

STATE OF OREGON

COUNTY OF BENTON

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

Pursuant to ORS 540.523, 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, TEMPORARY TRANSFER 9371 submitted by

TOM AND JUDY WARDEN
29785 SMITH LOOP
CORVALLIS, OREGON 97333.

The FIRST right to be modified, as evidenced by a PORTION of Certificate 33242, was perfected under Permit 30302 with a date of priority of MARCH 15, 1965. The right allows the use of the MUDDY CREEK, a tributary of MARYS RIVER, for IRRIGATION of 10.0 ACRES. The amount of water to which this right is entitled is limited to an amount actually beneficially used and shall not exceed 0.097 cubic foot per second, if available at the authorized point of diversion: NE¼ SE¼, AS PROJECTED WITHIN BARCLAY DLC 42, SECTION 4, T 14 S, R 5 W, W.M.; 1075 FEET SOUTH AND 3124 FEET WEST FROM THE SE CORNER, DLC 70, 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 amount of water used for irrigation, together with the amount secured under any other right existing for the same lands, is limited to ONE-EIGHTIETH of one cubic foot per second per acre or its equivalent for each acre irrigated and shall be further limited to a diversion of not to exceed 2½ acre-feet for each acre irrigated during the irrigation season of each year.

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

The authorized place of use is located as follows:

SW¼ NW¼ 10.0 ACRES
AS PROJECTED WITHIN STARK DLC 70
SECTION 3
TOWNSHIP 14 SOUTH, RANGE 5 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 SECOND right to be modified, as evidenced by a PORTION of Certificate 33243, was perfected under Permit 19188 with a date of priority of FEBRUARY 17, 1950. The right allows the use of the MUDDY CREEK, a tributary of MARYS RIVER, for IRRIGATION of 3.3 ACRES. The amount of water to which this right is entitled is limited to an amount actually beneficially used and shall not exceed 0.041 cubic foot per second, if available at the authorized point of diversion: NW¼ SE¼, AS PROJECTED WITHIN BARCLAY DLC 42, SECTION 4, T 14 S, R 5 W, W.M.; 1075 FEET SOUTH AND 3124 FEET WEST FROM THE SE CORNER, DLC 70, or its equivalent in case of rotation, measured at the point of diversion from the source.

The amount of water used for irrigation, together with the amount secured under any other right existing for the same lands, is limited to ONE-EIGHTIETH of one cubic foot per second per acre or its equivalent for each acre irrigated and shall be further limited to a diversion of not to exceed 2½ acre-feet for each

acre irrigated during the irrigation season of each year.

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

The authorized place of use is located as follows:

SE¼ NE¼ 3.3 ACRES
AS PROJECTED WITHIN STARK DLC 70
SECTION 4
TOWNSHIP 14 SOUTH, RANGE 5 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 THIRD right to be modified, as evidenced by Certificate 29694, was perfected under Permit 25511 with a date of priority of MAY 19, 1958. The right allows the use of the MUDDY CREEK, a tributary of the WILLAMETTE RIVER, for IRRIGATION of 48.0 ACRES. The amount of water to which this right is entitled is limited to an amount actually beneficially used and shall not exceed 0.27 cubic foot per second, if available at the authorized point of diversion: NW¼ SW¼, AS PROJECTED WITHIN OWNBY DLC 67, SECTION 29, T 12 S, R 5 W, W.M., or its equivalent in case of rotation, measured at the point of diversion from the source.

The amount of water used for irrigation, together with the amount secured under any other right existing for the same lands, is limited to ONE-EIGHTIETH of one cubic foot per second per acre or its equivalent for each acre irrigated and shall be further limited to a diversion of not to exceed 2½ acre-feet for each acre irrigated during the irrigation season of each year.

