	9	45
20.40	SE	NE	28	9	45
35.10	NE	NW	28	9	45
787.10	Acres				

6. Moody Ditch

3.00	NE	SW	03	9	45
5.20	NW	SW	03	9	45
2.20	SW	SW	03	9	45
5.30	SW	SW	03	9	45
3.10	SE	SW	03	9	45
6.00	SE	SW	03	9	45
10.40	SE	SW	03	9	45
0.60	SW	SE	03	9	45
0.20	NW	NE	10	9	45
1.10	NW	NE	10	9	45
1.80	NW	NE	10	9	45
5.30	NW	NE	10	9	45
0.80	NW	NE	10	9	45
0.10	SW	NE	10	9	45
3.20	SW	NE	10	9	45

ACRES	¼	¼	SEC	Twp South	Rng East
15.70	SW	NE	10	9	45
0.10	SW	NE	10	9	45
0.30	SW	NE	10	9	45
0.30	NE	NW	10	9	45
1.40	NE	NW	10	9	45
1.60	NE	NW	10	9	45
2.90	NE	NW	10	9	45
5.77	NE	NW	10	9	45
10.40	NE	NW	10	9	45
0.80	SE	NW	10	9	45
0.90	SE	NW	10	9	45
12.20	NE	SE	10	9	45
14.00	NW	SE	10	9	45
2.80	SE	SE	10	9	45
13.50	SE	SE	10	9	45
0.90	SW	SW	11	9	45
0.30	NW	NW	14	9	45
18.00	NW	NW	14	9	45
1.80	SW	NW	14	9	45
2.40	SW	NW	14	9	45
9.90	SW	NW	14	9	45
13.20	SW	NW	14	9	45
0.10	SE	NW	14	9	45
10.10	SE	NW	14	9	45
15.80	NE	SW	14	9	45
15.90	NE	SW	14	9	45
1.20	NW	SW	14	9	45
1.50	NW	SW	14	9	45
5.90	NW	SW	14	9	45
9.10	NW	SW	14	9	45
0.40	NE	NE	15	9	45
1.20	NE	NE	15	9	45
1.60	NE	NE	15	9	45
240.27	Acres				

7. Holstine Ditch

4.80	NE	NW	10	9	45
3.20	SE	NW	10	9	45
5.90	SE	NW	10	9	45
12.80	SE	NW	10	9	45
11.30	NE	SW	10	9	45
13.60	NE	SW	10	9	45
5.20	NW	SW	10	9	45
26.00	SE	SW	10	9	45
2.40	SW	NE	15	9	45
22.40	NE	NW	15	9	45
15.50	SE	NW	15	9	45

ACRES	¼	¼	SEC	Twp South	Rng East
7.60	NE	SW	15	9	45
130.70	Acres				

8. Kay Young Ditch

6.10	NE	SW	10	9	45
26.00	NW	SE	10	9	45
32.80	SW	SE	10	9	45
10.70	SE	SE	10	9	45
5.10	SW	NW	14	9	45
3.80	NW	SW	14	9	45
15.00	NW	SW	14	9	45
0.70	SW	SW	14	9	45
3.40	SW	SW	14	9	45
32.90	SW	SW	14	9	45
18.40	SE	SW	14	9	45
21.40	SE	SW	14	9	45
1.30	SW	SE	14	9	45
25.00	NE	NE	15	9	45
18.10	NW	NE	15	9	45
32.70	SE	NE	15	9	45
21.90	NE	SE	15	9	45
26.10	SE	SE	15	9	45
7.20	NE	NE	22	9	45
39.50	NE	NE	23	9	45
40.00	NW	NE	23	9	45
29.80	SW	NE	23	9	45
30.50	SE	NE	23	9	45
36.00	NE	NW	23	9	45
0.90	SE	NW	23	9	45
3.40	SE	NW	23	9	45
4.10	SE	NW	23	9	45
15.60	SE	NW	23	9	45
31.00	NE	SW	23	9	45
15.10	NW	SW	23	9	45
4.60	SW	SW	23	9	45
16.40	SE	SW	23	9	45
16.80	SE	SW	23	9	45
0.40	NE	SE	23	9	45
1.00	NE	SE	23	9	45
4.30	NE	SE	23	9	45
28.60	NE	SE	23	9	45
1.20	NW	SE	23	9	45
1.30	NW	SE	23	9	45
1.40	NW	SE	23	9	45
1.50	NW	SE	23	9	45
1.90	NW	SE	23	9	45
10.90	NW	SE	23	9	45
0.30	SW	SE	23	9	45
18.00	SW	SE	23	9	45

ACRES	¼	¼	SEC	Twp South	Rng East
19.60	SW	SE	23	9	45
0.30	SW	SE	23	9	45
0.30	SW	SE	23	9	45
18.10	SE	SE	23	9	45
19.80	SE	SE	23	9	45
0.80	SW	NE	24	9	45
1.60	SE	NE	24	9	45
37.00	SE	NW	24	9	45
30.60	NE	SW	24	9	45
34.50	NE	SE	24	9	45
8.50	NW	SE	24	9	45
28.90	NW	SE	24	9	45
2.80	SW	SE	24	9	45
36.20	SW	SE	24	9	45
39.00	SE	SE	24	9	45
8.10	SW	NE	25	9	45
37.20	NW	NW	25	9	45
29.80	SW	NW	25	9	45
19.60	SE	NW	25	9	45
7.80	NW	SW	25	9	45
19.10	NE	NE	26	9	45
19.10	NE	NE	26	9	45
39.60	NW	NE	26	9	45
32.50	SW	NE	26	9	45
39.00	SE	NE	26	9	45
22.30	NE	NW	26	9	45
6.10	SE	NW	26	9	45
1.40	NE	SE	26	9	45
28.20	NE	SE	26	9	45
1.60	NW	SE	26	9	45
26.70	NW	SE	26	9	45
20.00	SE	SE	26	9	45
14.90	SW	SE	26	9	45
3.00	NW	SW	19	9	46
35.20	SW	SW	19	9	46
11.50	SW	NE	30	9	46
28.60	NE	NW	30	9	46
14.50	NW	NW	30	9	46
23.80	NW	NW	30	9	46
16.90	SW	NW	30	9	46
29.90	SE	NW	30	9	46
1477.50	Acres				

9. Nash Ditch

11.60	NW	NE	15	9	45
3.30	SE	NE	15	9	45
1.40	SW	NE	15	9	45

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ACRES	¼	¼	SEC	Twp South	Rng East
35.90	SW	NE	15	9	45
5.60	NE	NW	15	9	45
2.40	NE	SW	15	9	45
0.50	SE	SW	15	9	45
9.60	NE	SE	15	9	45
5.60	NW	SE	15	9	45
34.40	NW	SE	15	9	45
38.40	SW	SE	15	9	45
7.20	SE	SE	15	9	45
3.10	NW	NE	22	9	45
9.50	NW	NE	22	9	45
23.30	NW	NE	22	9	45
7.00	SE	NE	22	9	45
4.00	SW	NE	22	9	45
34.30	SW	NE	22	9	45
1.20	NE	SW	22	9	45
6.80	SW	SW	22	9	45
8.60	SE	SW	22	9	45
1.40	NE	SE	22	9	45
6.60	NE	SE	22	9	45
9.50	NW	SE	22	9	45
27.90	NW	SE	22	9	45
39.00	SW	SE	22	9	45
5.50	SE	SE	22	9	45
8.50	NE	NE	27	9	45
9.30	NW	NE	27	9	45
28.80	NW	NE	27	9	45
39.50	SW	NE	27	9	45
11.50	SE	NE	27	9	45
36.60	NE	NW	27	9	45
22.00	NW	NW	27	9	45
39.60	SW	NW	27	9	45
40.00	SE	NW	27	9	45
39.60	NE	SW	27	9	45
31.60	NW	SW	27	9	45
20.00	SE	SW	27	9	45
6.00	NE	SE	27	9	45
20.00	NW	SE	27	9	45
18.30	SW	SE	27	9	45
1.50	NE	NE	28	9	45
15.40	SW	NE	28	9	45
1.20	SE	NE	28	9	45
6.60	SE	NE	28	9	45
4.20	SE	NW	28	9	45
16.00	NE	SE	28	9	45
9.00	NW	SE	28	9	45
768.80	Acres				

ACRES	¼	¼	SEC	Twp South	Rng East
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10. Little Eagle Ditch

5.10	NE	NE	22	9	45
2.70	NE	NE	22	9	45
2.70	SE	NE	22	9	45
29.00	SE	NE	22	9	45
7.30	NE	SE	22	9	45
15.10	NE	SE	22	9	45
24.00	SE	SE	22	9	45
6.40	SW	NW	26	9	45
28.60	SW	NW	26	9	45
5.20	NE	SW	26	9	45
10.10	NE	SW	26	9	45
29.00	NW	SW	26	9	45
30.00	SW	SW	26	9	45
24.70	SE	SW	26	9	45
30.00	NE	NE	27	9	45
28.30	SE	NE	27	9	45
33.00	NE	SE	27	9	45
12.80	NW	SE	27	9	45
13.20	SW	SE	27	9	45
38.90	SE	SE	27	9	45
6.20	NE	NE	34	9	45
17.50	NE	NW	35	9	45
10.40	NW	NW	35	9	45
410.20	Acres				

11. Gover Ditch

21.20	NW	SW	23	9	45
27.80	SW	SW	23	9	45
0.50	NE	NW	26	9	45
35.40	NW	NW	26	9	45
23.00	SE	NW	26	9	45
10.40	NE	SW	26	9	45
118.30	Acres				

7637.47 Total Certificate Acres

Locations are based on the Willamette Meridian.

