

STATE OF OREGON

COUNTY OF POLK

ORDER APPROVING A CHANGE IN PLACE OF USE
AND 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 8749 submitted by

WENDELL AND SHERRY SPERLING
8835 PARKER ROAD
INDEPENDENCE, OREGON 97351.

The right to be modified, as evidenced by a portion of Certificate 45572, was perfected under Permit 37832 with a date of priority of AUGUST 20, 1973. The right allows the use of the LUCKIAMUTE RIVER, a tributary of the WILLAMETTE RIVER, for IRRIGATION OF 126.0 ACRES. The amount of water to which this right is entitled is limited to an amount actually beneficially used and shall not exceed 1.58 cubic foot per second, if available at the authorized point of diversion: LOT 1 (NE $\frac{1}{4}$ NW $\frac{1}{4}$), LOT 5 (SE $\frac{1}{4}$ NE $\frac{1}{4}$), SECTION 19, LOT 4 (SW $\frac{1}{4}$ SW $\frac{1}{4}$), SECTION 20, T 9 S, R 4 W, W.M.; 7120 FEET NORTH AND 1640 FEET EAST; 6130 FEET NORTH AND 5220 FEET EAST; 3170 FEET NORTH AND 6110 FEET EAST; ALL FROM THE SE CORNER OF CHAMBERLAIN DLC 42, 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 and shall be further limited to a diversion of not to exceed 2½ 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 place of use is located as follows:

NE¼ SW¼ 0.7 ACRE
SE¼ SW¼ 19.3 ACRES
NW¼ SE¼ 0.7 ACRE
SW¼ SE¼ 26.6 ACRES
ALL AS PROJECTED WITHIN SUVER DLC 44
SECTION 19

LOT 5 (NW¼ NE¼) 2.0 ACRES
NW¼ NE¼ 30.6 ACRES
AS PROJECTED WITHIN SUVER DLC 44
LOT 6 (SW¼ NE¼) 13.7 ACRES
SW¼ NE¼ 3.6 ACRES
NE¼ NW¼ 12.8 ACRES
BOTH AS PROJECTED WITHIN SUVER DLC 44
LOT 7 (SE¼ NW¼) 2.7 ACRES
SE¼ NW¼ 4.0 ACRES
AS PROJECTED WITHIN SUVER DLC 44
LOT 10 (NE¼ SW¼) 0.3 ACRE
LOT 11 (NW¼ SE¼) 9.0 ACRES
SECTION 30

TOWNSHIP 9 SOUTH, RANGE 4 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:

LOT 2 (SW $\frac{1}{4}$ NW $\frac{1}{4}$) 0.7 ACRE
LOT 1 (SE $\frac{1}{4}$ NW $\frac{1}{4}$) 8.0 ACRES
NE $\frac{1}{4}$ SW $\frac{1}{4}$ 24.0 ACRES
LOT 3 (NW $\frac{1}{4}$ SW $\frac{1}{4}$) 7.8 ACRES
LOT 4 (SW $\frac{1}{4}$ SW $\frac{1}{4}$) 1.2 ACRES
SW $\frac{1}{4}$ SW $\frac{1}{4}$ 7.0 ACRES
AS PROJECTED WITHIN VANDERPOOL DLC 63
LOT 5 (SE $\frac{1}{4}$ SW $\frac{1}{4}$) 7.1 ACRES
SE $\frac{1}{4}$ SW $\frac{1}{4}$ 25.0 ACRES
AS PROJECTED WITHIN VANDERPOOL DLC 63
SECTION 17

NE $\frac{1}{4}$ NW $\frac{1}{4}$ 30.4 ACRES
NW $\frac{1}{4}$ NW $\frac{1}{4}$ 7.5 ACRES
SE $\frac{1}{4}$ NW $\frac{1}{4}$ 7.3 ACRES
ALL AS PROJECTED WITHIN VANDERPOOL DLC 63
SECTION 20

TOWNSHIP 9 SOUTH, RANGE 4 WEST, W.M.

The applicant proposes to change the point of diversion to:

SW $\frac{1}{4}$ NW $\frac{1}{4}$, AS PROJECTED WITHIN VANDERPOOL DLC 63, SECTION 20, T 9 S, R 4 W, W.M.; 2530 FEET SOUTH AND 30 FEET EAST FROM THE NW CORNER OF VANDERPOOL DLC 63.

The receiving landowners are:

PHILIP AND DELIA SPERLING
8675 PARKER ROAD
INDEPENDENCE, OREGON 97351

THESE CHANGES 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, 2003.
2. The quantity of water diverted at the new point 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 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 former place of use shall no longer be irrigated as a part of this water right.
6. 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 45572 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 changes is received, a new certificate confirming this water right will be issued.

WITNESS the signature of the Water Resources

Director, affixed MAY 15 2002 .



Paul R. Cleary, Director