

STATE OF OREGON

COUNTY OF JOSEPHINE

ORDER APPROVING A CHANGE IN CHARACTER OF USE  
AND A CHANGE IN POINT OF DIVERSION  
AND PARTIAL CANCELLATION OF A WATER RIGHT

Pursuant to ORS 537.705, 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 7857 submitted by

WADE SIMPSON  
P.O. BOX 1309  
CAVE JUNCTION, OREGON 97523.

The right to be modified, as evidenced by a PORTION of Certificate 33163, was perfected under Permit G-2026 with a date of priority of JANUARY 2, 1962. The right allows the use of TELLVIK WELL, in the DEMOCRAT CREEK BASIN, for IRRIGATION OF 2.8 ACRES AND SUPPLEMENTAL IRRIGATION OF 10.8 ACRES. The amount of water to which this right is entitled is limited to an amount actually beneficially used and shall not exceed 0.17 cubic foot per second, if available at the original well; SW $\frac{1}{4}$  NW $\frac{1}{4}$ , AS PROJECTED WITHIN NEWMAN DLC 39, SECTION 6, T 40 S, R 7 W, W.M.; WELL LOCATED 2600 FEET SOUTH AND 200 FEET EAST FROM THE NW CORNER OF SECTION 6, or its equivalent in case of rotation, measured at the well.

This is a final order in other than 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 on 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 2½ acre-feet per acre 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 as follows:

	<u>CHANGE IN POA ONLY</u>	<u>CHANGE IN USE AND POA</u>
	<u>PRIMARY</u>	<u>SUPPLEMENTAL</u>
NE¼ SW¼		0.7 ACRE
NW¼ SW¼	1.2 ACRES	10.1 ACRES
SW¼ SW¼	1.6 ACRES	
ALL AS PROJECTED WITHIN NEWMAN DLC 39 SECTION 6		

TOWNSHIP 40 SOUTH, RANGE 7 WEST, W.M.

This use may be regulated if analysis of data available discloses that the appropriation will measurably reduce the surface water flows necessary to maintain the free-flowing character of a scenic waterway in quantities necessary for recreation, fish and wildlife in effect as of the priority date of this right or as those quantities may be reduced.

The right to use 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 appropriation to:

NW¼ SW¼, AS PROJECTED WITHIN NEWMAN DLC 39, SECTION 6,  
T 40 S, R 7 W, W.M.; 1727 FEET NORTH AND 473 FEET EAST FROM THE  
SW CORNER OF SECTION 6.

The applicant proposes to change the character of use from SUPPLEMENTAL IRRIGATION OF 10.8 ACRES to PRIMARY IRRIGATION OF 10.8 ACRES.

An affidavit was received from Mildred L. Frick, owner of certain land and the water right appurtenant to it. A portion of the water right has been abandoned and requested to be cancelled.

The portion is described by Certificate 10170, State Record of Water Right Certificates. The date of priority is APRIL 25, 1930. The water use was for SUPPLEMENTAL IRRIGATION of 10.8 ACRES from DEMOCRAT GULCH AND MULVANEY GULCH, a tributary of the ILLINOIS RIVER. The amount used was 0.11 CUBIC FOOT PER SECOND(CFS) FROM MULVANEY GULCH AND 0.03 CFS FROM DEMOCRAT GULCH.

The abandoned portion is located as follows:

NE $\frac{1}{4}$  SW $\frac{1}{4}$  0.7 ACRE  
NW $\frac{1}{4}$  SW $\frac{1}{4}$  10.1 ACRES  
SECTION 6  
TOWNSHIP 40 SOUTH, RANGE 7 WEST, W.M.

ORS 540.610 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 cancelling the water right."

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

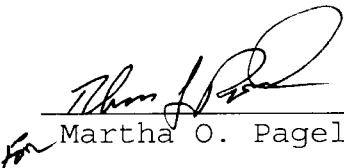
1. The proposed changes shall be completed on or before October 1, 2001.
2. The quantity of water diverted at the new point of appropriation (well), together with the quantity diverted at the old point of appropriation, shall not exceed the quantity of water lawfully available from the original point of appropriation.

3. When required by the Department the water user shall install an in-line flow meter or other suitable device for measuring and recording the quantity of water used. The type and plans of the 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 aquifer as the original point of appropriation.

The portion of the water right requested to be cancelled is cancelled. Certificates 10170 and 33163 are cancelled. New certificates will be issued to confirm those portions of the rights NOT involved in the transfer and 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 08 1999.

  
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For Martha O. Pagel, Director