This certificate describes that portion of the water right confirmed by Certificate 56452, State Record of Water Right Certificates, NOT modified by the provisions of orders of the Water Resources Director entered for Dry Gulch Ditch Company on FEB 16 1999; Waterbury Allen Ditch Improvement District on FEB 16 1999; Tobin Ditch Company in Special Order Volume 51, Page 364; Daniel L. Forsea and Sons, Inc., in Special Order Volume 50, Page 200; and John Wright in Special Order Volume 51, Page 385;

AND this certificate describes that portion of the water right confirmed by Certificate 56452, State Record of Water Right Certificates, modified by the provisions of orders of the Water Resources Director entered for Dry Gulch Ditch Company on FEB 16 1999; Waterbury Allen Ditch Improvement District on FEB 16 1999; Tobin Ditch Company in Special Order Volume 51, Page 364; Daniel L. Forsea and Sons, Inc., in Special Order Volume 50, Page 200; and John Wright in Special Order Volume 51, Page 385; approving petitions by Dry Gulch Ditch Company, Waterbury Allen Ditch Improvement District; Tobin Ditch Company; Daniel L. Forsea and Sons, Inc.; and John Wright under ORS 541.329.

The right to the use of the water for the above purposes is restricted to beneficial use on the lands or place of use described.

The issuance of this superseding certificate does not confirm the status of the water right pertaining to forfeiture or abandonment under ORS 540.610 for the portions NOT modified by the orders described above.

Witness the signature of the Water Resources Director, affixed 2/16/99.


Martha O. Pagel, Director

56452.TR

Recorded in State Records of Water Right Certificates numbered 75354.

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WATER RESOURCES DEPT
SALEM OREGON

BEFORE THE OREGON WATER RESOURCES DEPARTMENT

IN THE MATTER OF THE PROPOSED CANCELLATION)
OR PARTIAL CANCELLATION OF THE WATER RIGHTS)
EVIDENCED BY CERTIFICATES 2061, 2750, 4028, 4231, 4264,) FINAL ORDER
4590, 4592, 4611, 4649, 4665, 10203, 14128, 23035, 23417, 28855,) Case No. PC97-1
33891 and 44243 FOR THE USE OF WATER FROM EAGLE)
CREEK, POWDER RIVER, SQUAW GULCH, DALY CREEK,)
AND LITTLE EAGLE CREEK, BAKER COUNTY, OREGON)

Notice of the proposed cancellation or partial cancellation of the water rights described below was served on Idaho Power Company, PO Box 70, Boise, ID 83707, the owner of record of certain real property to which these rights are appurtenant, on February 14, 1997.

The proposal to cancel all or part of the right in question was based on information received from Vernon Church, Thomas Rudolph, Kent Searles, Steve Shold, and Tim Heater, alledging that right, or the portion of the water right, as described below, had been forfeited by failure to make beneficial use of the water under the terms of the water right for a period of five or more consecutive years, from 1989 through May 1996.

No protest having been filed within the 60 days allowed by law, this FINAL ORDER is now entered.

NOW, THEREFORE, IT IS ORDERED that the portion of certificate 2061, and the water right evidenced thereby, for irrigation of 2.3 acres in the SE $\frac{1}{4}$ NE $\frac{1}{4}$ Section 30, T9S R46E, be and the same is hereby CANCELLED.

It is further ORDERED that a new certificate shall be issued for irrigation under a priority of June 10, 1912 of 6.94 acres SE $\frac{1}{4}$ NE $\frac{1}{4}$, Section 30, 28.67 acres NE $\frac{1}{4}$ NW $\frac{1}{4}$ and 7.24 acres NW $\frac{1}{4}$ NE $\frac{1}{4}$, Section 29, T9S R46E not cancelled in this proceeding.

It is further ORDERED that the portion of certificate 2750, and the water right evidenced thereby, for supplemental irrigation of the following lands, all in Section 30, T9S, R46E:

40 acres NE $\frac{1}{4}$ SW $\frac{1}{4}$, 28.0 acres NW $\frac{1}{4}$ SW $\frac{1}{4}$, 39.3 acres SW $\frac{1}{4}$ SW $\frac{1}{4}$,
21.4 acres SE $\frac{1}{4}$ SW $\frac{1}{4}$, 33.6 acres NW $\frac{1}{4}$ SE $\frac{1}{4}$, 6.6 acres SW $\frac{1}{4}$ SE $\frac{1}{4}$
be and the same is hereby CANCELLED.

It is further ORDERED that a new certificate shall be issued for supplemental irrigation under a priority of April 21, 1915 for the following lands in T9S, R46E, WM:

18.6 acres SE $\frac{1}{4}$ SW $\frac{1}{4}$	5.4 acres NW $\frac{1}{4}$ SE $\frac{1}{4}$	9.0 acres NW $\frac{1}{4}$ NE $\frac{1}{4}$
0.7 acres SW $\frac{1}{4}$ SW $\frac{1}{4}$	24.9 acres SW $\frac{1}{4}$ SE $\frac{1}{4}$	Section 31
	Section 30	

evidencing the portion of the right not cancelled in this proceeding.

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It is further ORDERED that Certificate 4028 is for irrigation on the following lands in Section 30, T9S R46E, WM:

38.0 acres NE $\frac{1}{4}$ SW $\frac{1}{4}$ and 28.0 acres NW $\frac{1}{4}$ SW $\frac{1}{4}$ under a priority of 1876;

10.0 acres NW $\frac{1}{4}$ SW $\frac{1}{4}$ under a priority of 1907

and the water right evidenced by same, be and the same is hereby CANCELLED in its entirety.

It is further ORDERED that Certificate 4231 and that portion of the right evidenced by Certificate 4231 for irrigation of the following lands in Township 9 South, Range 45 East, WM, be and the same is hereby CANCELLED:

37.0 acres SE $\frac{1}{4}$ SE $\frac{1}{4}$

Section 25

6.0 acres NE $\frac{1}{4}$ NE $\frac{1}{4}$

Section 36

under priority August 1863

30.0 acres SW $\frac{1}{4}$ SE $\frac{1}{4}$ in Section 25, under priority May 20, 1909

3.5 acres NE $\frac{1}{4}$ NW $\frac{1}{4}$

14.0 acres NW $\frac{1}{4}$ NW $\frac{1}{4}$

Section 36

under priority 1890

It is further ORDERED that a new certificate shall be issued evidencing the portion of the right for irrigation of the following lands not cancelled in this proceeding:

17.0 acres NE $\frac{1}{4}$ NE $\frac{1}{4}$ under priority August 1863, 10.0 acres NW $\frac{1}{4}$ NE $\frac{1}{4}$, 16.5 acres NE $\frac{1}{4}$ NW $\frac{1}{4}$, and 16.0 acres NW $\frac{1}{4}$ NW $\frac{1}{4}$, under priority 1890, all in Section 36, T9S, R45E, W.M.

It is further ORDERED that Certificate 4264 for irrigation on 38.0 acres in the NE $\frac{1}{4}$ SE $\frac{1}{4}$, Section 25, T9S, R45E, W.M., under priority dates of 1902 and 1904, and the water right evidence by said certificate, be and the same is hereby CANCELLED in its entirety.

It is further ORDERED that Certificate 4590, and the portion of the right evidenced thereby, for primary irrigation of 26.3 acres located in the SE $\frac{1}{4}$ NE $\frac{1}{4}$ and supplemental irrigation of 1.3 acres in the SE $\frac{1}{4}$ NE $\frac{1}{4}$ of Section 25, T9S, R45E, WM, be and the same is hereby CANCELLED.

It is further ORDERED that a new certificate shall be issued evidencing the portion of the right for irrigation of the following lands not cancelled in this proceeding:

Primary irrigation 40.0 acres NW $\frac{1}{4}$ NE $\frac{1}{4}$ and 13.7 acres SE $\frac{1}{4}$ NE $\frac{1}{4}$ in Section 25, T9S, R45E, W.M., from Eagle Creek under a priority of 1885, and supplemental irrigation of 13.7 acres SE $\frac{1}{4}$ NE $\frac{1}{4}$ Section 25, T9S, R45E, WM from Powder River, Augustus or Jeffords Ditch under priority 1880.

It is further ORDERED that Certificate 4611, and the portion of the right evidenced thereby, for irrigation use on 21.4 acres SE $\frac{1}{4}$ SW $\frac{1}{4}$ and 6.6 acres SW $\frac{1}{4}$ SE $\frac{1}{4}$ in Section 30, T9S R46E W.M. under priority July 12, 1900, be and the same is hereby CANCELLED.

It is further ORDERED that a new certificate shall be issued evidencing the portion of the right for irrigation of the following lands **not** cancelled in this proceeding:

10.0 acres SW $\frac{1}{4}$ SW $\frac{1}{4}$
Section 13 T9S R45E W.M.
0.2 acre in Lots 7 and 8, Duffey's
North Addition to Richland, Oregon
under priority 1881

18.6 acres SE $\frac{1}{4}$ SW $\frac{1}{4}$
3.4 acres SW $\frac{1}{4}$ SE $\frac{1}{4}$
Section 30 T9S R46E W.M.
under priority July 12, 1900

X

It is further ORDERED that Certificate 4649, and the portion of the right evidenced thereby, for irrigation of 24.4 acres in the SW $\frac{1}{4}$ NE $\frac{1}{4}$ under priority 1881 and 2.1 acres in the NW $\frac{1}{4}$ NE $\frac{1}{4}$ under priority 1886, all in Section 30 T9S R46E, W.M., be and the same is hereby **CANCELLED**.

It is further ORDERED that a new certificate shall be issued evidencing the portion of the right for irrigation of the following lands in Section 30 T9S R46E, W.M. **not** cancelled in this proceeding:

0.3 acres in Lot 5 and the S $\frac{1}{2}$ of Lot 3, Block 3, Town of Richland, Oregon
15.6 acres in the SW $\frac{1}{4}$ NE $\frac{1}{4}$
under priority 1881
37.9 acres NW $\frac{1}{4}$ NE $\frac{1}{4}$, under priority 1886

It is further ORDERED that Certificate 4665, and the portion of the right evidenced thereby, for irrigation of 0.2 acre located in the NE $\frac{1}{4}$ SE $\frac{1}{4}$ and 8.5 acres in the SE $\frac{1}{4}$ NE $\frac{1}{4}$ in Section 30, under priority of 1909, all in T9S, R46E, WM, be and the same is hereby **CANCELLED**.