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

The authorized place of use is located as follows:

NE $\frac{1}{4}$ SW $\frac{1}{4}$	11.0 ACRES
NW $\frac{1}{4}$ SW $\frac{1}{4}$	11.8 ACRES
SW $\frac{1}{4}$ SW $\frac{1}{4}$	20.2 ACRES
SE $\frac{1}{4}$ SW $\frac{1}{4}$	5.0 ACRES

ALL AS PROJECTED WITHIN OWNBY DLC 67
SECTION 29
TOWNSHIP 12 SOUTH, RANGE 5 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 FOURTH right to be modified, as evidenced by a portion of Certificate 44253, was perfected under Permit 37656 with a date of priority of SEPTEMBER 16, 1974. The right allows the use of the MUDDY CREEK, a tributary of MARYS RIVER, for IRRIGATION of 12.0 ACRES. The amount of water to which this right is entitled is limited to an amount actually beneficially used and shall not exceed 0.15 cubic foot per second, if available at the authorized point of diversion: NW $\frac{1}{4}$ SW $\frac{1}{4}$, AS PROJECTED WITHIN OWNBY DLC 67, SECTION 29, T 12 S, R 5 W, W.M.; 950 FEET SOUTH AND 660 FEET EAST FROM THE NW CORNER, OWNBY DLC 67, or its equivalent in case of rotation, measured at the point of diversion from the source.

The amount of water used for irrigation, together with the amount secured under any other right existing for the same lands, is limited to ONE-EIGHTIETH of one cubic foot per second per acre or its equivalent for each acre irrigated and shall be further limited to a diversion of not to exceed 2 $\frac{1}{2}$ acre-feet for each acre irrigated during the irrigation season of each year.

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

The authorized place of use is located as follows:

SW $\frac{1}{4}$ SW $\frac{1}{4}$ 9.6 ACRES
SE $\frac{1}{4}$ SW $\frac{1}{4}$ 2.4 ACRES
ALL AS PROJECTED WITHIN OWNBY DLC 67
SECTION 29
TOWNSHIP 12 SOUTH, RANGE 5 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 TEMPORARILY change the place of use to:

CERTIFICATE 33242

SE $\frac{1}{4}$ NW $\frac{1}{4}$ 10.0 ACRES
SECTION 29
TOWNSHIP 12 SOUTH, RANGE 5 WEST, W.M.

CERTIFICATE 33243

SE $\frac{1}{4}$ NW $\frac{1}{4}$ 3.3 ACRES
SECTION 29
TOWNSHIP 12 SOUTH, RANGE 5 WEST, W.M.

CERTIFICATE 29694

SW $\frac{1}{4}$ NE $\frac{1}{4}$ 28.7 ACRES
SE $\frac{1}{4}$ NE $\frac{1}{4}$ 19.3 ACRES
SECTION 29
TOWNSHIP 12 SOUTH, RANGE 5 WEST, W.M.

CERTIFICATE 44253

SE $\frac{1}{4}$ NW $\frac{1}{4}$ 6.9 ACRES
SW $\frac{1}{4}$ NE $\frac{1}{4}$ 5.1 ACRES
SECTION 29
TOWNSHIP 12 SOUTH, RANGE 5 WEST, W.M.

The applicant further proposes to TEMPORARILY change the point of diversion to:

SW¼ NW¼, SECTION 29, T 12 S, R 5 W, W.M.; 62 FEET NORTH AND 618 FEET EAST FROM THE W¼, SECTION 29.

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

1. These changes are temporary. These changes shall be effective upon issuance of this order.
2. The former place of use **shall not** be irrigated as part of this water right during the 2003 irrigation season.
3. The use shall revert to the authorized place of use at the end of the 2003 irrigation season.
4. Water shall be acquired from the same surface water source as the original point of diversion.
5. 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.
6. **Prior** to diverting water, the water user **shall** install an in-line flow meter or other suitable device for measuring and recording the quantity of water used. 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.
7. The approval of this temporary transfer may be revoked or modified if the Department finds the change causes injury to any existing water right.

8. The use of the remaining water right described by Certificates 33242, 33243 and 44253 shall continue to be in accordance with the terms and conditions of Certificates 33242, 33243 and 44253.
9. The water user **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 general supervision of the Department of Fish and Wildlife.

The water user 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.

WITNESS the signature of the Water Resources

Director, affixed **MAY 13 2003** .



Paul R. Cleary, Director