

## STATE OF OREGON

## COUNTY OF JOSEPHINE

ORDER APPROVING A CHANGE IN USE AND PLACE OF USE,  
AND CANCELING PORTIONS OF THE WATER RIGHTS,  
AND RESCINDING AN ORDER

Pursuant to ORS 540.510 to 540.530 and ORS 537.348, 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 7472 submitted by

OREGON WATER TRUST  
111 SW FRONT AVENUE, SUITE 404  
PORTLAND, OREGON 97204.

The rights to be modified were confirmed by decree of the Circuit Court of the State of Oregon for JOSEPHINE County. The decree is recorded in the Order Record of the Water Resources Director in Volume 1, at Page 252. The date of priority is 1857.

The first right to be modified is evidenced by Certificate 30547. The right allows the use of SUCKER CREEK, a tributary of the ILLINOIS RIVER, for IRRIGATION of 0.5 ACRE. The amount of water to which this right is entitled is limited to an amount actually beneficially used and shall not exceed 0.01 cubic foot per second, or its equivalent in case of rotation, measured at the point of diversion from the source, if available at the authorized point of diversion: BRIGGS-TANNERY DITCH.

The second right to be modified is evidenced by a portion of Certificate 43599. The right allows the use of SUCKER CREEK, a tributary of the ILLINOIS RIVER, for IRRIGATION of 5.7 ACRES. The amount of water to which this right is entitled is limited to an amount actually beneficially used and shall not exceed 0.11 cubic foot per second, or its equivalent in case of rotation, measured at the point of diversion from the source, if available at the authorized point of diversion: BRIGGS-TANNERY DITCH, NW¼ SE¼, SECTION 31, T 39 S, R 7 W, WM.

The third right to be modified is evidenced by a portion of Certificate 51732. The right allows the use of SUCKER CREEK, a tributary of the ILLINOIS RIVER, 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 0.04 cubic foot per second, or its equivalent in case of rotation, measured at the point of diversion from the source, if available at the authorized point of diversion: BRIGGS-TANNERY DITCH, NW¼ SE¼, SECTION 31, T 39 S, R 7 W, WM; 2500 FEET NORTH AND 300 FEET EAST FROM THE S¼ CORNER, SECTION 31.

The authorized place of use is located as follows:

	CERTIFICATE		
	<u>30547</u>	<u>43599</u>	<u>51732</u>
LOT 2 (NE¼ SE¼)	0.5 ACRE	5.7 ACRES	2.0 ACRES

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 USE and PLACE OF USE to INSTREAM USE FOR FISHERIES ENHANCEMENT in SUCKER CREEK from the authorized point of diversion, BRIGGS-TANNERY DITCH, NW¼ SE¼, SECTION 31, T 39 S, R 7 W, WM; 2500 FEET NORTH AND 300 FEET EAST FROM THE S¼ CORNER, SECTION 31, to the mouth, in the NE¼ SW¼, SECTION 35, T 39 S, R 8 W, WM.

The Director's findings under OAR 690-77-075(2) are affirmative.

Affidavits were received from Donald and Karen Lorenson, owners of certain land and the water rights appurtenant to it. The portions of the water rights not involved in this proposed change have been abandoned and are requested to be canceled.

The first abandoned water right is a portion of the right described by Certificate 43599. The abandoned water right is for the use of 0.055 cubic foot per second from Sucker Creek, a tributary of the Illinois River. The date of priority is 1857. The abandoned water right is for Irrigation of 2.75 Acres.

The second abandoned water right is a portion of the right described by Certificate 51732. The abandoned water right is for the use of 0.01 cubic foot per second from Sucker Creek, a tributary of the Illinois River. The date of priority is 1857. The abandoned water right is for Irrigation of 0.5 acre.

A description of the place of use of the abandoned right is as follows:

CERTIFICATE 43599

Tract 2: SE¼ SE¼ 1.95 ACRES

Tract 3: NE¼ SE¼ 0.8 ACRE  
SECTION 35  
TOWNSHIP 39 SOUTH, RANGE 8 WEST, W.M.

CERTIFICATE 51732

LOT 2 (NE¼ SE¼) 0.5 ACRE  
SECTION 35  
TOWNSHIP 39 SOUTH, RANGE 8 WEST, W.M.

ORS 540.621 provides: "Whenever the owner of a perfected and developed water right certifies under oath to the Water Resources Commission that the water right has been abandoned by the owner and that the owner desires cancellation thereof, the commission shall enter an order canceling the water right."

The applicant, after consultation with the Department, requests the earlier approval of this transfer application be rescinded, and this modified order be issued.

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

1. The proposed change shall be effective upon the date of this order.
2. The stream channel immediately below the original point of diversion loses water flow, in some years, due to gravel conditions. The water flow returns prior to the stream crossing the west line of Section 31, T 39 S, R 7 W, WM. No regulatory action will be taken to maintain the flow between the original point of diversion and the west line of Section 31, if the instream flow is present at the original point of diversion and the west line of Section 31.
3. This instream right shall replace a portion of the existing instream water right for Sucker Creek, evidenced by Certificate 62323, during the period from April 1 to October 31, of each year.
4. The former place of use shall no longer be irrigated as a part of this water right.

An instream flow of 0.16 cubic foot per second will be maintained, during the period from April 1 to October 31 of each year, in Sucker Creek, tributary to the East Fork Illinois River, from the authorized point of diversion in the NW¼ SE¼, SECTION 31, T 39 S, R 7 W, WM; BRIGGS-TANNERY DITCH, 2500 FEET NORTH AND 300 FEET EAST FROM THE S¼ CORNER, SECTION 31, to the mouth, in the NE¼ SW¼, SECTION 35, T 39 S, R 8 W, WM, with a priority date of 1857.

The order of the Water Resources Director, entered May 13, 1997, at Special Order Volume 51, Pages 473 to 476, approving Transfer Application 7472, is rescinded and replaced by this order.

The portions of the water rights requested to be canceled are canceled and of no further force or effect.

Certificates 30547, 43599, and 51732 are canceled. A new certificate will be issued to describe that portion of these rights NOT involved in this transfer or partial cancellation. In addition, a new certificate confirming the instream water right will be issued.

WITNESS the signature of the Water Resources Director, affixed 4/13/98.



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Martha O. Pagel, Director