It is further ORDERED that a new certificate shall be issued evidencing the portion of the right for irrigation of the following lands in Section 30 T9S R46E, W.M. **not** cancelled in this proceeding:

under priority 1897, 3.5 acres in the SE $\frac{1}{4}$ NE $\frac{1}{4}$, Section 30;
under priority 1901 (12.0 acres) and under priority 1909 (24.3 acres):
1.5 acres NE $\frac{1}{4}$ NW $\frac{1}{4}$ 7.0 acres SW $\frac{1}{4}$ NW $\frac{1}{4}$
7.5 acres NW $\frac{1}{4}$ NW $\frac{1}{4}$ 16.5 acres SE $\frac{1}{4}$ NW $\frac{1}{4}$
Section 29
3.8 acres NE $\frac{1}{4}$ SE $\frac{1}{4}$ Section 30

It is further ORDERED that Certificate 10203, and the right evidenced thereby, for irrigation of 20.0 acres in the NW $\frac{1}{4}$ SW $\frac{1}{4}$, Section 30, T9S R46E, W.M., under a priority of July 5, 1933, be and the same is hereby **CANCELLED** in its entirety.

It is further ORDERED that Certificate 14128, and the portion of the right evidenced thereby, for supplemental irrigation of the following lands under a priority date of October 29, 1936, be and the same is hereby **CANCELLED**:

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0.2 acre SW¼ SE¼	22.6 acres NE¼ NE¼
26.9 acres SE¼ SE¼	12.0 acres NW¼ NE¼
Section 25, T9S R45E	5.9 acres NE¼ NW¼
	Section 36, T9S R45E
9.6 acres NW¼ NW¼	
Section 31, T9S R46E	
28.8 acres NE¼ SW¼	38.6 acres SW¼ SW¼
9.3 acres NW¼ SW¼	16.9 acres NW¼ SE¼
16.3 acres SE¼ SW¼	1.7 acres SW¼ SE¼
Section 30 T9S R46E	

It is further ORDERED that a new certificate shall be issued evidencing the portion of the right for irrigation of 4.1 acres in the NE¼ NE¼ Section 36, T9S R45E and 0.3 acre in the NW¼ NW¼, Section 31, T9S R46E, W.M. **not** cancelled in this proceeding.

It is further ORDERED that Certificate 23035, and the portion of the right for supplemental irrigation of 2.6 acres NW¼ SW¼ 14.8 acres SW¼ SW¼ Section 25 and 0.95 acres in the SE¼ SE¼ of Section 26, all in T9S, R45E, WM, be and the same is hereby CANCELLED.

It is further ORDERED that a new certificate shall be issued evidencing the portion of the right for supplemental irrigation under a priority date of June 22, 1951 on 11.4 acres NW¼ SE¼, 16.2 acres SW¼ SE¼, and 23.05 acres SE¼ SE¼, all in Section 26, T9S R45E WM, which are **not** cancelled in this proceeding.

It is further ORDERED that Certificate 23417, and the portion of the right appurtenant to 21.4 acres SE¼ SE¼, Section 25, 22.6 acres NE¼ NE¼ and 5.7 acres NE¼ NW¼ Section 36, all in T9S R45E WM, under priority May 3, 1947, be and the same is hereby CANCELLED.

It is further ORDERED that a new certificate shall be issued evidencing the portion of the right for irrigation of the following lands **not** cancelled in this proceeding:

11 acres NE¼ NE¼	14.9 acres NE¼ NW¼
7.8 acres NW¼ NE¼	10.2 acres NW¼ NW¼
Section 36 T9S R45E WM	

It is further ORDERED that Certificate 28855, and that portion of the right for primary irrigation under primary irrigation under priority 1882 and supplemental supply from Eagle Creek under priority of 1901 through the Howell Ditch for 39.3 acres in the SW¼ SW¼ Section 30, T9S R46E, WM, be and the same is hereby CANCELLED.

It is further ORDERED that a new certificate shall be issued evidencing the portion of the right for irrigation of the following lands **not** cancelled in this proceeding, all located in T9S R46E, WM:

*28.0 acres SW¼ NW¼	*0.7 acres SW¼ SW¼
*18.0 acres NW¼ SW¼	Section 30, Priority 1882
10.5 acres SW¼ SW¼ (*1 ac. supp)	
4.0 acres SE¼ SW¼	
Section 31, Priority 1862	

*Lands marked with an asterisk also have a supplemental supply from Eagle Creek under priority 1901 via the Howell ditch.

It is further ORDERED that Certificate 33891, and that portion of the right evidenced thereby, for irrigation of 21.7 acres SW¼ NW¼, 11.1 acres SE¼ NW¼ and 0.1 acre NW¼ NW¼ all in Section 30, T9S R46E, WM, under a priority of 1881, be and the same is hereby CANCELLED.

It is further ORDERED that a new certificate shall be issued evidencing the portion of the right for irrigation of the following lands **not** cancelled in this proceeding:

under priority 1868	under priority 1886
5.0 acres SW¼ NW¼	18.0 acres SE¼ SW¼
Section 26 T9S R45E	Section 19 T9S R46E

under priorities 1886 (12.0 acres) and 1881 (8.0 acres):
7.4 acres SE¼ NW¼ 12.6 acres NE¼ SW¼
Section 19 T9S R46E

under priority 1881	
32.0 acres NE¼ NW¼	1.0 acre NW¼ SE¼
39.9 acres NW¼ NW¼	Section 23 T9S R45E
18.3 acres SW¼ NW¼	0.25 acre in Lot 9, Block 4, in the
28.9 acres SE¼ NW¼	town of Richland T9S R45E WM
Section 30 T9S R46E	

It is further ORDERED that Certificate 44243, and the portion of the right evidenced thereby, for irrigation under a priority of 1885 of 0.5 acre in the SW¼ NW¼, Section 25, T9S R46E, WM, be and the same is hereby CANCELLED.

It is further ORDERED that a new certificate shall be issued evidencing the portion of the right for irrigation of the following lands **not** cancelled in this proceeding:

under priority date 1879	under priority date 1885
22.0 acres SW¼ SW¼	40.0 acres NW¼ NW¼
Section 23	39.5 acres SW¼ NW¼
	Section 25

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under priority date 1879

11.0 acres NE $\frac{1}{4}$ NW $\frac{1}{4}$

38.0 acres NW $\frac{1}{4}$ NW $\frac{1}{4}$

Section 26

under priority 1888

10.0 acres NE $\frac{1}{4}$ SW $\frac{1}{4}$

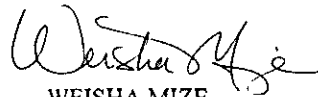
Section 10

all in T9S R46E, WM.

It is further ORDERED that Certificate 4592, and the right evidenced thereby, for irrigation of 40.0 acres NE $\frac{1}{4}$ SW $\frac{1}{4}$, 40.0 acres SE $\frac{1}{4}$ SW $\frac{1}{4}$, and 40.0 acres NW $\frac{1}{4}$ SE $\frac{1}{4}$, Section 25, T9S R45E WM, under priority 1901 from Powder River, be and the same is hereby CANCELLED.

It is further ORDERED that a new certificate shall be issued evidencing the portion of the right for irrigation of 40.0 acres SW $\frac{1}{4}$ NE $\frac{1}{4}$ and 40.0 acres SE $\frac{1}{4}$ NW $\frac{1}{4}$ in Section 25, T9S R45E WM, under priority 1878 from Eagle Creek not cancelled in this proceeding.

DATED and PLACED in the US Postal Service this 6th day of May, 1997



WEISHA MIZE
Administrative Law Judge

NOTICE: You are entitled to judicial review of this Order. Judicial review may be obtained by filing a petition for review within 60 days from the date of service (date of mailing) of this Order. Judicial review is pursuant to the provisions of ORS 536.075.

STATE OF OREGON

COUNTY OF BAKER

CERTIFICATE OF WATER RIGHT

This is to Certify, That GEORGE W. EVANS,

of Richland, State of Oregon, has a right to the use of
the waters of EAGLE CREEK, a tributary of Powder River,
for the purpose of Irrigation of 80.3 acres of land;

and that said right has been confirmed by decree of the Circuit Court of the State of Oregon for
Baker County, and the said decree entered of record at Salem, in the Order
Record of the STATE WATER BOARD of the State of Oregon, in Volume six, at page 291;
that the priority of the right thereby confirmed dates from 1881 for 40.3 acres; 1886 for
40 acres;

that 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 one-fortieth of one
cubic foot per second per acre, and shall be subject to all other conditions and
limitations contained in said decrees.

A description of the lands irrigated under such right, and to which the water is appurtenant
(or, if for other purposes, the place where such water is put to beneficial use), is as follows:

Forty acres in Northwest quarter of Northeast quarter; forty acres in
Southwest quarter of Northeast quarter of Section Thirty, Township Nine South,
Range Forty-six East of Willamette Meridian, and 0.3 acre in Lot Five, and
South half of Lot Three, in Block Three of the town of Richland, Baker County,
Oregon.

The right to the use of the water for irrigation purposes is restricted to the lands or place
of use herein described.

WITNESS the seal and signature of the State
Water Board, affixed this 15th day
of February, 1923.

STATE WATER BOARD

(Seal of State Water Board)

By BERCY A. CUPPER
State Engineer, President

Attest:

R. W. POTTER
Secretary

Recorded in State Record of Water Right Certificates, Volume 5, page 4649.

These lands may be covered in part
by Brownlee Reservoir
See H.E. License File

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WATER RESOURCES DEPT
SALEM OREGON

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

In the Matter of Transfer Application
T-9979 & T-9980, Baker County

)
)
)
)
)

D R A F T

PRELIMINARY DETERMINATION
PROPOSING APPROVAL OF A
CHANGE IN POINT OF DIVERSION,
AND PARTIAL CANCELLATION OF A
WATER RIGHT

Authority

ORS 537.705 and 540.505 to 540.580 establish the process in which a water right holder may submit a request to transfer the point of appropriation, 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. ORS 540.621 establishes the process for the owner of land to which a water right is appurtenant to certify under oath that the water right, or a portion thereof, has been abandoned and to voluntarily request that it be cancelled.

