

STATE OF OREGON

COUNTY OF WASHINGTON

ORDER APPROVING A CHANGE IN PLACE OF USE,
A CHANGE IN POINT OF DIVERSION
AND PARTIAL CANCELLATION 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 6707 submitted by

FRANK L. AND BETTY M. NIMS
21980 SW AEBISCHER ROAD
SHERWOOD, OREGON 97140.

The right to be modified, as evidenced by a portion of Certificate 43526, was perfected under Permit 28955 with a date of priority of JULY 12, 1963. The right allows the use of AN UNNAMED CREEK, a tributary of CHICKEN CREEK, for IRRIGATION OF 1.75 ACRES. The amount of water to which this right is entitled is limited to an amount actually beneficially used and shall not exceed 0.03 cubic foot per second, if available at the authorized point of diversion: SE $\frac{1}{4}$ SW $\frac{1}{4}$, SECTION 26, T 2 S, R 2 W, W.M.; 1090 FEET NORTH AND 340 FEET WEST FROM THE S $\frac{1}{4}$ CORNER OF SECTION 26, 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-EIGHTIETH 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 2 $\frac{1}{2}$ 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:

SE $\frac{1}{4}$ SW $\frac{1}{4}$ 0.95 ACRE
SW $\frac{1}{4}$ SE $\frac{1}{4}$ 0.80 ACRE
SECTION 26
TOWNSHIP 2 SOUTH, RANGE 2 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 applicant proposes to change the place of use to:

| <u>TRACT A</u> | <u>TRACT B</u> | <u>TRACT C</u> |
|--|----------------|----------------|
| SE $\frac{1}{4}$ SW $\frac{1}{4}$ 0.5 ACRE | 0.5 ACRE | 0.75 ACRE |
| SECTION 26 | | |
| TOWNSHIP 2 SOUTH, RANGE 2 WEST, W.M. | | |

The applicant proposes to change the point of diversion to:

SE $\frac{1}{4}$ SW $\frac{1}{4}$, SECTION 26, T 2 S, R 2 W, W.M.; 668 FEET NORTH AND 872 FEET WEST FROM THE N $\frac{1}{4}$ CORNER OF SECTION 35, T 2 SOUTH, RANGE 2 WEST, W.M.

The receiving landowner for Tract B is

DOUG AND BETSY STAPF
21820 SW AEBISCHER ROAD
SHERWOOD, OREGON 97140

Affidavits were received from Frank L. and Betty M. Nims, owners of certain land and the water rights appurtenant to it. Portions of the water rights have been abandoned and are requested to be cancelled.

The first portion is described by Certificate 43537, State Record of Water Right Certificates. The date of priority is September 24, 1968. The water right is for the use of 0.04 acre foot stored water only from a reservoir constructed under Application R-45417, Permit R-5367, a tributary of Chicken Creek. The abandoned portion is for supplemental irrigation.

A description of the place of use of the abandoned right is as follows:

| |
|---|
| SE $\frac{1}{4}$ SW $\frac{1}{4}$ 0.95 ACRE |
| SW $\frac{1}{4}$ SE $\frac{1}{4}$ 0.80 ACRE |
| SECTION 26 |
| TOWNSHIP 2 SOUTH, RANGE 2 WEST, W.M. |

The second portion is described by Certificate 43526, State Record of Water Right Certificates. The date of priority is July 12, 1963. The water right is for the use of stored water from a reservoir constructed under Application R-38892, Permit R-3420, a tributary of Chicken Creek. The abandoned portion is for the use of stored water.

A description of the place of use of the abandoned right is as follows:

SE $\frac{1}{4}$ SW $\frac{1}{4}$ 0.95 ACRE
SW $\frac{1}{4}$ SE $\frac{1}{4}$ 0.80 ACRE
SECTION 26
TOWNSHIP 2 SOUTH, RANGE 2 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 change 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 point of diversion, shall not exceed the quantity of water lawfully available at the original point of diversion.
3. When required by the Department, 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.

The portions of the water rights described herein requested to be cancelled are cancelled. Certificates 43526 and 43537 are cancelled. New certificates will be issued to confirm those portions of these rights NOT involved in this transfer and partial cancellation proceedings. When satisfactory proof of the completed change is received, a new certificate confirming this water right will be issued.

WITNESS the signature of the Water Resources
Director, affixed DEC 09 1998.


For Martha O. Pagel, Director