

STATE OF OREGON

COUNTY OF JOSEPHINE

ORDER APPROVING 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, TRANSFER 8619 submitted by

GERALD E. SOMMERS AND JANICE A. SOMMERS
240 GARNER ROAD
CAVE JUNCTION, OREGON 97523.

The FIRST right to be modified was confirmed by decree of the Circuit Court of the State of Oregon for JOSEPHINE County as evidenced by a PORTION of Certificate 52322. The decree is recorded in the Order Record of the Water Resources Director in Volume 1 and 5, at Page 253 and 398. The date of priority is 1893 FOR TRACT 1 AND 1908 FOR TRACT 2.

The right allows the use of SUCKER CREEK, a tributary of the ILLINOIS RIVER, for IRRIGATION OF 12.3 ACRES; 7.8 acres being in Tract 1, and 4.5 acres being in Tract 2. The amount of water to which this right is entitled is limited to an amount actually beneficially used and shall not exceed 0.156 cubic foot per second for Tract 1, and 0.058 cubic foot per second for Tract 2, if available at the authorized point of diversion: NE¼ NW¼,

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 137-004-080 and OAR 690-01-005, you may either petition for judicial review or petition the Director for reconsideration of this order.

SECTION 32, T 39 S, R 7 W, W.M., or its equivalent in case of rotation, measured at the point of diversion from the source, and that the use of water for irrigation purposes shall be confined to the season April 1 to October 31 of each year.

The authorized place of use is located as follows:

TRACT 1

NE $\frac{1}{4}$ NW $\frac{1}{4}$ 7.8 ACRES

SECTION 31

TOWNSHIP 39 SOUTH, RANGE 7 WEST, W.M.

TRACT 2

NE $\frac{1}{4}$ NW $\frac{1}{4}$ 4.5 ACRES

SECTION 31

TOWNSHIP 39 SOUTH, RANGE 7 WEST, W.M.

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 SECOND right to be modified, as evidenced by a portion of Certificate 7768, was perfected under Permit 4048 with a date of priority of APRIL 11, 1919. The right allows the use of SUCKER CREEK , a tributary of the ILLINOIS RIVER, for IRRIGATION OF 5.0 ACRES. The amount of water to which this right is entitled is limited to an amount actually beneficially used and shall not exceed 0.06 cubic foot per second, if available at the authorized point of diversion: SE $\frac{1}{4}$ SW $\frac{1}{4}$, SECTION 29, T 39 S, R 7 W, W.M., 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 any 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.

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

The authorized place of use is located as follows:

NE $\frac{1}{4}$ NW $\frac{1}{4}$ 5.0 ACRES
SECTION 31
TOWNSHIP 39 SOUTH, RANGE 7 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 point of diversion to:

SE $\frac{1}{4}$ NW $\frac{1}{4}$, SECTION 31, T 39 S, R 7 W, W.M.; 249 FEET NORTH AND 263 FEET WEST FROM THE CENTER $\frac{1}{4}$ CORNER, SECTION 31.

THIS CHANGE TO 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, 2002.
2. The quantity of water diverted at the new points 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 point of diversion.
5. 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 52322 and 7768 are canceled. New certificates will be issued to confirm that portion of those rights NOT involved in this transfer. 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 OCT 16 2001.



For Paul R. Cleary, Director