Applicant T-9979

BOB & VINA MORRISON
P.O. BOX 234
RICHLAND OR 97870

Applicant T-9980

WADEAN HOLCOMB, TRUSTEE
41997 HOLCOMB
RICHLAND OR 97870

Findings of Fact

Background

1. On July 25, 2005, Bob & Vina Morrison and Wadean Holcomb filed a transfer application to change the point of diversion under Certificates 4590, 4623, 49435 & 75354. The Department assigned the application numbers T-9979 & T-9980.
2. On March 12, 2007, the applicant submitted a revised application that reflected the revised map that was received on March 6, 2007, identifying lands under the county roads and corrected the acres identified in the certificates.

3. The portion of the first right to be transferred in T-9979 is as follows:

Certificate: 4623 in the name of DAVID CLARK (confirmed by Powder River decree)

Use: IRRIGATION of 38.2 ACRES

Priority Date: 1888

Rate: 0.96 CUBIC FOOT PER SECOND

Limit/Duty: ONE-FORTIETH cfs per acre

Source: EAGLE CREEK, tributary to POWDER RIVER

*They show
this cert w/
T-10339*

Authorized Point of Diversion:

Ditch Name
NEWT YOUNG DITCH

Authorized Place of Use:

IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
9 S	45 E	WM	25	NE NW	38.2

4. Certificate 4623 does not describe the location of the point of diversion, however information is available from Certificate 75354 and indicates that the point of diversion is located as follows:

Authorized Point of Diversion:

Twp	Rng	Mer	Sec	Q-Q	Survey Coordinates
8 S	45 E	WM	33	SE NW	NEWT YOUNG DITCH; 1950 FEET SOUTH & 1400 FEET EAST FROM NW CORNER, SECTION 33

5. The portion of the second right to be transferred in T-9979 is as follows:

Certificate: 49435 in the name of PAUL KNOBLAUCH (confirmed by Powder River decree)

Use: IRRIGATION of 19.5 ACRES

Priority Date: 1885

Rate: 0.49 CUBIC FOOT PER SECOND

Limit/Duty: ONE-FORTIETH cfs per acre

Source: EAGLE CREEK, tributary to POWDER RIVER

Authorized Point of Diversion:

Ditch Name
NEWT YOUNG DITCH

Authorized Place of Use:

IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
9 S	45 E	WM	24	SE SW	19.5

6. Certificate 49435 does not describe the location of the point of diversion, however information is available from Certificate 75354 and indicates that the point of diversion is located as follows:

Authorized Point of Diversion:

Twp	Rng	Mer	Sec	Q-Q	Survey Coordinates
8 S	45 E	WM	33	SE NW	NEWT YOUNG DITCH; 1950 FEET SOUTH & 1400 FEET EAST FROM NW CORNER, SECTION 33

7. The portion of the third right to be transferred in T-9979 is as follows:

Certificate: 75354 in the name of EAGLE VALLEY IRRIGATION CO. (perfected under Permit S-28626)

Use: SUPPLEMENTAL IRRIGATION of 57.4 ACRES

Priority Date: DECEMBER 28, 1962

Limit/Duty: 190 acre feet stored water only, not to exceed 3.5 acre feet per acre for each irrigation season for 7637.47 acres

Source: CRATER LAKE RESERVOIR, tributary to KETTLE CREEK

Authorized Point of Diversion:

Twp	Rng	Mer	Sec	Q-Q	Survey Coordinates
8 S	45 E	WM	33	SE NW	NEWT YOUNG DITCH; 1950 FEET SOUTH & 1400 FEET EAST FROM NW CORNER, SECTION 33

Authorized Place of Use:

SUPPLEMENTAL IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
9 S	45 E	WM	24	SE SW	19.2
9 S	45 E	WM	25	NE NW	38.2

8. The portion of the first right to be transferred in T-9980 is as follows:

Certificate: 4590 in the name of DAVID T ALLEN (confirmed by Powder River decree)

Use: IRRIGATION of 38.8 ACRES

Priority Date: 1885

Rate: 0.97 CUBIC FOOT PER SECOND

Limit/Duty: ONE-FORTIETH cfs per acre,

Source: EAGLE CREEK, tributary to POWDER RIVER

Authorized Point of Diversion:

Ditch Name
NEWT YOUNG DITCH

Authorized Place of Use:

IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
9 S	45 E	WM	25	NW NE	38.8

9. Certificate 4590 does not describe the location of the point of diversion, however information is available from Certificate 75354 and indicates that the point of diversion is located as follows:

Authorized Point of Diversion:

Twp	Rng	Mer	Sec	Q-Q	Survey Coordinates
8 S	45 E	WM	33	SE NW	NEWT YOUNG DITCH; 1950 FEET SOUTH & 1400 FEET EAST FROM NW CORNER, SECTION 33

10. The portion of the second right to be transferred in T-9980 is as follows:

Certificate: 75354 in the name of EAGLE VALLEY IRRIGATION CO. (perfected under Permit S-28626)

Use: SUPPLEMENTAL IRRIGATION of 38.8 ACRES

Priority Date: DECEMBER 28, 1962

Limit/Duty: 190 acre feet stored water only, not to exceed 3.5 acre feet per acre for each irrigation season for 7637.47 acres

Source: CRATER LAKE RESERVOIR, tributary to KETTLE CREEK

Authorized Point of Diversion:

Twp	Rng	Mer	Sec	Q-Q	Survey Coordinates
8 S	45 E	WM	33	SE NW	NEWT YOUNG DITCH; 1950 FEET SOUTH & 1400 FEET EAST FROM NW CORNER, SECTION 33

Authorized Place of Use:

SUPPLEMENTAL IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
9 S	45 E	WM	25	NW NE	38.8

11. Application T-9979 & T-9980 proposes to move the authorized point of diversion approximately 1½ miles downstream to:

Twp	Rng	Mer	Sec	Q-Q	Survey Coordinates
9 S	45 E	WM	10	SE NW	KAY YOUNG; 1700 FEET SOUTH AND 2450 FEET EAST FROM THE NW CORNER, SECTION 10

12. Notice of the application for transfer was published on August 2, 2005, pursuant to OAR 690-380-4000. No comments were filed in response to the notice.
13. The Oregon Department of Fish and Wildlife (ODFW) has determined that a fish screening and/or by-pass device may be required in the future 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 not currently equipped with an appropriate fish screening and/or by-pass device.

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

14. Water has been used within the last five years according to the terms and conditions of the rights, and there is no information in the record that would demonstrate that the rights are subject to forfeiture under ORS 540.610.
15. A diversion structure and ditch sufficient to use the full amount of water allowed under the existing right were present within the five-year period prior to submittal of Application T-9979 & T-9980.
16. The proposed change would not result in enlargement of the right.
17. The proposed change would not result in injury to other water rights.

Partial Cancellation of a Water Right

18. Affidavits for partial cancellation of roads beneath a water right was received from the Baker County Commissioners as follows:

Certificate: 4623 in the name of DAVID CLARK

Use: IRRIGATION of 1.8 ACRES

Priority Date: 1888

Rate: 0.045 CUBIC FOOT PER SECOND

Limit/Duty: ONE-FORTIETH cfs per acre

Source: EAGLE CREEK, tributary to POWDER RIVER

Authorized Point of Diversion:

Ditch Name
;NEWT YOUNG DITCH

Authorized Place of Use to be Cancelled:

IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
9 S	45 E	WM	25	NE NW	1.8

19. A second affidavit for partial cancellation of a water right was received from the Baker County Commissioners as follows:

Certificate: 4590 in the name of DAVID T ALLEN

Use: IRRIGATION of 1.2 ACRES,

Priority Date: 1885

Rate: 0.03 CUBIC FOOT PER SECOND

Limit/Duty: ONE-FORTIETH cfs per acre

Source: EAGLE CREEK, tributary to POWDER RIVER

Authorized Point of Diversion:

Ditch Name
NEWT YOUNG DITCH

Authorized Place of Use to be Cancelled:

IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
9 S	45 E	WM	25	NW NE	1.2

20. A third affidavit for partial cancellation of a water right was received from the Baker County Commissioners as follows:

Certificate: 49435 in the name of PAUL KNOBLAUCH

Use: IRRIGATION of 0.5 ACRES

Priority Date: 1885

Rate: 0.0125 CUBIC FOOT PER SECOND

Limit/Duty: ONE-FORTIETH cfs per acre

Source: EAGLE CREEK, tributary to POWDER RIVER

Authorized Point of Diversion:

Ditch Name
NEWT YOUNG DITCH

Authorized Place of Use to be Cancelled:

IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
9 S	45 E	WM	24	SE SW	0.5

Determination and Proposed Action

The change in point of diversion proposed in applications T-9979 & T-9980 appear to be consistent with the requirements of ORS 540.505 to 540.580 and OAR 690-380-5000 and the abandoned rights should be cancelled. If protests are not filed pursuant to OAR 690-380-4030, the application will be approved and the abandoned rights will be cancelled.

If application T9979 & T-9980-are approved, the final order will include the following:

- 1. The change in point of diversion proposed in applications T-9979 & T-9980 are approved. The portion of the right that has been abandoned is cancelled.*
- 2. Water right certificates 4590, 4623 & 49435 are cancelled. New certificates will be issued describing those portions of the right not affected by this transfer and cancellation.*
- 3. Water right certificate 75354 is modified. The Department will issue a superseding certificate describing the right when it determines that is necessary for record keeping.*
- 4. 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 4590, 4623, 49435 & 75354 and any related decree.*
- 5. The quantity of water diverted at the new point of diversion, together with that diverted at the original point of diversion, shall not exceed the quantity of water lawfully available at the original point of diversion.*
- 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 a screening and/or 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. *Prior to diverting water, the water user shall install 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 and operate the measuring device as required by the Department.*
8. *The approved change 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.*
9. *When satisfactory proof of the completed change is received, new certificates confirming the rights transferred will be issued.*

Dated at Salem, Oregon this _____ day of _____ 2007.

