

STATE OF OREGON

COUNTY OF WASCO

ORDER APPROVING A CHANGE IN POINT OF DIVERSION

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 9374 submitted by

JUNE ASHLEY
79828 DODSON ROAD
WAMIC, OREGON 97063

REX DAVIS
28425 S.E. ORIENT DRIVE
GRESHAM, OREGON 97080.

The FIRST right to be modified was confirmed by decree of the Circuit Court of the State of Oregon for WASCO County as evidenced by Certificate 5757. The decree is recorded in the Order Record of the Water Resources Director in Volume 7, at Page 196. The date of priority is 1873.

The right allows the use of THREE MILE CREEK, a tributary of the WHITE RIVER, for IRRIGATION OF 3.0 ACRES. The amount of water to which this right is entitled is limited to an amount actually beneficially used and shall not exceed THREE (3) ACRE FEET PER ACRE during any irrigation season (with the further limitations contained in Paragraph 24 of said decree), if available at the authorized point of diversion from the source, or its equivalent in case of rotation, measured at the point of diversion from the source.

NOTICE OF RIGHT TO PETITION FOR RECONSIDERATION OR JUDICIAL REVIEW

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 authorized place of use is located as follows:

NW¼ NW¼ 3.0 ACRES
SECTION 14
TOWNSHIP 4 SOUTH, RANGE 12 EAST, 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 SECOND right to be modified was confirmed by decree of the Circuit Court of the State of Oregon for WASCO County as evidenced by Certificate 5750. The decree is recorded in the Order Record of the Water Resources Director in Volume 7, at Page 196. The date of priority is 1873.

The right allows the use of THREE MILE CREEK, a tributary of WHITE 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 THREE (3) ACRE FEET PER ACRE during any irrigation season (with the further limitations contained in Paragraph 24 of said decree), if available at the authorized point of diversion from the source, or its equivalent in case of rotation, measured at the point of diversion from the source.

The authorized place of use is located as follows:

NW¼ NW¼ 2.0 ACRES
SECTION 14
TOWNSHIP 4 SOUTH, RANGE 12 EAST, 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 THIRD right to be modified was confirmed by decree of the

Circuit Court of the State of Oregon for WASCO County as evidenced by Certificate 5738. The decree is recorded in the Order Record of the Water Resources Director in Volume 7, at Page 196. The date of priority is 1892.

The right allows the use of THREE MILE CREEK, a tributary of WHITE RIVER, for IRRIGATION OF 3.0 ACRES. The amount of water to which this right is entitled is limited to an amount actually beneficially used and shall not exceed THREE (3) ACRE FEET PER ACRE during any irrigation season (with the further limitations contained in Paragraph 24 of said decree), if available at the authorized point of diversion from the source, or its equivalent in case of rotation, measured at the point of diversion from the source.

The authorized place of use is located as follows:

NE $\frac{1}{4}$ NE $\frac{1}{4}$ 3.0 ACRES
SECTION 15
TOWNSHIP 4 SOUTH, RANGE 12 EAST, 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 POINT OF DIVERSION for the above described rights to:

SW $\frac{1}{4}$ NW $\frac{1}{4}$, SECTION 11, T 4 S, R 11 E, W.M.; 1100 FEET NORTH AND 700 FEET EAST FROM W $\frac{1}{4}$ CORNER, SECTION 11.

Additionally, the applicants have applied under transfer application T-9389 for a change in place of use of the above described 8.0 acres. The new point of diversion in this transfer (T-9374) will serve the new place of use as proposed in T-9389. The proposed "TO" lands under T-9389 would be located within the NW $\frac{1}{4}$ NE $\frac{1}{4}$ and the NE $\frac{1}{4}$ NW $\frac{1}{4}$, Section 17, T 4 S, R 12 E, W.M..

THIS ORDER IS TO BE PROCESSED SIMULTANEOUSLY WITH TRANSFER APPLICATION T-9389 (REX DAVIS AND JUNE ASHLEY) IN ORDER TO PROVIDE CLARITY IN EACH PROPOSED CHANGE AS REQUESTED BY THE APPLICANTS. THE RIGHTS ARE TO BASICALLY RECEIVE WATER AT THE NEW PLACE OF USE WITH THE CURRENT, UNAUTHORIZED, YET NEWLY APPROVED POINT OF DIVERSION.

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

1. The proposed changes shall be completed on or before October 1, 2005.
2. 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.
3. The water users 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. When required by the Department, the water users shall operate and maintain the headgate and measuring device, as needed. The water users shall report total flow figures when requested by the Watermaster. The Watermaster may operate the headgate and monitor the accuracy of the measuring device, as needed.
5. The changes allowed herein are contingent upon the approval of Transfer application T-9389 and are subject to all conditions and limitations contained in the decree.

6. Water shall be acquired from the same surface water source as the original points of diversion.
7. The water users shall install and maintain a fish screen or fish by-pass device. The type and plans of the screen or by-pass device must be approved by the Oregon Department of Fish and Wildlife prior to beginning of construction and shall be installed under the supervision of the Department of Fish and Wildlife.

The water users may participate in the Oregon Department of Fish and Wildlife's cost sharing program for installation of screening and by-pass devices in accordance with ORS 540.525.

Certificates 5738, 5750, and 5757 are cancelled. When satisfactory proof of the completed changes in accordance with the provisions of this and the order for T-9389 are received, new certificates confirming these water rights will be issued.

WITNESS the signature of the Water Resources

Director, affixed APR 08 2004.



Paul R. Cleary, Director