

STATE OF OREGON

COUNTIES OF LANE AND LINN

ORDER APPROVING CHANGES IN PLACE OF USE
AND CHANGES IN POINTS 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, TRANSFERS 7163 AND 7377 submitted by

DAVID C. MALPASS
32255 BOWERS DRIVE
HARRISBURG, OREGON 97446.

The right to be modified, as evidenced by a portion of Certificate 75226, was perfected under Permit 17510 with a date of priority of FEBRUARY 9, 1939. The right allows the use of MUDDY CREEK and the MCKENZIE RIVER, both tributaries of the WILLAMETTE RIVER, for IRRIGATION OF 182.7 ACRES. The amount of water to which this right is entitled is limited to an amount actually beneficially used and shall not exceed 2.28 cubic feet per second, if available at the authorized points of diversion: MCKENZIE RIVER - NE $\frac{1}{4}$ NE $\frac{1}{4}$, AS PROJECTED WITHIN SPORES DLC 38, SECTION 9, T 17 S, R 3 W, W.M.; 4440 FEET SOUTH AND 5250 FEET EAST FROM THE SE CORNER OF MANSFIELD DLC 79, SECTION 5, T 17 S, R 3 W, W.M., MUDDY CREEK - (TRANSFER APPLICATION 7163) SW $\frac{1}{4}$ NE $\frac{1}{4}$, SECTION 30, T 15 S, R 3 W, W.M.; 3830 FEET NORTH AND 1900 FEET WEST FROM THE NW CORNER OF GREENWOOD DLC 64, SECTION 30. SW $\frac{1}{4}$ SE $\frac{1}{4}$, SECTION 5, T 16 S, R 3 W, W.M.; 3500 FEET EAST FROM THE

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.

SW CORNER OF SECTION 5, (TRANSFER APPLICATION 7377) SW $\frac{1}{4}$ NW $\frac{1}{4}$, AS PROJECTED WITHIN DAVIS DLC 41, SECTION 21, T 16 S, R 3 W, W.M.; 4190 FEET NORTH AND 2190 FEET EAST FROM THE NE CORNER OF BROWN DLC 58, SECTION 29, 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 3.0 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 places of use are located as follows:

TRANSFER APPLICATION 7163

NE $\frac{1}{4}$ NW $\frac{1}{4}$ 0.1 ACRE
NW $\frac{1}{4}$ NW $\frac{1}{4}$ 1.0 ACRE
BOTH AS PROJECTED WITHIN SNODGRASS DLC 62
LOT 8 (NW $\frac{1}{4}$ NW $\frac{1}{4}$) 1.5 ACRES
SW $\frac{1}{4}$ NW $\frac{1}{4}$ 23.2 ACRES
SE $\frac{1}{4}$ NW $\frac{1}{4}$ 5.2 ACRES
BOTH AS PROJECTED WITHIN SNODGRASS DLC 62
SECTION 28

LOT 1 (NE $\frac{1}{4}$ NE $\frac{1}{4}$) 4.6 ACRES
NE $\frac{1}{4}$ NE $\frac{1}{4}$ 0.5 ACRE
SE $\frac{1}{4}$ NE $\frac{1}{4}$ 13.4 ACRES
BOTH AS PROJECTED WITHIN SNODGRASS DLC 62
SECTION 29

SW $\frac{1}{4}$ NE $\frac{1}{4}$ 16.2 ACRES
NE $\frac{1}{4}$ SE $\frac{1}{4}$ 0.7 ACRE
NW $\frac{1}{4}$ SE $\frac{1}{4}$ 7.1 ACRES
SECTION 30
TOWNSHIP 15 SOUTH, RANGE 3 WEST, W.M.