D R A F T

Phillip C. Ward, Director

<p>This preliminary determination was prepared by Carrie Jones. If you have any questions about the information in this preliminary determination, you may reach me at (541) 523-8224 ext 36 or e-mail me at: carrie.r.jones@wrdd.state.or.us .</p>
--

Water Right Transfer Supplemental Form B **AFFIDAVIT ATTESTING TO THE USE OF WATER**

State of Oregon)
 County of Baker) ss

I, Edward H. Elms, in my capacity as Landowner,
 mailing address 42543 Pocahontas Rd. Baker City, OR 97814
 telephone number (541) 523-4393, being first duly sworn depose and say:

1. I attest that:

- ☒ Water was used during the previous five years on the entire authorized place of use of the water right proposed for transfer as described on the accompanying transfer application; or
- ☐ The water right was leased instream at some time within the last five years. The instream lease number is as follows: _____; or
- ☐ The water right is not subject to forfeiture and documentation that a presumption of forfeiture for non-use would be rebutted under ORS 540.610(2) is attached.

2. My knowledge of the exercise or status of the water right is based on (check one):

- ☒ Personal observation ☐ Professional expertise

3. My knowledge is specific to the use of water at the following locations:

Township	Range	Mer	Sec	¼ ¼ Section	Gov't Lot or DLC	Acres (if applicable)
9 S	46 E	10 M	30	SW NE		1

(continues on reverse side)

Please print legibly or type. Be as specific as possible. Attach additional pages if you need more space. Supporting documentation must be attached.

4. The water right was exercised for the authorized purpose described below (e.g., crops grown):

Irrigation for lawn and garden.

5. The water delivery system used to apply water as authorized by the right is described below:

Newt Young ditch. see part 5 of application.

6. One or more of the following documentation supporting the above statements is attached:

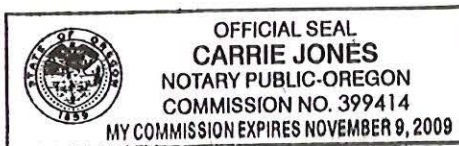
- ☐ Copy of a water right certificate that was issued within the last five years (not a remaining right certificate),
- ☐ Copies of receipts from sales of irrigated crops or for expenditures relating to the use of water,
- ☐ Records such as Farm Service Agency crop reports, irrigation district records, an NRCS farm management plan, or records of other water suppliers,
- ☒ Dated aerial photographs of the lands or other photographs containing sufficient detail to establish the location and date of the photograph,
- ☐ Dedicated power usage records or receipts,
- ☐ Instream lease number _____,

☒ Other: See attached Letter from property owners!
Dated Feb. 23, 2007; also dated March 09, 2007.

[Signature]
Signature of Affiant

March 9, 2007
Date

Signed and sworn to (or affirmed) before me this 9th day of March, 2007.



[Signature]
Notary Public for Oregon

My Commission Expires: 11/9/2009

Please print legibly or type. Be as specific as possible. Attach additional pages if you need more space. Supporting documentation must be attached.



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WATER RESOURCES DEPT
SALEM, OREGON

P & E
DISTRIBUTING CO.

1320 7TH STREET
POST OFFICE BOX 844
BAKER CITY, OREGON 97814

PHONE: 541-523-6558
FAX: 541-523-6940

WHOLESALE DISTRIBUTORS OF
GREAT BEERS, FINE WINES, AND NATURAL BEVERAGES

March 9, 2007

To Whom it may concern;

My name is Edward H. Enns, a property owner
at 41260 Rabinette Road, Richland OR 97870.

I purchased the cabin on April 15, 2003. I have
been longtime friends of the other cabin owners
adjacent to my property.

I can attest that the property has been irrigated
from the same source for the past 10 years. If
any further questions please contact me at
541-523-4393.

Thank You!

Edward H. Enns.

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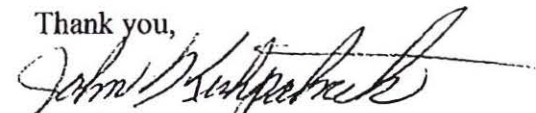
WATER RESOURCES DEPT
SALEM, OREGON

February 23, 2007

To Whom It May Concern:

My name is John Kirkpatrick I live in Clarkston WA, I grew up in Baker and was and have been a part of what started out as Valley Ho Marina in 1959 (and has since been turned into our cabin sites in the late 60's) these cabins are located at 37289 Hewitt Rd and 37299 Hewitt Road Richland OR on the Brownlee Reservoir. From the time my Father (Bruce Kirkpatrick) purchased this property from Sam Buxton in 1966 we have been pumping water out of the ditch which flows in front of these cabins to irrigate all the lawns from where the road starts to curve (this is where the ditch goes under the road) to the end of the property. As I stated earlier we have been using this water for over 40 years to maintain our lawns through the pump systems, because of our location being at the very end of the ditch there has never ever been an issue regarding the amount of water usage required to maintain the lawns. The systems we are currently using and have been using for the past 30 plus years has been sufficient to maintain the lawns in an adequate manor with ample water for anyone and ever one on the ditch before us, it has not ever been a concern in regards to the amount of water we have used because of our location at the end of this ditch. If you have any further questions in regards to this issue please fill free to contact me.

Thank you,



John Kirkpatrick

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WATER RESOURCES DEPT
SALEM, OREGON

February 23, 2007

To Whom It May Concern:

My name is Anne Kirkpatrick and I reside in Baker City OR, I am writing this letter regarding the usage of the water rights we obtained when my husband purchased this property from Sam and Hazel Buxton back in 1966. At that time we built a new Marina called Valley Ho located on this property, we decided a few years later to discontinue the Marina business and turned the property into cabin sites. From the day we purchased the property we also acquired the water rights to irrigate the property. This water right was granted 1881 and 1886. There are 6 land owners located on this property which have for the past 35 years maintained irrigating there lawns by pumping the water from the ditch located in front of each owners place my husband always took great pride in maintaining not only our places but truly was a huge promoter of the Richland area and Brownlee Reservoir. For the past 25 plus years we (cabin owners) have always hired someone to ensure that these places were keep up and irrigated and maintained in a manor as to reflect a nice entrance into a beautiful park area. We have never abused or misused our water rights in any way. It is our fullest intent to maintain our places in which we have kept them over the past 42 years and this is to utilize the water rights from the ditch we have been irrigating from using our pumps we all have. If you would have any further questions in regards to this issue please contact my son as he can give you more detailed information if required.

Sincerely



Anne Kirkpatrick

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SALEM, OREGON

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To Whom it may concern:

March 9, 2007

My name is Mark Goss and I am representing myself and my siblings, Garnet Kaleli, Milo Goss and Susie Hughes. This is in regards to our family cabin located at 37277 Hewitt Drive, Richland, Oregon. Our Family built the cabin in the summer of 1969 and has been irrigating out of the ditch to the west side of the property since then. Since we are at the end of the ditch and this has never been a concern to any one in the last 38 years. Our pump is only used to irrigate the lawn for our cabin and the Lumsden cabin next door. We share the same lawn.

We have always maintained our property to enhance the area of the parks and the Brownlee Reservoir.

If you have any more concerns or questions with this issue, please contact me at PO BOX 519, LaGrande Oregon 97850 or call 541-963-4161.

Sincerely,

Mark Goss

CHEVROLET

GOSS MOTORS

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WATER RESOURCES DEPT
SALEM OREGON

LAND TITLE INSURANCE COMPANY

2043 MAIN STREET
BAKER, OREGON 97814
January 26, 1966

PRELIMINARY REPORT ONLY

No liability is assumed hereunder
until full Policy Premium has been paid.

Our No. B500, 3700-225

*Copy of easement for
Landowner Property with Idaho Power!*

Mr. Sam V. Buxton
Richland, Oregon

Dear Sir:

We are prepared to issue Title Insurance (Title & Trust) in the usual form insuring the title to the land hereinafter described.

Dated as of:

JAN. 24, 1966, AT 8:00 A.M.

LAND TITLE INSURANCE COMPANY

By

Carlyle D. Staab

Title Officer

Vestee:

SAM V. BUXTON and HAZEL BUXTON, husband and wife.

Description:

Land in Baker County, Oregon, as follows:

In Twp. 9 S., R. 46 E., W.M.:

Sec. 30: A parcel in the S $\frac{1}{2}$ NE $\frac{1}{4}$ lying South of the Southerly right of way line of the County Road, formerly Oregon State Highway No. 12, and North of the 2085 foot contour elevation of Brownlee Reservoir described as follows:

Beginning at a point on the West right of way line of the County Road 554.7 feet South and S. 86° 24' W. 19.8 feet from the Northeast corner of the SW $\frac{1}{4}$ NE $\frac{1}{4}$ of said Sec. 30;
thence Northwesterly along the 2085 foot contour elevation of Brownlee Reservoir the following courses and distances:

N. 63° 28' W. 113.8 feet;
N. 29° 26' W. 128.3 feet;
N. 36° 24' W. 273.9 feet;

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WATER RESOURCES DEPT
SALEM, OREGON

LAND TITLE INSURANCE COMPANY2043 MAIN STREET
BAKER, OREGON 97814

Page 2

Our No. B500, 3700-225

January 26, 1966

thence leaving the 2085 foot contour elevation
on a course of N. 10° 43' W. 100 feet to the
South right of way line of the County Road,
formerly State Highway No. 12;
thence Southeasterly along the South right of
way line of the County Road, formerly State
Highway No. 12, to the point of intersection
with the West right of way line of the County
Road;
thence Southerly along the West right of way line
of the County Road to the point of beginning.

SUBJECT TO the usual printed exceptions, and:

1. POLE LINE EASEMENT, its terms and conditions, to Idaho Power Company, recorded Aug. 21, 1928, Book 110, Page 603, Deeds, over the SW $\frac{1}{4}$ NE $\frac{1}{4}$ of Sec. 30, Twp. 9 S., R. 46 E., W.M.

