

Before the Water Resources Commission  
Baker County

FINAL ORDER

Pursuant to ORS 541.327 a petition requesting approval and acceptance of an individual petitioner’s maps, within qualifying organizations, showing the location and use of all water rights within and served within the petitioned area was submitted to the Oregon Water Resources Department on May 17, 1993, by the petitioner:

Dan L. Forsea & Sons, Inc.  
Route 1, Box 90  
Richland, Oregon 97870

The water rights to be modified are all or portions of those rights evidence by Certificates, hereinafter called Rights of Record, numbered 4592, 4674, 4768, 52953, 52954, and 56452 of the State record of Water Right Certificates. The affected portion of these rights allow the use of the waters of Eagle Creek, tributary to Powder River, for irrigation of 314.5 acres and the waters of Crater Lake Reservoir, tributary to Kettle Creek, for supplemental irrigation of 14.2 acres as described below in TABLE 1:

TABLE 1								
Rights to be modified by this order								
Cert.	Priority	Use	Acres	1/4, 1/4	Sec	Twp	Rng	Source
4768	1872	IR	2.7	SE NE	22	9S	45E	EAGLE CREEK
4592	1878	IR	20.4	SE NW	25	9S	45E	EAGLE CREEK
4592	1878	IR	31.9	SW NE	25	9S	45E	EAGLE CREEK
4592	1878	IR	40.0	NE SW	25	9S	45E	EAGLE CREEK
4592	1878	IR	40.0	SE SW	25	9S	45E	EAGLE CREEK
4592	1878	IR	40.0	NW SE	25	9S	45E	EAGLE CREEK
52953	1885	IR	4.3	NE NE	22	9S	45E	EAGLE CREEK
52954	1885	IR	7.2	NE NE	22	9S	45E	EAGLE CREEK
4674	7-12-1901	IR	15.0	NW NE	36	9S	45E	EAGLE CREEK
4674	7-12-1901	IR	23.0	NE NE	36	9S	45E	EAGLE CREEK
4674	7-12-1901	IR	37.0	SE SE	25	9S	45E	EAGLE CREEK
4674	7-12-1901	IR	3.5	NE NW	36	9S	45E	EAGLE CREEK
4674	7-12-1901	IR	30.7	NW SE	30	9S	46E	EAGLE CREEK
4674	7-12-1901	IR	18.8	SW SE	30	9S	45E	EAGLE CREEK
56452	12-28-1962	IS	11.5	NE NE	22	9S	45E	CRATER LAKE
56452	12-28-1962	IS	2.7	SE NE	22	9S	45E	CRATER LAKE
TOTAL			328.7 acres					

See V53P384

The petitioner seeks certificates confirming the present place of use and uses as described in TABLE 2:

TABLE 2											
Requested Location and Use (the Petition)											
Cert.	Priority	POD	Use	Acres	1/4, 1/4	Sec	Twp	Rng	Source		
4768	1872	2	IR	2.7	NE NE	22	9S	45E	EAGLE	CREEK	
4592	1878	2	IR	4.3	NE NE	22	9S	45E	EAGLE	CREEK	
4592	1878	2	IR	14.8	NE NE	22	9S	45E	EAGLE	CREEK	
4592	1878	4	IR	20.8	NW NW	23	9S	45E	EAGLE	CREEK	
4592	1878	2	IR	0.2	SW NW	23	9S	45E	EAGLE	CREEK	
4592	1878	1	IR	12.2	SW NW	23	9S	45E	EAGLE	CREEK	
52953	1885	3	IR	0.3	NE NE	22	9S	45E	EAGLE	CREEK	
52953	1885	2	IR	0.3	NE NE	22	9S	45E	EAGLE	CREEK	
52954	1885	4	IR	7.2	NE NE	22	9S	45E	EAGLE	CREEK	
52953	1885	3	IR	0.7	SE NE	22	9S	45E	EAGLE	CREEK	
52953	1885	2	IR	3.0	SE NE	22	9S	45E	EAGLE	CREEK	
4674	7-12-1901	4	IR	13.7	NW NW	23	9S	45E	EAGLE	CREEK	
4674	7-12-1901	4	IR	23.9	SW NW	23	9S	45E	EAGLE	CREEK	
4674	7-12-1901	4	IR	3.2	SE NW	23	9S	45E	EAGLE	CREEK	
56452	12-28-1962	4	IS	7.2	NE NE	22	9S	45E	CRATER	LAKE	
56452	12-28-1962	2	IS	4.3	NE NE	22	9S	45E	CRATER	LAKE	
56452	12-28-1962	2	IS	2.7	NE NE	22	9S	45E	CRATER	LAKE	
TOTAL				121.5 acres							

In the proposed order two items were incorrectly typed: 1) In table 1 under Certificate 4674, the range was typed as 45E, the true location is 46E. 2) Throughout the proposed order the petitioner's name was stated as Daniel L. Forsea & Sons, Inc., the correct name is Dan L. Forsea & Sons, Inc. These items have been corrected herein.

