

STATE OF OREGON

COUNTY OF JOSEPHINE

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

Pursuant to ORS 540.510 to 540.530 and ORS 540.531, 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 9047, submitted by

DOUGLAS FRANK
8940 HOLLAND LOOP ROAD
CAVE JUNCTION, OREGON 97523.

The right to be modified was confirmed by decree of the Circuit Court of the State of Oregon for JOSEPHINE County as evidenced by a PORTION of Certificate 7139. The decree is recorded in the Order Record of the Water Resources Director in Volume 1 AND 5, at Page 252 AND 397. The date of priority is 1857 FOR TRACT #1 AND 1908 FOR TRACT #4.

The right allows the use of SUCKER CREEK, a tributary of EAST FORK ILLINOIS RIVER, for IRRIGATION OF 4.8 ACRES, STOCK, AND

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.

DOMESTIC FOR TRACT #1, AND IRRIGATION of 1.3 ACRES FOR TRACT #4. The amount of water to which this right is entitled is limited to an amount actually beneficially used and shall not exceed 0.096 CUBIC FOOT PER SECOND (CFS) FOR TRACT #1 and 0.016 CFS FOR TRACT #4, if available at the authorized point of diversion: NE¼ NW¼, SECTION 32, T 39 S, R 7 W, W.M.; 250 FEET SOUTH AND 100 FEET WEST FROM THE N¼ CORNER OF SECTION 32, or its equivalent in case of rotation, measured at the point of diversion from the source, and that the use of said water for irrigation purposes shall be confined to the irrigation season APRIL 1 TO OCTOBER 31 each year.

The authorized place of use is located as follows:

TRACT #1
NW¼ SW¼ 2.8 ACRES

TRACT #4
NW¼ SW¼ 0.5 ACRE
SECTION 28

TRACT #1
NE¼ SE¼ 2.0 ACRES

TRACT #4
NE¼ SE¼ 0.8 ACRE
SECTION 29
TOWNSHIP 39 SOUTH, RANGE 7 WEST, W.M.

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 place of 0.8 acre (NE¼ SE¼) to:

TRACT #4
NW¼ SW¼ 0.80 ACRE
SECTION 28
TOWNSHIP 39 SOUTH, RANGE 7 WEST W.M.

The applicant further proposes to change the point of diversion to a hydraulically connected sump located:

SW¼ NW¼, SECTION 28, T 39 S, R 7 W, W.M.; 380 FEET
NORTH AND 718 FEET EAST FROM W¼ CORNER SECTION 28.

The new point of diversion (sump) is approximately 10 feet deep and occurs in poorly sorted silty sand with gravels and cobbles. The sump is hydraulically connected to Sucker Creek as determined by Ivan Gall, Professional Registered Geologist.

THIS CHANGE TO AN EXISTING WATER RIGHT MAY BE MADE PROVIDED THE FOLLOWING CONDITIONS ARE MET BY THE WATER USER:

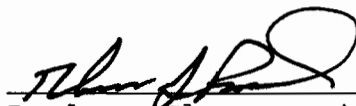
1. The proposed change shall be completed on or before October 1, 2004.
2. The quantity of water diverted at the new point of diversion (sump) shall not exceed the quantity of water lawfully available at the original point of diversion.
3. **Prior** to diverting water at the new point of diversion (sump), the water user **shall** install and maintain a properly functioning totalizing flow meter for measuring and recording the quantity of water diverted. The type and plans of the headgate and measuring device must be approved by the Watermaster prior to beginning construction and shall be installed under the general supervision of the Watermaster.

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 new point of diversion (sump) 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 (sump) shall be subordinate to any existing right injured by the transferred water right.
7. 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 7139 is canceled. A new certificate will be issued to confirm that portion of the right NOT involved in transfers T-8471, T-8620, T-8918, T-9047 and T-9048. 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 APR 18 2003.



Paul R. Cleary, Director