2. EASEMENT, its terms and conditions, to Sam V. Buxton and Hazel Buxton, husband and wife, recorded June 6, 1958, Book 168, Page 237, Deeds, for use of that portion of the SW $\frac{1}{4}$ NE $\frac{1}{4}$ of Sec. 30, Twp. 9 S., R. 46 E., W.M. between the 2077 foot contour elevation and the 2085 foot contour elevation, U.S.G.S. datum, at their own risk.

3. TAXES paid through the fiscal year 1965-66. Amount paid for said year: \$104.21. See page 3 hereof under Code 61-5 for districts levying.

4. INFORMATION: Judgment-Lien Search has been run against Bruce Kirkpatrick and Anne L. Kirkpatrick and we find as follows: None.

*** **

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WATER RESOURCES DEPT
SALEM, OREGON

BOOK 168 PAGE 237
EASEMENT

THIS INDENTURE, Made this 22nd day of September, 1957, between IDAHO POWER COMPANY, a corporation, with its principal place of business in Boise, Idaho, party of the first part, sometimes hereinafter called "Grantor" and SAM V. BUXTON and HAZEL BUXTON, husband and wife, of Baker County, State of Oregon, parties of the second part, sometimes hereinafter called "Grantees"; WITNESSETH:

That the said party of the first part, for and in consideration of the sum of ONE DOLLAR (\$1.00) and other valuable considerations, receipt of which is hereby acknowledged, does hereby grant to the parties of the second part, an easement to use at Grantees own risk for farm, grazing and other purposes, those portions of Lot 1 and the Southwest Quarter Northeast Quarter (SW $\frac{1}{4}$ NE $\frac{1}{4}$) of Section 30, Township 9 South, Range 45 East, Willamette Meridian, in the County of Baker, State of Oregon, lying between the contour located at elevation 2077 feet, USGS datum, and a line designated as the Project Boundary of the Brownlee Hydroelectric Development and Reservoir, Federal Power Commission License, Project No 1971, which line is based on elevation 2085 feet, contour elevation, USGS datum, described as follows:

Beginning at a point on the West line of said Lot 1, which is South 0°26' East 1109.6 feet from the Northwest corner of said Section 30; thence South 31°06' East 129.8 feet; thence South 22°55' East 108.0 feet to the south line of said Lot 1; also

Beginning at a point on the west line of the Southwest Quarter Northeast Quarter (SW $\frac{1}{4}$ NE $\frac{1}{4}$) of said Section 30, which is South 0°36' East a distance of 2059.9 feet from the North One Quarter corner of said Section 30; thence North 82°38' East 68.9 feet; thence North 72°51' East 56.0 feet; thence South 39°19' East 57.3 feet; thence South 72°48' East 178.3 feet; thence North 70°18' East 110.4 feet; thence North 0°19' West 98.4 feet; thence North 26°41' West 306.4 feet; thence North 38°03' West 85.9 feet; thence North 45°03' West 120.0 feet; thence North 24°41' West 126.5 feet; thence North 42°19' West 165.5 feet to the west line of said Southwest Quarter Northeast Quarter (SW $\frac{1}{4}$ NE $\frac{1}{4}$); thence North 0°36' West 12.2 feet to the Northwest corner of said Southwest Quarter Northeast Quarter (SW $\frac{1}{4}$ NE $\frac{1}{4}$); thence North 89°55' East along the north line of said Southwest Quarter Northeast Quarter (SW $\frac{1}{4}$ NE $\frac{1}{4}$) 414.4 feet; thence South 40°26' East 273.0 feet; thence South 31°26' East 140.0 feet; thence South 16°56' East 72.5 feet; thence South 49°14' East 200.0 feet; thence South 32°44' East 126.6 feet; thence North 41°14' East 180.7 feet; thence North 10°43' West 332.0 feet; thence South 36°24' East 273.9 feet; thence South 29°26' East 128.3 feet; thence South 63°23' East 113.8 feet; thence North 86°24' East 19.8 feet to the east line of the Southwest Quarter Northeast Quarter (SW $\frac{1}{4}$ NE $\frac{1}{4}$) of said Section 30.

Subject to, and reserving and retaining unto said Grantor, its successors and assigns, the rights of ingress and egress at all times, and the rights, easements and right-of-way, at any time hereafter, to construct, operate and maintain electric transmission lines and roads, over, upon, and across all or any of the premises herein

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2007WATER RESOURCES DEPT
SALEM OREGON

BOOK 168 PAGE 238

described; and the right at all times, and from time to time, to flood, subirrigate and drain same, and to use said lands and premises for reservoir purposes in the construction and operation of Grantor's Brownlee Hydroelectric Development, Federal Power Commission License Project No 1971, and all orders of the Federal Power Commission with respect to said Project, without liability or responsibility of any type or kind for any damage or injury resulting to the Grantees in their use of said premises, including, but not limited to any damage or injury to improvements, fences, livestock, crops, or other personal property of Grantees.

All taxes, tributes, assessments and levies of every name, nature and kind attributable solely to the uses hereunder by Grantees, and any improvements placed thereon by Grantees which may be levied, taxed, charged or assessed against said easement interest, shall be paid by Grantees.

The lands covered by this grant shall not be encumbered in any way whatsoever by the Grantees.

This grant shall be binding upon the successors and assigns of the Grantor.

Executed and delivered this 22nd day of September, 1957.

IDAHO POWER COMPANY

(CORPORATE SEAL)

ATTEST:

By

Vice President

James E. Bruce
Assistant Secretary

STATE OF IDAHO }
County of Ada } ss

On this 22nd day of September, 1957, before me,

T A Finch, a Notary Public, Personally appeared

R E Gale and James E Bruce, to me personally

known, who being duly sworn, did say that they are respectively the Vice President and the Assistant Secretary of the corporation that executed the within instrument and acknowledged to me that such corporation executed the same as the free act and deed of said corporation.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal this day and year in this certificate first above written.

67923

T A Finch
Notary Public
Residing at Bainbridge
My Commission expires June 1957





Oregon Water Resources Department
Land Use Information Form

THIS FORM IS NOT REQUIRED IF: 1) water is to be diverted, conveyed, and/or used only on federal lands; or 2) the application is for a water-right transfer, allocation of conserved water, exchange, permit amendment, or ground water registration modification, and all of the following apply: a) only the place of use is proposed for change, b) there are no structural changes, c) the use of water is for irrigation, and d) the use is located in an irrigation district or exclusive farm-use zone.

Applicant Name: John Kirkpatrick
Mailing Address: 2321 Rolling Hills Drive
City: Clackston State: Wa Zip: 99403 Day Phone: 208-413-2389

This application is related to a Measure 37 claim. ☐ Yes ☒ No

A. Land and Location

Please include the following information for all tax lots where water will be diverted (taken from its source), conveyed (transported), or used. Applicants for municipal use, or irrigation uses within irrigation districts may substitute existing and proposed service-area boundaries for the tax-lot information requested below.

Township	Range	Section	1/4 1/4	Tax Lot #	Plan Designation (e.g. Rural Residential/RR-5)	Water to be:	Proposed Land Use:
<u>9S</u>	<u>46E</u>	<u>30</u>	<u>SUNE</u>	<u>140NUS</u>	<u>Recreation Residential</u>	<input checked="" type="checkbox"/> Diverted <input checked="" type="checkbox"/> Conveyed <input checked="" type="checkbox"/> Used	
						<input type="checkbox"/> Diverted <input type="checkbox"/> Conveyed <input type="checkbox"/> Used	
						<input type="checkbox"/> Diverted <input type="checkbox"/> Conveyed <input type="checkbox"/> Used	
						<input type="checkbox"/> Diverted <input type="checkbox"/> Conveyed <input type="checkbox"/> Used	

List all counties and cities where water is proposed to be diverted, conveyed, or used. _____

B. Description of Proposed Use

Type of application to be filed with the Water Resources Department:

- ☐ Permit to Use or Store Water ☒ Water-Right Transfer ☐ Exchange of Water
☐ Allocation of Conserved Water ☐ Limited Water Use License
☐ Permit Amendment or Ground Water Registration Modification

Source of water: ☐ Reservoir/Pond ☐ Ground Water ☒ Surface Water (name) Eagle Cr./Crater Lake

Estimated quantity of water needed: _____ ☐ cubic feet per second ☐ gallons per minute ☐ acre-feet

Intended use of water: ☒ Irrigation ☐ Commercial ☐ Industrial ☐ Domestic for _____ household(s)
☐ Municipal ☐ Quasi-municipal ☐ Instream ☐ Other _____

Briefly describe: Point of Diversion that has been used for more than 20 years.

Note to applicant: If the Land Use Information Form cannot be completed while you wait, please have a local government representative sign the receipt below and include it with the application filed with the Water Resources Department.

Receipt for Request for Land Use Information

State of Oregon
Water Resources Department
725 Summer Street NE, Suite A
Salem, OR 97301-1266

RECEIVED

MAR 19 2007

WATER RESOURCES DEPT
SALEM, OREGON

For Local Government Use Only

The following section must be completed by a planning official from each county and city listed unless the project will be located entirely within the city limits. In that case, only the city planning agency must complete this form.

This deals only with the local land-use plan. Do not include approval for activities such as building or grading permits.

Please check the appropriate box below and provide the requested information

- ☒ Land uses to be served by proposed water uses (including proposed construction) are allowed outright or are not regulated by your comprehensive plan. Cite applicable ordinance section(s): CCZO 301.01.
- ☐ Land uses to be served by proposed water uses (including proposed construction) involve discretionary land-use approvals as listed in the table below. (Please attach documentation of applicable land-use approvals which have already been obtained. Record of Action/land-use decision and accompanying findings are sufficient.)
If approvals have been obtained but all appeal periods have not ended, check "Being pursued".

