

STATE OF OREGON
COUNTY OF JOSEPHINE

Rescinded
by V52
p391

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

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 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 FLOW AUGMENTATION 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.

Affidavits were received from Donald and Karen Lorensen, 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, requested 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 completed on or before October 1, 1998.
2. The quantity of water used for flow augmentation shall not exceed a rate of 0.16 cfs during the period April 1 to November 1 of each year.
3. The applicant shall work with the Department to develop and implement a strategy for monitoring the instream flow.
4. When required by the Department, the applicant shall install and maintain a suitable device for measuring and recording the quantity of water at the authorized point of diversion. 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.

5. 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 flow is present at the original point of diversion and the west line of Section 31.
6. The former place of use shall no longer be irrigated as a part of this water right.

The order of the Water Resources Director, entered June 6, 1996, at Special Order Volume 51, Pages 299 to 302, 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 were cancelled. A new certificate was issued to describe that portion of these rights NOT involved in this transfer or partial cancellation. When satisfactory proof of the completed change is received, a new certificate confirming this water right will be issued.

WITNESS the signature of the Water Resources
Director, affixed May 13, 1997.



Martha O. Pagel, Director