TRANSFER APPLICATION 7377

SE¼ SW¼ 1.3 ACRES
SW¼ SE¼ 20.0 ACRES
SE¼ SE¼ 0.5 ACRE
ALL AS PROJECTED WITHIN WARD DLC 55
SECTION 17

NE¼ NE¼ 0.8 ACRE
NW¼ NE¼ 40.0 ACRES
SW¼ NE¼ 21.6 ACRES
ALL AS PROJECTED WITHIN WARD DLC 55
SW¼ NE¼ 17.5 ACRES
SE¼ NE¼ 0.1 ACRE
BOTH AS PROJECTED WITHIN BROWN DLC 56
SE¼ NE¼ 0.2 ACRE
NE¼ NW¼ 3.0 ACRES
BOTH AS PROJECTED WITHIN WARD DLC 55
SE¼ NW¼ 0.1 ACRE
AS PROJECTED WITHIN BROWN DLC 56
SE¼ NW¼ 1.8 ACRES
AS PROJECTED WITHIN WARD DLC 55
NW¼ SE¼ 2.3 ACRES
AS PROJECTED WITHIN BROWN DLC 56
SECTION 20
TOWNSHIP 16 SOUTH, RANGE 3 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:

TRANSFER APPLICATION 7163

SW $\frac{1}{4}$ NW $\frac{1}{4}$ 3.7 ACRES
NW $\frac{1}{4}$ SW $\frac{1}{4}$ 18.0 ACRES
SW $\frac{1}{4}$ SW $\frac{1}{4}$ 10.0 ACRES
ALL AS PROJECTED WITHIN SMITH DLC 53
SECTION 16

NE $\frac{1}{4}$ SE $\frac{1}{4}$ 23.7 ACRES
SE $\frac{1}{4}$ SE $\frac{1}{4}$ 18.1 ACRES
BOTH AS PROJECTED WITHIN SMITH DLC 53
SECTION 17
TOWNSHIP 16 SOUTH, RANGE 3 WEST, W.M.

TRANSFER APPLICATION 7377

SW $\frac{1}{4}$ SW $\frac{1}{4}$ 21.7 ACRES
LOT 5 (SE $\frac{1}{4}$ SW $\frac{1}{4}$) 1.5 ACRES
SE $\frac{1}{4}$ SW $\frac{1}{4}$ 32.4 ACRES
SW $\frac{1}{4}$ SE $\frac{1}{4}$ 32.6 ACRES
SE $\frac{1}{4}$ SE $\frac{1}{4}$ 7.0 ACRES
ALL AS PROJECTED WITHIN MAXWELL DLC 54
SECTION 29

NE $\frac{1}{4}$ NE $\frac{1}{4}$ 2.2 ACRES
NW $\frac{1}{4}$ NE $\frac{1}{4}$ 6.2 ACRES
NE $\frac{1}{4}$ NW $\frac{1}{4}$ 4.2 ACRES
ALL AS PROJECTED WITHIN MAXWELL DLC 54
NE $\frac{1}{4}$ NW $\frac{1}{4}$ 1.4 ACRES
AS PROJECTED WITHIN GREENWOOD DLC 64
SECTION 32
TOWNSHIP 15 SOUTH, RANGE 3 WEST, W.M.

The applicant proposes to change the points of diversion on Muddy Creek to:

TRANSFER APPLICATION 7163 - SW¼ NW¼, AS PROJECTED WITHIN SMITH DLC 53, SECTION 16, T 16 S, R 3 W, W.M.; 5035 FEET NORTH AND 1785 FEET EAST FROM THE NW CORNER OF DAVIS DLC 41, SECTION 17, T 16 S, R 3 W, W.M.

TRANSFER APPLICATION 7377 - NE¼ SE¼, SECTION 30, T 15 S, R 3 W, W.M.; 1850 FEET NORTH AND 1345 FEET WEST FROM THE SW CORNER OF MAXWELL DLC 54, SECTION 29, T 15 S, R 3 W, W.M.

THE 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 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. When required by the Department, the water user shall install and maintain headgates, in-line flow meters, weirs, or other suitable devices for measuring and recording the quantity of water diverted. The type and plans of the headgates and measuring devices 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 sources as the original points of diversion.
5. The former places of use shall no longer be irrigated as a part of these water rights.

Certificate 75226 is cancelled. A new certificate will be issued to confirm that portion of the right NOT involved in the transfers. When satisfactory proof of the completed changes is received, a new certificate confirming this water right will be issued.

WITNESS the signature of the Water Resources

Director, affixed MAR 29 2000.


for Martha O. Pagel, Director