**The point of diversion locations for petition areas are described as follows:**

- Diversion Point 1: Gover Ditch - being within the NE1/4 NE1/4, Section 22, Township 9 South, Range 45 East, W.M.; 1640 feet North and 290 feet West from East 1/4 corner of Section 22, Township 9 South, Range 45 East, W.M.
- Diversion Point 2: Little Eagle Ditch - being within the SE1/4 SE1/4, Section 15, Township 9 South, Range 45 East, W.M.; 250 feet North and 1020 feet West from the SE corner of Section 15, Township 9 South, Range 45 East, W.M.
- Diversion Point 3: Kay Young Ditch - being within the SE1/4 NW1/4, Section 10, Township 9 South, Range 45 East, W.M.; 1700 feet South and 2450 feet East from the NW corner of Section 10, Township 9 South, Range 45 East, W.M.
- Diversion Point 4: Nash Ditch - being within the SW1/4 SE1/4, Section 10, Township 9 South, Range 45 East, W.M.; 590 feet North and 2720 feet East from the SW corner of Section 10, Township 9 South, Range 45 East, W.M.

Of the 328.7 acres to be modified by this order, 207.2 acres are no longer irrigated and the owners, by petition and letter, have requested that the same be canceled. The rights to be canceled are described in TABLE 3:

TABLE 3								
Rights to be Canceled								
Cert.	Priority	Use	Acres	1/4, 1/4	Sec	Twp	Rng	Source
4592	1878	IR	40.0	NESW	25	9S	45E	EAGLE CREEK
4592	1878	IR	40.0	SESW	25	9S	45E	EAGLE CREEK
4592	1878	IR	40.0	NWSE	25	9S	45E	EAGLE CREEK
4674	7-12-1901	IR	19.2	NENE	36	9S	45E	EAGLE CREEK
4674	7-12-1901	IR	15.0	NWNE	36	9S	45E	EAGLE CREEK
4674	7-12-1901	IR	3.5	NENW	36	9S	45E	EAGLE CREEK
4674	7-12-1901	IR	30.7	NWSE	30	9S	46E	EAGLE CREEK
4674	7-12-1901	IR	18.8	SWSE	30	9S	46E	EAGLE CREEK
TOTAL			207.2 acres					

The Director has examined the petition and map submitted by Dan L. Forsea & Sons, Inc. and the Report of Findings prepared by Department staff. The petition and Report of Findings are on file at the Water Resources Department. Based on the examination and report, the Director finds:

1. Dan L. Forsea & Sons, Inc. filed an individual petition and map in a timely manner, as required by ORS 541.327.
2. Dan L. Forsea & Sons, Inc. is an individual petitioner within the service boundaries of the Eagle Valley Irrigation District. The petitioned lands are served by Kay Young Ditch Company, Little Eagle Ditch Company, and Gover Ditch Company, all formed prior to 1917, and are the qualifying organizations as defined in ORS 541.325.
3. The content and quality of Dan L. Forsea & Sons, Inc’s petition and map meet the requirements of ORS 541.329.
4. The acreage petitioned is within the limits of the eligible water rights and the limits set in ORS 541.331(4).
5. The petitioner has met the notice requirements under ORS 541.329 (4) and (5).  
  
No protest pursuant to ORS 541.331(1) were filed.
6. The proposed changes may be made without injury to existing water rights.
7. Idaho Power Company, the owner of a portion of those rights listed in TABLE 3, has requested the cancellation of 207.2 acres of their rights.

8. The original irrigation season, rates, and all other conditions and limitations contained in the original water right certificates will remain in effect for all rights petitioned.
9. Dan L. Forsea & Sons, Inc. has met the requirements of ORS 541.325 to 541.333 for issuance of a new certificate confirming the present use and place of use of the petitioned water rights.

THEREFORE, it is hereby **ORDERED** that:

- 1) The petition and map filed by Dan L. Forsea & Sons, Inc. is accepted and approved.
- 2) Certificates 4592, 4674, 4768, 52953, and 52954, and 56452 are canceled.
- 3) A new certificate of water right conforming to the approved petition for irrigation of 107.3 acres, as listed in TABLE 2, shall be issued to Dan L. Forsea & Sons, Inc.
- 4) A new certificate(s) superseding Certificate 56452 will be issued to the Eagle Valley Irrigation District to confirm the portion of the water right modified by this order (14.2 acres supplemental irrigation), the portion of the water right to be modified by petitions filed by Waterbury-Allen Ditch Company, John Wright, Tobin Ditch Company, and Dry Gulch Ditch Company pursuant to ORS 541.325 to 541.333, and to document any portions of said right NOT affected by petitions submitted under ORS 541.329.
- 5) The right to irrigate those lands listed in TABLE 3, pursuant to ORS 541.325-541.333 and ORS 540.621, is canceled.
- 6) Remaining right certificates shall be issued for those portions of the canceled certificates not modified by this order or any other order issued pursuant to ORS 541.325 to 541.333.
- 7) The original irrigation season, rate, duty, and all other conditions and limitations contained in the original water right certificates shall remain in effect for all rights.

WITNESS the signature of the Water Resources Director, affixed APR 15 1996,  
1996.

  
\_\_\_\_\_  
Martha O. Pagel, Director