

STATE OF OREGON

COUNTY OF JACKSON

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 7940 submitted by

THOMAS L. AND DEBRA A. NIKODYM
19030 EAST EVANS CREEK ROAD
ROGUE RIVER, OREGON 97537.

The right to be modified was confirmed by decree of the Circuit Court of the State of Oregon for JACKSON County as evidenced by a PORTION of Certificate 50370. The decree is recorded in the Order Record of the Water Resources Director in Volume 4, at Page 1. The date of priority is 1892.

The right allows the use of EAST FORK EVANS CREEK, a tributary of EVANS CREEK, for IRRIGATION OF 2.0 ACRES. The amount of water to which this right is entitled is limited to an amount actually beneficially used and shall not exceed 0.03 cubic foot per second, if available at the authorized point of diversion: BYBEE DITCH - SE $\frac{1}{4}$ NE $\frac{1}{4}$, SECTION 2, T 34 S, R 2 W, W.M., or its equivalent in case of rotation, measured at the point of diversion from the source.

The authorized place of use is located as follows:

NE $\frac{1}{4}$ NW $\frac{1}{4}$ 0.1 ACRE
NW $\frac{1}{4}$ NW $\frac{1}{4}$ 1.9 ACRES
SECTION 19
TOWNSHIP 34 SOUTH, RANGE 2 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 applicant proposes to change the point of diversion to:

NW¼ NW¼, SECTION 19, T 34 S, R 2 W, W.M.; 520 FEET SOUTH AND 1180 FEET EAST OF THE NW CORNER OF SECTION 19.

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

1. The proposed change shall be completed on or before October 1, 2000.
2. The quantity of water diverted at the new point of diversion, together with that diverted at the old point of diversion, shall not exceed the quantity of water lawfully available at the original point 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.

Certificate 50370 is cancelled. 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 FEB 16 1999.

for 

Martha O. Pagel, Director