

STATE OF OREGON

COUNTY OF JACKSON

ORDER APPROVING A CHANGE IN POINT OF DIVERSION TO A POINT OF
APPROPRIATION, PLACE OF USE AND DIMINUTION

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 9128 submitted by

LUCILLE M. LEHMAN
C/O VERN GEBHARD
13437 ANTIOCH ROAD
WHITE CITY, OREGON 97503

The FIRST right to be modified, as evidenced by Certificate 8979, was perfected under Permit 7145 with a date of priority of APRIL 25, 1925. The right allows the use of ROGUE RIVER, a tributary of PACIFIC OCEAN, for IRRIGATION 85.5 ACRES AND STOCK USE. The amount of water to which this right is entitled is limited to an amount actually beneficially used and shall not exceed 1.12 cubic feet per second, if available at the authorized point of diversion: NW $\frac{1}{4}$ SW $\frac{1}{4}$, SECTION 15, TOWNSHIP 36 SOUTH, RANGE 2 WEST, W.M., 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 use shall conform to any reasonable rotation system ordered by the proper state officer.

The authorized place of use is located as follows:

SE $\frac{1}{4}$ SW $\frac{1}{4}$ 3.0 ACRES
NW $\frac{1}{4}$ SE $\frac{1}{4}$ 0.2 ACRES
SW $\frac{1}{4}$ SE $\frac{1}{4}$ 28.2 ACRES
SE $\frac{1}{4}$ SE $\frac{1}{4}$ 1.5 ACRES

SECTION 16

NE $\frac{1}{4}$ NE $\frac{1}{4}$ 8.3 ACRES
NW $\frac{1}{4}$ NE $\frac{1}{4}$ 38.3 ACRES
SW $\frac{1}{4}$ NE $\frac{1}{4}$ 5.1 ACRES
NE $\frac{1}{4}$ NW $\frac{1}{4}$ 0.9 ACRES

SECTION 21

TOWNSHIP 36 SOUTH, RANGE 2 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 of 7.4 Acres (being; NW $\frac{1}{4}$ SE $\frac{1}{4}$ 0.2 ACRES, SW $\frac{1}{4}$ SE $\frac{1}{4}$ 2.0 ACRES, SECTION 16; NE $\frac{1}{4}$ NE $\frac{1}{4}$ 3.5 ACRES, NW $\frac{1}{4}$ NE $\frac{1}{4}$ 1.7 ACRES, SECTION 21, TOWNSHIP 36 SOUTH, 2 WEST, W.M.)to:

SW $\frac{1}{4}$ NE $\frac{1}{4}$ 7.4 ACRES

SECTION 21

TOWNSHIP 36 SOUTH, RANGE 2 WEST, W.M.

The applicant further proposes to change the point of diversion to A POINT OF APPROPRIATION:

SW $\frac{1}{4}$ SE $\frac{1}{4}$, SECTION 16, TOWNSHIP 36 SOUTH, RANGE 2 WEST, W.M.; 980 FEET NORTH AND 1710 FEET WEST FROM SE CORNER SECTION 16.

The Department has determined that the criteria for a change from a surface water point of diversion to a groundwater point of appropriation are met.

The SECOND right to be modified, as evidenced by Certificate 9096, was perfected under Permit 10018 with a date of priority of JANUARY 22,1931. The right allows the use of AGATE SLOUGH, a tributary of the ROGUE RIVER, for IRRIGATION OF 85.5 ACRES. The amount of water to which this right is entitled is limited to an amount actually beneficially used and shall not exceed 1.06 cubic feet per second, if available at the authorized point of diversion: SE $\frac{1}{4}$ SW $\frac{1}{4}$, SECTION 15, TOWNSHIP 36 SOUTH, RANGE 2 WEST, W.M., or its equivalent in case of rotation, measured at the point of diversion from the source.

The use shall conform to any reasonable rotation system ordered by the proper state officer.

The authorized place of use is located as follows:

SE $\frac{1}{4}$ SW $\frac{1}{4}$	3.0 ACRES
NW $\frac{1}{4}$ SE $\frac{1}{4}$	0.2 ACRES
SW $\frac{1}{4}$ SE $\frac{1}{4}$	28.2 ACRES
SE $\frac{1}{4}$ SE $\frac{1}{4}$	1.5 ACRES

SECTION 16

NE $\frac{1}{4}$ NE $\frac{1}{4}$	8.3 ACRES
NW $\frac{1}{4}$ NE $\frac{1}{4}$	38.3 ACRES
SW $\frac{1}{4}$ NE $\frac{1}{4}$	5.1 ACRES
NE $\frac{1}{4}$ NW $\frac{1}{4}$	0.9 ACRES

SECTION 21

TOWNSHIP 36 SOUTH, RANGE 2 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.

An affidavit was received from Lucille M. Lehman, owners of certain land and the water right appurtenant to it. The landowner requests that the lands under Certificate 9096 be DIMINISHED FROM PRIMARY IRRIGATION TO SUPPLEMENTAL IRRIGATION.

The applicant proposes to change the place of use of 7.4 Acres (being; NW¼ SE¼ 0.2 ACRES, SW¼ SE¼ 2 ACRES, SECTION 16; NE¼ NE¼ 3.5 ACRES, NW¼ NE¼ 1.7 ACRES, SECTION 21)to:

SW¼ NE¼ 7.4 ACRES
SECTION 21
TOWNSHIP 36 SOUTH, RANGE 2 WEST, W.M.

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, 2006.
2. The quantity of water diverted at the new point of appropriation (well), together with the quantity diverted at the old point of diversion, shall not exceed the quantity of water lawfully available from the original point of appropriation or 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 or aquifer as the original point of diversion.
5. The new point of diversion shall retain the original date of priority. However, if within five years after approving the transfer the department finds that the transfer results in substantial interference with existing ground water rights that would not have occurred in the absence of the transfer, the new point of diversion shall be subordinate to any existing right injured by the transferred water right.

6. The department shall approve an application to return to the last authorized surface water point of diversion if a holder of a water use subject to transfer submits an application to the department within five years after the department approves a transfer under this section ORS 540.531 (5).

Certificate 8979 AND 9096 ARE canceled. When satisfactory proof of the completed changes are received, new certificates confirming these water rights will be issued. The new certificate for the water right as evidenced by Certificate 9096 shall reflect the diminishment of the right to Supplemental Irrigation.

WITNESS the signature of the Water Resources

Director, affixed MARCH 2, 2005.



For Phillip C Ward, Director