

STATE OF OREGON

COUNTY OF JACKSON

ORDER APPROVING A CHANGE IN PLACE OF USE
AND A CHANGE IN POINT OF DIVERSION

Pursuant to ORS 540.510 to 540.530, after notice was given and no objections were filed, and finding that no injury to existing water rights would result, this order approves, as conditioned or limited herein, TRANSFERS 7823,7824 submitted by

HAROLD KINGERY, HARRIETT CHAMBERLAIN, JASON HOUY,
LLOYD BREEDING, AND ROBERT AND ANNA WHITE
C/O HAROLD KINGERY
P.O. BOX 153
EAGLE POINT, OREGON 97524.

Transfer Application 7823 was filed for a change in point of diversion and Transfer Application 7824 was filed for a change in place of use.

The first right to be modified was confirmed by decree of the Circuit Court of the State of Oregon for JACKSON County as evidenced by a PORTION of Certificate 75431. The decree is recorded in the Order Record of the Water Resources Director in Volume 14, at Page 498. The date of priority is 1883.

The right allows the use of LITTLE BUTTE CREEK, a tributary of the ROGUE RIVER, for IRRIGATION OF 1.90 ACRES, DOMESTIC, AND STOCK. The amount of water to which this right is entitled is limited to an amount actually beneficially used and shall not exceed 0.04 cubic foot per second, if available at the authorized point of diversion: SW $\frac{1}{4}$ SE $\frac{1}{4}$, SECTION 31, T 35 S, R 1 E, W.M.; 560 FEET NORTH AND 2990 FEET EAST FROM THE SW CORNER OF SECTION 31, or its equivalent in case of rotation, measured at the point of diversion from the source.

The quantity of water diverted for domestic and stock purposes shall not exceed ONE-FORTIETH of a second foot for each authorized water right holder having one hundred head of stock or less; and in excess of one hundred head of stock, each authorized water right holder having a right therefor shall be entitled to divert ONE-FORTIETH of one second foot for each additional hundred head of stock; but during the irrigation season as herein limited, the quantity diverted by each water right holder for irrigation purposes in the amount to which he is entitled to divert the same, shall include the water to

which he is entitled for stock and domestic purposes.

The second right to be modified was confirmed by decree of the Circuit Court of the State of Oregon for JACKSON County as evidenced by a PORTION of Certificate 75430. The decree is recorded in the Order Record of the Water Resources Director in Volume 14, at Page 498. The date of priority is 1885.

The right allows the use of LITTLE BUTTE CREEK, a tributary of the ROGUE RIVER, for IRRIGATION OF 0.20 ACRE. The amount of water to which this right is entitled is limited to an amount actually beneficially used and shall not exceed 0.005 cubic foot per second, if available at the authorized point of diversion, or its equivalent in case of rotation, measured at the point of diversion from the source, from April 1 to October 31 of each year.

The authorized places of use are located as follows:

<u>PRIORITY</u>	<u>DATE</u>	<u>POU AND POD</u>	
1883	SW $\frac{1}{4}$ SE $\frac{1}{4}$	(TL 1800) SECTION 34 TOWNSHIP 35 SOUTH, RANGE 1 WEST, W.M.	0.5 ACRE
		<u>POD ONLY</u>	
1883	NW $\frac{1}{4}$ NW $\frac{1}{4}$	(TL 1600)	1.0 ACRE
	LOT 1 (NW $\frac{1}{4}$ NW $\frac{1}{4}$)	(TL AA-00200)	0.4 ACRE
1885	NW $\frac{1}{4}$ NW $\frac{1}{4}$	(TRACT 1) SECTION 2 TOWNSHIP 36 SOUTH, RANGE 1 WEST, W.M.	0.2 ACRE

The right to use water for the above purpose is restricted to beneficial use on the lands or place of use described and is subject to all other conditions and limitations contained in the decree.

The applicant proposes to change the place of use to:

SE $\frac{1}{4}$ SE $\frac{1}{4}$	0.04 ACRE	NW $\frac{1}{4}$ NW $\frac{1}{4}$	0.06 ACRE
SECTION 34		SECTION 2	
SW $\frac{1}{4}$ SW $\frac{1}{4}$	0.01 ACRE	NE $\frac{1}{4}$ NE $\frac{1}{4}$	0.39 ACRE
SECTION 35		SECTION 3	
TOWNSHIP 35 SOUTH, RANGE 1 WEST, W.M.		TOWNSHIP 36 SOUTH, RANGE 1 WEST, W.M.	

The applicant proposes to change the point of diversion to:

SW¼ SW¼, SECTION 35, T 35 S, R 1 W, W.M.; 200 FEET NORTH AND 1260 FEET EAST FROM THE SW CORNER OF SECTION 35.

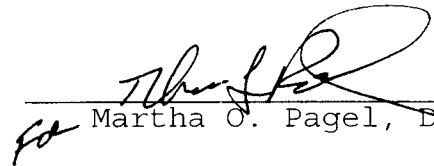
THE CHANGES TO THESE EXISTING WATER RIGHTS MAY BE MADE PROVIDED THE FOLLOWING CONDITIONS ARE MET BY THE WATER USER:

1. The proposed changes shall be completed on or before October 1, 2000.
2. The quantity of water diverted at the new point of diversion, together with that diverted at the old points of diversion, shall not exceed the quantity of water lawfully available at the original points of diversion.
3. The water user shall install and maintain a headgate, an in-line flow meter, weir, or other suitable device for measuring and recording the quantity of water diverted. The type and plans of the headgate and measuring device must be approved by the Department prior to beginning construction and shall be installed under the general supervision of the Department.
4. Water shall be acquired from the same surface water source as the original points of diversion.
5. The former place of use shall no longer be irrigated as a part of this water right.
6. The water user shall install and maintain a fish screen or fish by-pass device. The type and plans of the screen or by-pass device must be approved by the Oregon Department of Fish and Wildlife prior to beginning of construction and shall be installed under the supervision of the Department of Fish and Wildlife.

The water user may participate in the Oregon Department of Fish and Wildlife's cost sharing program for installation of screening and by-pass devices in accordance with ORS 540.525.

Certificates 75430 and 75431 are cancelled. New certificates will be issued to confirm those portions of these rights NOT involved in these transfers. When satisfactory proof of the completed change is received, new certificates confirming these water rights will be issued.

WITNESS the signature of the Water Resources
Director, affixed NOV 23 1998.


Martha O. Pagel, Director