Type of Land-Use Approval Needed (e.g. plan amendments, rezones, conditional-use permits, etc.)	Cite Most Significant, Applicable Plan Policies & Ordinance Section References	Land-Use Approval:	
		<input type="checkbox"/> Obtained <input type="checkbox"/> Denied	<input type="checkbox"/> Being pursued <input type="checkbox"/> Not being pursued
		<input type="checkbox"/> Obtained <input type="checkbox"/> Denied	<input type="checkbox"/> Being pursued <input type="checkbox"/> Not being pursued
		<input type="checkbox"/> Obtained <input type="checkbox"/> Denied	<input type="checkbox"/> Being pursued <input type="checkbox"/> Not being pursued
		<input type="checkbox"/> Obtained <input type="checkbox"/> Denied	<input type="checkbox"/> Being pursued <input type="checkbox"/> Not being pursued
		<input type="checkbox"/> Obtained <input type="checkbox"/> Denied	<input type="checkbox"/> Being pursued <input type="checkbox"/> Not being pursued
		<input type="checkbox"/> Obtained <input type="checkbox"/> Denied	<input type="checkbox"/> Being pursued <input type="checkbox"/> Not being pursued

Local governments are invited to express special land-use concerns or make recommendations to the Water Resources Department regarding this proposed use of water below, or on a separate sheet.

Please continue to deserve property line setbacks when applicable

Name: Holly Kerns Title: Planner
Signature: Holly Kerns Phone: 541-523-8219 Date: 2/26/07
Government Entity: Baker County Planning Department

Note to local government representative: Please complete this form or sign the receipt below and return it to the applicant. If you sign the receipt, you will have 30 days from the Water Resources Department's notice date to return the completed Land Use Information Form or WRD may presume the land use associated with the proposed use of water is compatible with local comprehensive plans.

Receipt for Request for Land Use Information

Applicant name: John Kirkpatrick / Ed Elms
City or County: Baker County Staff contact: Holly Kerns
Signature: Holly Kerns Phone: 541-523-8219 Date: 2/26/07

Last updated 12/22/06

RECEIVED

MAR 19 2007

WATER RESOURCES DEPT
SALEM, OREGON



Oregon

Theodore R. Kulongoski, Governor

Water Resources Department

North Mall Office Building
725 Summer Street NE, Suite A
Salem, OR 97301-1266
503-986-0900
FAX 503-986-0904

March 27, 2007

EDWARD ELMS
PATRICIA ELMS
42543 POCAHONTAS RD
BAKER CITY OR 97814

ANNE KIRKPATRICK
3140 N 2ND STREET
BAKER CITY OR 97814

J & S MANAGEMENT LLC
C/O JOHN KIRKPATRICK
2321 ROLLING HILLS DRIVE
CLARKSTON, WA 99403

GARRET, KALELI, MILO
MARK & SUSAN HUGHES
C/O MARK CROSS
PO BOX 519
LAGRANDE OR 97850

Reference: Historic Transfer 10339

On March 19, 2007 we received your water right transfer application requesting point of diversion for use of water from EAGLE CREEK, tributary to POWDER RIVER. The application was accompanied by \$350. Our receipt 86717 is enclosed.

By copy of this letter, we are asking the Watermaster for his report regarding the potential for injury to existing water rights which may be caused by the change.

Your application will be examined to determine if additional information is needed. You will be contacted following this examination.

We will notify you if additional information or corrections to the application or map are required.

If you have any questions, please call the Transfer Section, (503)986-0900.

cc: Watermaster #8
Eagle Valley Irrigation Company
Thomas Hanley, CWRE
Nadine Craft, ODFW

enclosure



Oregon

Theodore R. Kulongoski, Governor

Water Resources Department

725 Summer Street NE, Suite A

Salem, OR 97301-1271

503-986-0900

FAX 503-986-0904

Notice of Application for Water Right Transfer, Temporary Transfer, or Permit Amendment 03/27/07

The Department seeks comment on the recently-filed application listed below. Any person may comment on the application. Comments must be received by the Department within 30 days of the date of this notice.

County: BAKER
Transfer: 10339
Water Right: CERT 423,4649,75354
Priority Date: 1881,1886,1962
Name: ELMS FAMILY TRUST/ANNE KIRKPATRICK
J & S MANAGEMENT LLC/GARRET, KALELI, MILO
SUSAN HUGHES CROSS
Address: BAKER CITY OR, CLARKSTON WA, LAGRANDE OR
Change: POD
Source: EAGLE CREEK/CRATER LAKE RES
Authorized POD: T9S R46E 10
Proposed POD: T8S R46E 33

The holder of a water right may apply to permanently change an existing water use subject to transfer. A transfer application may involve any of the following changes: Point of diversion or appropriation (POD; POA); Additional point of diversion or appropriation (APOD; APOA); Historic POD (HIST); Place of use (POU); Character of use (USE); Instream (ISWR); Substitution (SUB); or Exchange (EXCH).

The holder of a water right subject to transfer may request to temporarily change the place of use of the water for up to 5 years and, if necessary to convey the water, to temporarily change the point of diversion or appropriation.

The holder of a water right permit may apply to change a point of diversion (POD) or appropriation (POA) or to change the place of use (POU).

Any person who provides comments within the comment period will receive a copy of the Department's preliminary determination of whether the application should be approved or rejected after the Department has completed a review of the application and will be provided an opportunity to protest the application and preliminary determination at that time. The Director may presume that the transfer would be allowed by, and compatible with comprehensive plans unless an affected local government informs the Director otherwise within 30 days of this notice. Comments should be sent to the Transfers Section at the Department's Salem office.

TRANSFER CHECK OFF LIST

TRANSFER FILE #

10339

DATE RECEIVED

3-19-07

DATE MONEY SLIPPED

3-19-07

DATE RECEIPTED

3-19-07

VALID WATER RIGHT?

X Yes No

TEMP ALT AC

IRR DIST

PERM AMEND

DIV 15

TEMP Div 15

ISWR

HIST X

LETTER FROM ATTORNEY YES (PUT INFO ON FRONT COVER)

X NO

FOLDER FILLED OUT*

yes

ENTERED IN DB

yes

CONTENTS MARKED

yes

COLOR CODED

X Yes

4 COPIES MADE & STAMPED

yes

CERTIFICATE MARKED

yes

CERTIFICATE COPIED

yes

PULL APPLICATIONS

no

APP FOLDER MARKED

no

FINAL PROOF MAP COPIED

no

PERMIT MARKED

no

PERMIT COPIED

PERMIT MAP COPIED

DECRB MARKED

DECRB COPIED

ADJUDICATION MAP COPIED

File Missing

ENTRIES CHECKED

CHECKED BY INIT FOLDER

PUBLIC NOTICE DATE

3-27-07

(PREPARED & COPIED) yes

LETTER SENT

yes

Irrigation District yes (copy of app & map)

COPY TO WM

yes

BLUE FORM TO WM

yes

Orange Perm Amend/Yellow Temp/Gru Dist/Lav Alt Acr/pink his

COPY TO GW

no

POA, APOA, or [SW TO GW ONLY(as POD)]

BLUE FORM TO GW

no

Orange Perm Amend/Yellow Temp/Gru Dist/Lav Alt Acr/pink his

COPY TO CWRE

yes

LETTER TO ODFW

yes

ALL Surface water POU/USE (POD and APOD FISH SCREENS)

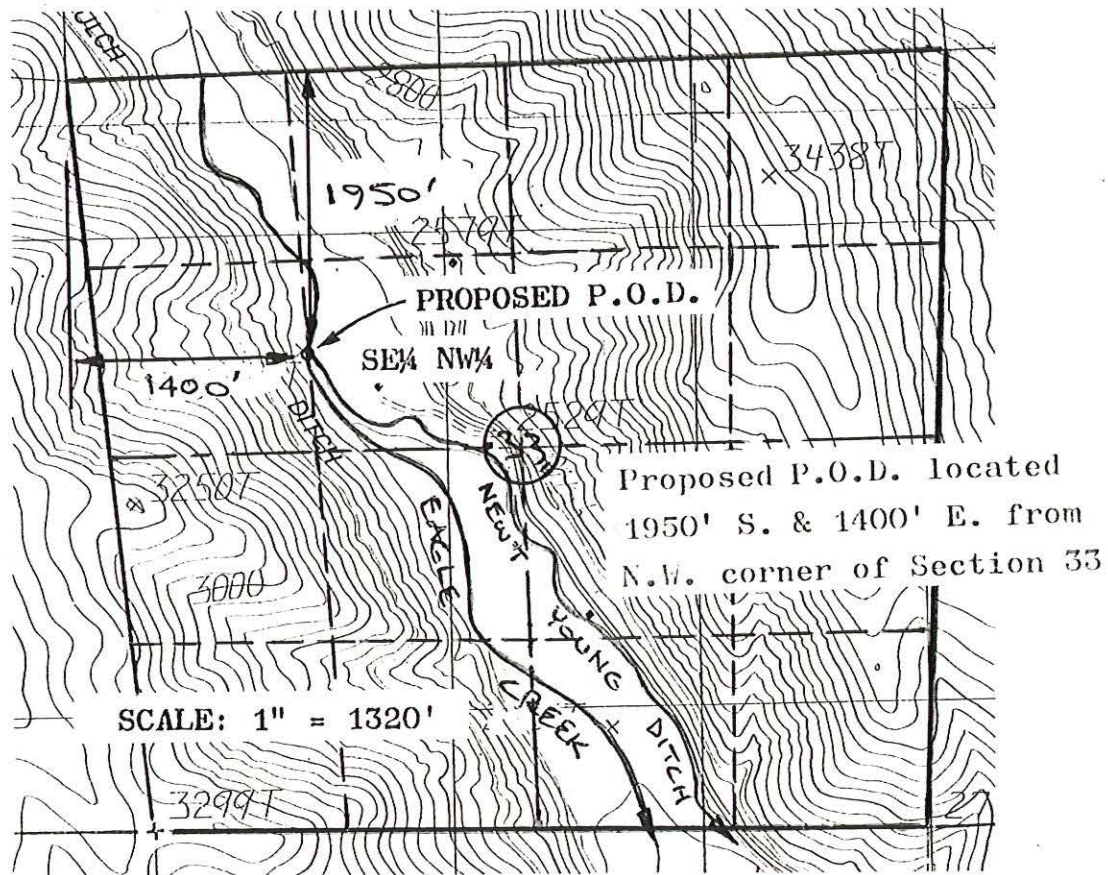
TRANSFER SENT TO:

