

**BEFORE THE WATER RESOURCES DEPARTMENT
OF THE
STATE OF OREGON**

In the Matter of Notice of POD) FINAL ORDER APPROVING A CHANGE
Change Due to Government Action) IN POINT OF DIVERSION DUE TO
T-12884, Multnomah County) GOVERNMENT ACTION

Authority

ORS 540.510(6) establishes a notification and approval process for changes in point of diversion when government action results in or creates a reasonable expectation of a change in the surface level of a surface water source.

Applicant

MIKE CEREGHINO
20525 NE WISTFUL VISTA DR
FAIRVIEW, OR 97024

Findings of Fact

1. On March 30, 2018, MIKE CEREGHINO filed an application to change the point of diversion under Certificates 83023 and 83331. The Department assigned the notification number T-12884.
2. Notice of the notification of the intention to change the point of diversion was published on April 10, 2018, pursuant to OAR 690-380-4000. No comments were filed in response to the notice.
3. The first right included in the notification is as follows:

Certificate: 83023 in the name of MIKE CEREGHINO (perfected under Permit R-8290)
Use: TO BE APPROPRIATED UNDER PERMIT 45909 FOR WATERFOWL HABITAT, PRIMARY IRRIGATION USE ON 44.2 ACRES AND SUPPLEMENTAL IRRIGATION USE ON 56.8 ACRES
Priority Date: MARCH 5, 1981
Volume: 32.4 ACRE-FEET (AF), BEING 3.6 AF IN DUCK POND 1, 8.25 AF IN DUCK POND 2, 6.0 AF IN DUCK POND 3, 6.15 AF IN DUCK POND 4, AND 8.4 AF IN DUCK POND 5

This is a final 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 137-004-0080, you may petition for judicial review or petition the Director for reconsideration of this order. A petition for reconsideration may be granted or denied by the Director, and if no action is taken within 60 days following the date the petition was filed, the petition shall be deemed denied.

Source: DAIRY CREEK

Authorized Point of Diversion:

Twp	Rng	Mer	Sec	Q-Q	Survey Coordinates
3 N	1 W	WM	35	SW NW	POD 1 - 520 FEET NORTH AND 840 FEET EAST FROM THE W1/4 CORNER OF SECTION 35

Authorized Place of Use:

STORAGE							
Pond	Twp	Rng	Mer	Sec	Q-Q	GLot	DLC
1 & 2	3 N	1 W	WM	34	SE NE		45
2, 3, & 4	3 N	1 W	WM	34	NE SE		45
1	3 N	1 W	WM	35	SW NW		45
5	3 N	1 W	WM	35	SE NW	3	
5	3 N	1 W	WM	35	SE NW		45

4. The second right included in the notification is as follows:

Certificate: 83331 in the name of MIKE CEREGHINO (perfected under Permit S-45909)
Use: IRRIGATION of 101.0 ACRES WATERFOWL HABITAT
Priority Date: MARCH 5, 1981
Rate: 1.26 CUBIC FEET PER SECOND (CFS) BEING NO MORE THAN 1.26 CFS FOR IRRIGATION AND 0.13 CFS FOR WATERFOWL HABITAT
Limit/Duty: The amount of water used for irrigation, together with the amount secured under any other right existing for the same lands, is limited to a diversion of ONE-EIGHTIETH of one cubic foot per second, or its equivalent for each acre irrigated, and shall be further limited to a diversion of not to exceed 3.0 acre-feet per acre for each acre irrigated during the irrigation season of each year from direct flow and storage from reservoirs constructed under Permit R-8290. The right to the use of the water for the above purposes is restricted to beneficial use on the lands or place of use described.
Source: DAIRY CREEK and DUCK PONDS 1 THROUGH 5 CONSTRUCTED UNDER PERMIT R-8290

Authorized Point of Diversion:

Twp	Rng	Mer	Sec	Q-Q	DLC	Survey Coordinates
3 N	1 W	WM	35	SW NW	45	DAIRY CREEK - 520 FEET NORTH AND 840 FEET EAST FROM THE W1/4 CORNER OF SECTION 35

Authorized Place of Use:

IRRIGATION							
Twp	Rng	Mer	Sec	Q-Q	GLot	DLC	Acres
3 N	1 W	WM	34	SW NE		45	0.3
3 N	1 W	WM	34	SE NE		45	17.4
3 N	1 W	WM	34	SE NE	6		1.6
3 N	1 W	WM	34	NE SE		45	15.4
3 N	1 W	WM	34	NW SE		45	8.9

IRRIGATION							
Twp	Rng	Mer	Sec	Q-Q	GLot	DLC	Acres
3 N	1 W	WM	35	SW NW	6		1.6
3 N	1 W	WM	35	SW NW		45	19.2
3 N	1 W	WM	35	SE NW		45	15.7
3 N	1 W	WM	35	SE NW	3		4.4
3 N	1 W	WM	35	NE SW		45	8.4
3 N	1 W	WM	35	NW SW		45	8.1
Total							101.0

WATERFOWL HABITAT						
Twp	Rng	Mer	Sec	Q-Q	GLot	DLC
3 N	1 W	WM	34	SE NE		45
3 N	1 W	WM	34	NE SE		45
3 N	1 W	WM	35	SW NW		45
3 N	1 W	WM	35	SE NW		45
3 N	1 W	WM	35	SE NW	3	

5. The notification proposes to move the authorized point of diversion approximately 1,096.7 feet upstream to:

Twp	Rng	Mer	Sec	Q-Q	DLC	GPS Coordinates
3 N	1 W	WM	35	SW NW	45	POD 2 - LATITUDE 45.702596 LONGITUDE -122.783776

Review Criteria (ORS 540.510(6))

6. The Sturgeon Lake/Dairy Creek Restoration Project of the West Multnomah Soil and Water Conservation District and other partners has created a reasonable expectation of a change in the surface level of Dairy Creek that impairs or threatens to impair access to a point of diversion authorized for Certificates 83023 and 83331.
7. The proposed change would not result in injury to other water rights.

Conclusions of Law

The proposed change in point of diversion due to government action in notification T-12884 is consistent with the requirements of ORS 540.510(6).

Now, therefore, it is ORDERED:

1. The change proposed in T-12884 is approved and effective immediately.
2. The right to the use of the water is restricted to beneficial use at the place of use described, and is subject to all other conditions and limitations contained in Certificates 83023 and 83331 and any related decree.
3. Water right certificates 83023 and 83331 are cancelled. Certificates will be issued to describe the change in point of diversion for the rights included in T-12884. Together, the new Certificates shall supersede Certificates 83023 and 83331.

4. The quantity of water diverted at the new point of diversion shall not exceed the quantity of water lawfully available at the original point of diversion.

Dated at Salem, Oregon this MAY 25 2018 ,



Dwight French, Water Right Services Administrator, for
Thomas M. Byler, Director
Oregon Water Resources Department

Mailing date: MAY 29 2018