

STATE OF OREGON

COUNTY OF JOSEPHINE

ORDER APPROVING A CHANGES IN USE AND POINT OF DIVERSION,
AND CANCELING PORTIONS OF WATER RIGHTS

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, TRANSFER 7729 submitted by

MYLENE AND GARY BUCK
412 AIRPORT DRIVE
CAVE JUNCTION, OREGON 97523.

The applicants hold a water right for irrigation of 0.8 acre, and two water rights for supplemental irrigation. The applicants propose to abandon the primary right and convert one of the supplemental rights to primary irrigation. The applicants also propose to change the place of use of half of the modified water right. The new place of use has no access to the second supplemental source, so the applicants propose to abandon that portion of the second supplemental right.

The right to be modified, as evidenced by a portion of Certificate 39776, was perfected under Permit 30566 with a date of priority of JUNE 16, 1965. The right allows the use of PARKER CREEK, a tributary of ROUGH AND READY CREEK, for SUPPLEMENTAL IRRIGATION OF 0.8 ACRE. The amount of water to which this right is entitled is limited to an amount actually beneficially used and shall not exceed 0.02 cubic foot per second, if available at the authorized point of diversion: SE¼ SW¼, SECTION 12, T 40 S, R 9 W, WM; 330 FEET NORTH AND 170 FEET WEST FROM THE S¼ CORNER, SECTION 12, or its equivalent in case of rotation, measured at the point of diversion from the source.

The amount of water used for irrigation, together with the amount secured under an other right existing for the same lands, is limited to ONE-FIFTIETH of one cubic foot per second per acre or its equivalent for each acre irrigated and shall be further limited to a diversion of not to exceed 3½ acre-feet for each acre irrigated during the irrigation season of each year.

The use shall conform to any reasonable rotation system ordered by the proper state officer.

The authorized place of use is located as follows:

NW $\frac{1}{4}$ SW $\frac{1}{4}$ 0.8 ACRE
SECTION 7
TOWNSHIP 40 SOUTH, RANGE 8 WEST, W.M.

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

The applicants propose to change the use of the water right to PRIMARY IRRIGATION of 0.8 ACRE. The associated primary water is being abandoned.

The applicants propose to change the place of use of 0.4 acre to:

NW $\frac{1}{4}$ SE $\frac{1}{4}$ 0.4 ACRE
SECTION 12
TOWNSHIP 40 SOUTH, RANGE 9 WEST, W.M.

The remaining 0.4 acre involved in the transfer application will not be moved.

The applicants propose to change the point of diversion to:

SW $\frac{1}{4}$ NW $\frac{1}{4}$, SECTION 12, T 40 S, R 9 W, WM; 2850 FEET NORTH AND 10 FEET EAST FROM THE SW CORNER, SECTION 12.

An affidavit was received from Gary L.M. and Mylene A. Buck, the owners of certain land and the water rights appurtenant to it. Portions of the water rights are being abandoned and are requested to be canceled.

The first water right to be abandoned is a portion of the right described by Certificate 39784. The water right is for the use of 0.02 cubic foot per second from an Unnamed Stream and Reservoir constructed under Permit R-4513, tributary of an Unnamed Slough (Mendenhall Creek). The date of priority is January 20, 1965. The water right is for irrigation of 0.8 acre.

The second water right to be abandoned is a portion of the right described by Certificate 57309. The water right is for the use of 0.01 cubic foot per second from Rough and Ready Creek, a tributary of the Illinois River. The date of priority is May 9, 1974. The water right is for supplemental irrigation of 0.4 acre.

A description of the places of use of the abandoned rights are as follows:

CERTIFICATE 39784

CERTIFICATE 57309

NW¼ SW¼

0.8 ACRE

0.4 ACRE

SECTION 7

TOWNSHIP 40 SOUTH, RANGE 8 WEST, W.M.

ORS 540.621 provides: "Whenever the owner of a perfected and developed water right certifies under oath to the Water Resources Commission that the water right has been abandoned by the owner and that the owner desires cancellation thereof, the commission shall enter an order canceling the water right."

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

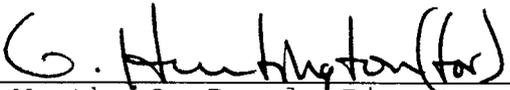
1. The proposed changes shall be completed on or before October 1, 1999.
2. The quantity of water diverted at the new point of diversion, together with that diverted at the old point of diversion, shall not exceed the quantity of water lawfully available at the original point of diversion.
3. The water 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 point 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 general 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.

The portions of the water rights to be abandoned requested to be canceled are canceled.

Certificates 39776, 39784, and 57309 are canceled. New certificates will be issued to confirm those portions of the rights NOT involved in this transfer and cancellation proceeding. 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 SEP 04 1997.



Martha O. Pagel, Director