carrie

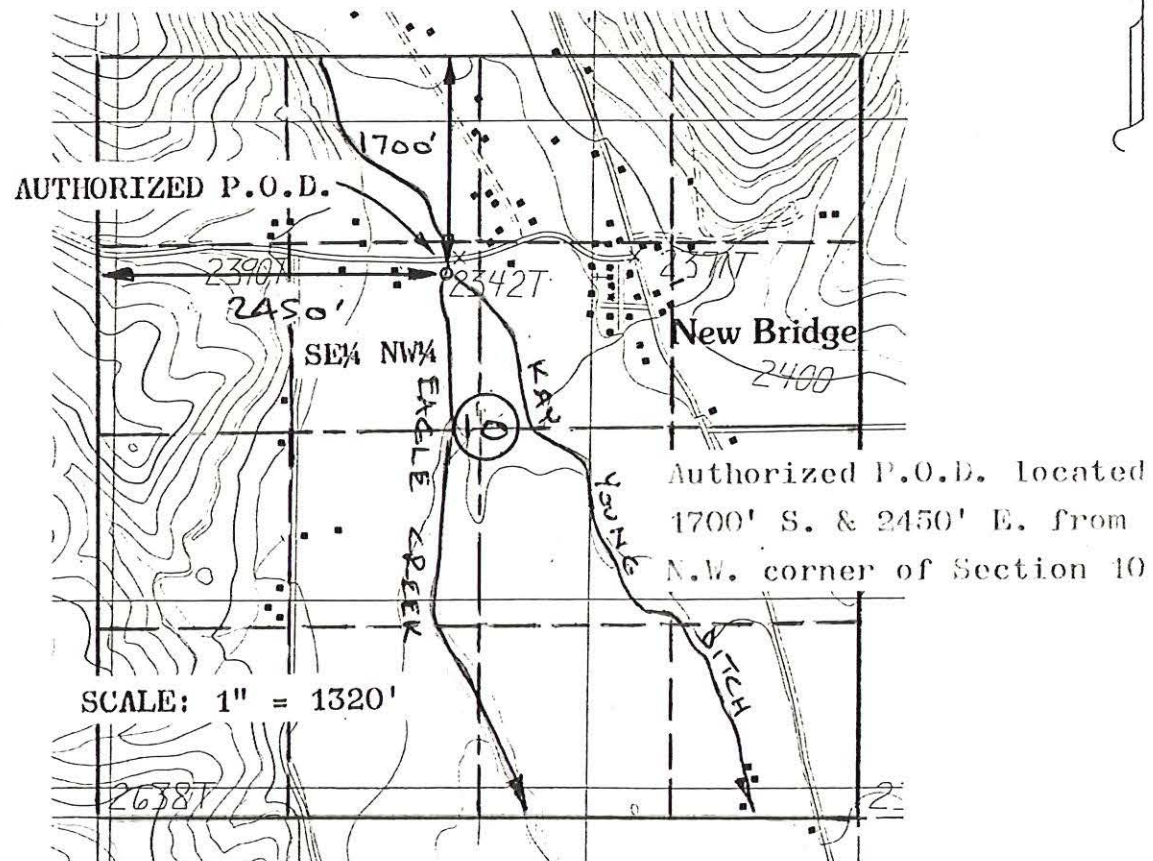
SW --- NCR --- SCR --- ER

SHRINK DATA IF THERE ARE MANY FILES INVOLVED AND GLUE TO FOLDER

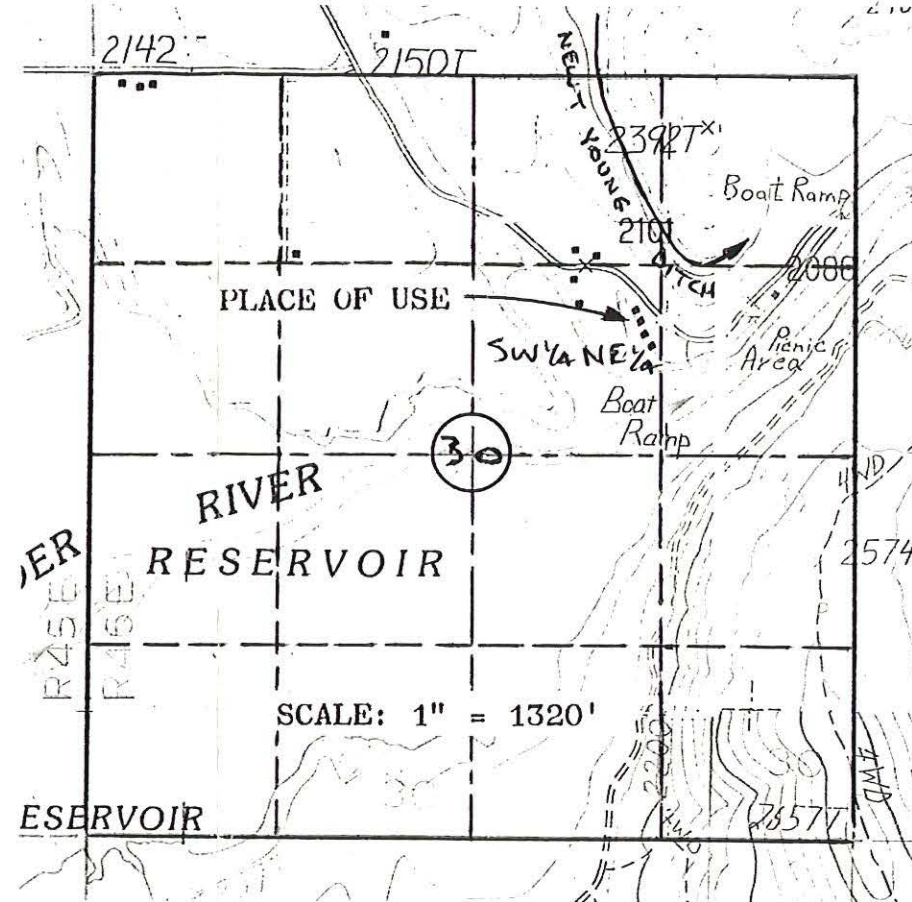
T. 8 S., R. 45 E., W.M.



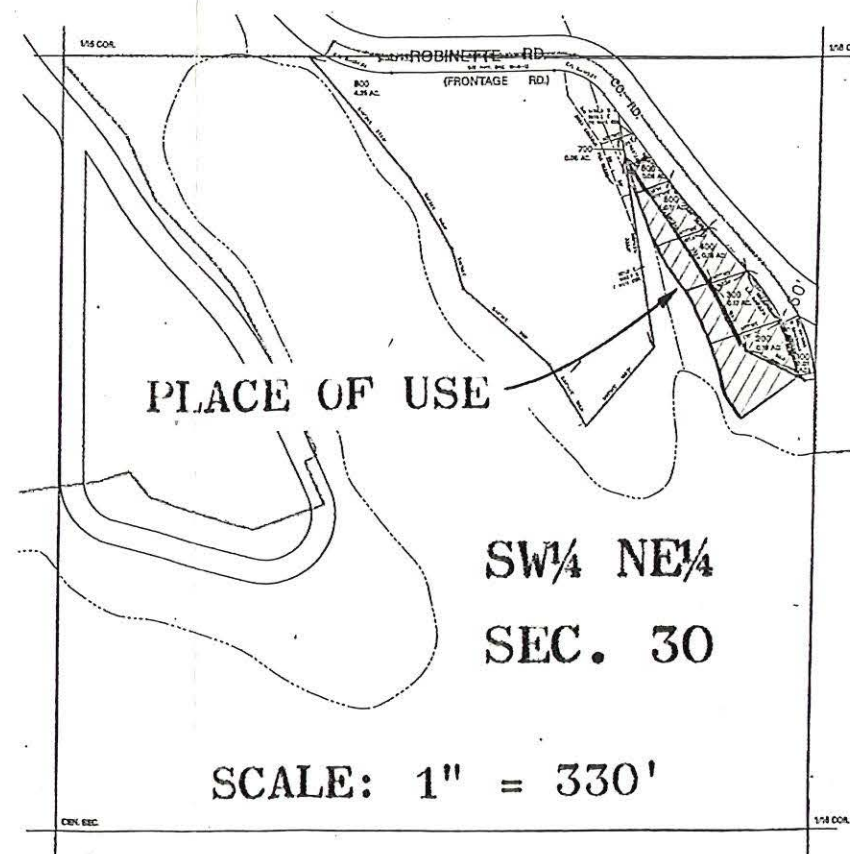
T. 9 S., R. 45 E., W.M.



T. 9 S., R. 46 E., W.M.



T. 9 S., R. 46 E., W.M.



IRRIGATED AREA

T.L. #600	Ed Elms	0.1 ac.
T.L. #500	Ed Elms	0.1 ac.
T.L. #400	A. Kirkpatrick	0.2 ac.
T.L. #300	J & S Mgmt. LLC	0.3 ac.
T.L. #200	Bill Goss Estate	0.3 ac.
Total =		1.0 ac.

ORIGINAL ACRES:

C-4649	= 15.6 ac. Primary
C-75354	= 11.5 ac. Supplemental

TRANSFERRED LANDS:

C-4649	= 1.0 ac. Primary
C-75354	= 1.0 ac. Supplemental

REMAINING RIGHTS:

C-4649	= 14.6 ac. Primary
C-75354	= 10.5 ac. Supplemental



Lands trans. from Kay Young Ditch to Newt Young Ditch

MAP TO ACCOMPANY APPLICATION
FOR TRANSFER OF P.O.D.

In the name of:
Ed Elms, Anne Kirkpatrick, J & S
Mgmt. LLC & Bill Goss Estate

Reference:
Certificate Number 75354
&
Certificate Number 4649
&
Special Order Volume 51 Page 425

January, 2007
Revised Feb. 2007



WATER RESOURCES DEPT
SALEM, OREGON