

STATE OF OREGON

COUNTY OF BENTON

ORDER APPROVING A TEMPORARY CHANGE IN PLACE OF USE  
AND POINT OF DIVERSION

Pursuant to ORS 540.523, 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, TEMPORARY TRANSFER 9063 submitted by

TOM AND JUDY WARDEN  
29785 SMITH LOOP  
CORVALLIS, OREGON 97333.

The FIRST right to be modified, as evidenced by a PORTION of Certificate 33242, was perfected under Permit 30302 with a date of priority of MARCH 15, 1965. The right allows the use of MUDDY CREEK, a tributary of MARYS RIVER, for IRRIGATION OF 22.2 ACRES. The amount of water to which this right is entitled is limited to an amount actually beneficially used and shall not exceed 0.22 cubic foot per second, if available at the authorized point of diversion: NE¼ SE¼ AS PROJECTED WITHIN BARCLAY DLC 42, SECTION 4, T 14 S, R 5 W, W.M.; 1075 FEET SOUTH AND 3125 FEET WEST FROM THE SE CORNER, DLC 70, 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 per acre 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:

SW¼ NW¼            22.2 ACRES  
AS PROJECTED WITHIN STARK DLC 70  
SECTION 3  
TOWNSHIP 14 SOUTH, RANGE 5 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 SECOND right to be modified, as evidenced by Certificate 33243, was perfected under Permit 19188 with a date of priority of FEBRUARY 17, 1950. The right allows the use of MUDDY CREEK, a tributary of MARYS RIVER, for IRRIGATION OF 60.0 ACRES. The amount of water to which this right is entitled is limited to an amount actually beneficially used and shall not exceed 0.75 cubic foot per second, if available at the authorized point of diversion: NW¼ SE¼ AS PROJECTED WITHIN BARCLAY DLC 42, SECTION 4, T 14 S, R 5 W, W.M.; 1075 FEET SOUTH AND 3125 FEET WEST FROM THE SE CORNER, DLC 70, 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 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 per acre 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:

SW $\frac{1}{4}$  NW $\frac{1}{4}$  5.2 ACRES  
AS PROJECTED WITHIN STARK DLC 70  
NW $\frac{1}{4}$  SW $\frac{1}{4}$  21.8 ACRES  
SW $\frac{1}{4}$  SW $\frac{1}{4}$  6.0 ACRES  
BOTH AS PROJECTED WITHIN BARCLAY DLC 42  
SECTION 3

SE $\frac{1}{4}$  NE $\frac{1}{4}$  8.0 ACRES  
AS PROJECTED WITHIN STARK DLC 70  
E $\frac{1}{2}$  NE $\frac{1}{4}$  SE $\frac{1}{4}$  13.0 ACRES  
E $\frac{1}{2}$  SE $\frac{1}{4}$  SE $\frac{1}{4}$  6.0 ACRES  
BOTH AS PROJECTED WITHIN BARCLAY DLC 42  
SECTION 4  
TOWNSHIP 14 SOUTH, RANGE 5 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 TEMPORARILY change the place of use to:

CERTIFICATE 33242  
SE $\frac{1}{4}$  NW $\frac{1}{4}$  20.0 ACRES  
SW $\frac{1}{4}$  NE $\frac{1}{4}$  2.2 ACRES  
SECTION 29  
TOWNSHIP 12 SOUTH, RANGE 5 WEST, W.M.

CERTIFICATE 33242  
SW $\frac{1}{4}$  NE $\frac{1}{4}$  31.8 ACRES  
NW $\frac{1}{4}$  NE $\frac{1}{4}$  4.2 ACRES  
SE $\frac{1}{4}$  NE $\frac{1}{4}$  24.0 ACRES  
SECTION 29  
TOWNSHIP 12 SOUTH, RANGE 5 WEST, W.M.

The applicant also proposes to TEMPORARILY change the point of diversion to:

SW¼ NW¼, SECTION 29, T 12 S, R 5 W, W.M.; 62 FEET NORTH AND 618 FEET EAST FROM SW CORNER, SW¼ NW¼, SECTION 29.

THESE TEMPORARY CHANGES TO AN EXISTING WATER RIGHT MAY BE MADE PROVIDED THE FOLLOWING CONDITIONS ARE MET BY THE WATER USER:

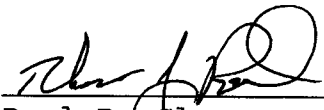
1. The change is temporary. The change shall be effective upon issuance of this order.
2. The former place of use **shall not** be irrigated as part of this water right during the 2002 irrigation season.
3. The use shall revert to the authorized place of use at the end of the 2002 irrigation season.
4. Water shall be acquired from the same surface water source as the original point of diversion.
5. 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.
6. **Prior** to the diverting of water at the new point of diversion, the water user **shall** install an in-line flow meter or other suitable device for measuring and recording the quantity of water used. The type and plans of the measuring device must be approved by the Department prior to beginning construction and shall be installed under the general supervision of the Department.

In addition, the water user shall allow the Watermaster access to the original point of diversion to measure or inspect flows.

7. The water user shall install and maintain a fish screen. The type and plans of the screen must be approved by the Oregon Department of Fish and Wildlife prior to beginning of construction and shall be installed under the general supervision of the Department of Fish and Wildlife.
8. The use of the remaining water right described by Certificate 33242 shall continue to be in accordance with the terms and conditions of Certificate 33242.
10. The approval of this temporary transfer may be revoked or modified if the Department finds the change causes injury to any existing water right.

WITNESS the signature of the Water Resources

Director, affixed MAY 22 2002.

  
Paul R. Cleary, Director