

STATE OF OREGON

COUNTY OF JACKSON

ORDER APPROVING CHANGES IN POINT OF DIVERSION,
CHARACTER OF USE AND PARTIAL CANCELLATION
OF A CERTAIN WATER RIGHT

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 8211 submitted by

SHIRLEY M.STONE
5500 LOST CREEK ROAD
EAGLE POINT, OREGON 97524.

The right to be modified, as evidenced by a PORTION of Certificate 5783, was perfected under Permit 3733 with a date of priority of FEBRUARY 16, 1918. The right allows the use of LOST CREEK AND WATER STORED IN LOST LAKE RESERVOIR, TO BE CONSTRUCTED UNDER PERMIT R 427, a tributary of SOUTH FORK LITTLE BUTTE CREEK, for SUPPLEMENTAL IRRIGATION OF 1.2 ACRES. The amount of water to which this right is entitled is limited to an amount actually beneficially used and shall not exceed 0.013 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.

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.

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:

NW $\frac{1}{4}$ SW $\frac{1}{4}$ 1.2 ACRES
SECTION 3
TOWNSHIP 37 SOUTH, RANGE 2 EAST, 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:

NW $\frac{1}{4}$ SW $\frac{1}{4}$, SECTION 3, T 37 S, R 2 E, W.M.; 680 FEET SOUTH
34° EAST OF THE W $\frac{1}{4}$ CORNER, SECTION 3.

The applicant further proposes to change the character of use from SUPPLEMENTAL IRRIGATION to PRIMARY IRRIGATION.

An affidavit was received from Shirley Stone, owner of certain land and the water right appurtenant to it. The landowner requests a portion of a water right be canceled.

The portion is described by Certificate 17225, State Record of Water Right Certificates. The date of priority is 1885. The water use was for irrigation of 1.2 acres from South Fork Little Butte Creek, a tributary of Little Butte Creek. The amount used was 0.023 cubic foot per second.

The canceled portion is located as follows:

NW¼ SW¼ 1.2 ACRES
SECTION 3
TOWNSHIP 37 SOUTH, RANGE 2 EAST, W. M.

ORS 540.621 provides: "Whenever the owner of a perfected and developed water right certifies under oath to the Water Resources Commission requests cancellation of that the water right the commission shall enter an order canceling the water right."

THESE CHANGES 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, 2004.
2. 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.
3. **Prior** to diverting water from the new point of diversion, 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.

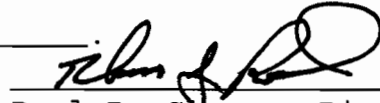
The water user may participate in the Oregon Department of Fish and Wildlife's cost sharing program for installation of screening and by-pass devices in accordance with ORS 540.525.

The portion of Certificate 17225 requested to be canceled is canceled. A new certificate will be issued to confirm that portion of the right NOT canceled by this order.

Certificate 5783 is canceled. A new certificate will be issued to confirm that portion of the right NOT involved in this transfer. 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 AUG 06 2003



Paul R. Creary, Director