

STATE OF OREGON

COUNTY OF JOSEPHINE

ORDER APPROVING A CHANGE IN POINT OF DIVERSION

Pursuant to ORS 540.510 to 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 9071 submitted by

PATSY A. WARGIN  
4295 HOLLAND LOOP ROAD  
CAVE JUNCTION, OREGON 97523.

The first 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 7148. The decree is recorded in the Order Record of the Water Resources Director in Volume 1 AND 5, at Pages 253 AND 398. The date of priority is 1872 FOR TRACT 1.

The right allows the use of SUCKER CREEK, a tributary of EAST FORK ILLINOIS RIVER, for IRRIGATION OF 5.04 ACRES. The amount of water to which this right is entitled is limited to an amount actually beneficially used and shall not exceed 0.10 CUBIC FOOT PER SECOND, if available at the authorized point of diversion, or its equivalent in case of rotation, measured at the point of diversion from the source, and that the use of water for irrigation purposes shall be confined to the season April 1 to

**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.

T-9071.TRV

Page 1 of 4 Special Order Volume 57, Page 6  
*see V. 61 p. 519 ext. of time*

October 31 of each year. Note: this right is supplemented by water from Gravelly Slough under a priority date of 1903 and from springs in SE¼ of Section 36, T 39 S, R 8 W, W.M. under a priority date of 1878.

The authorized place of use is located as follows:

NE¼ NW¼ 5.04 ACRES  
SECTION 1

TOWNSHIP 40 SOUTH, RANGE 8 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 second right to be modified, as evidenced by a PORTION of Certificate 63788, was perfected under Permit 4285 with a date of priority of NOVEMBER 1, 1919. The right allows the use of SUCKER CREEK, a tributary of the ILLINOIS RIVER, for IRRIGATION OF 5.04 ACRES. The amount of water to which this right is entitled is limited to an amount actually beneficially used and shall not exceed 0.07 CUBIC FOOT PER SECOND, if available at the original point of diversion: NW¼ SW¼, SECTION 31, T 39 S, R 7 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.

The authorized point of diversion is located

NW¼ SW¼, SECTION 31, T 39 S, R 7 W, W.M.; 1420 FEET NORTH AND 75 FEET EAST FROM THE SW CORNER OF SECTION 31.

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 $\frac{1}{4}$  NW $\frac{1}{4}$  5.04 ACRES  
SECTION 1

TOWNSHIP 40 SOUTH, RANGE 8 WEST, W.M.

The applicant proposes to change the point of diversion to wells located:

WELL 1 (WELL LOG# 41845) - NE $\frac{1}{4}$  NW $\frac{1}{4}$ , SECTION 1, T 40 S, R 8 W, W.M.; 126.47 FEET NORTH AND 79.83 FEET WEST OF THE NW CORNER OF DLC 46.

WELL 2 (WELL LOG #45122) - NE $\frac{1}{4}$  NW $\frac{1}{4}$ , SECTION 1, T 40 S, R 8 W, W.M.; 261.47 FEET NORTH AND 641.25 FEET EAST OF THE NW CORNER OF DLC 46.

An affidavit was received from Patsy Ann Wargin, owner of certain land and the water right appurtenant to it. The landowner requests a portion of a water right be DIMINISHED FROM PRIMARY IRRIGATION TO SUPPLEMENTAL IRRIGATION.

The portion is described by Certificate 63788, State Record of Water Right Certificates. The date of priority is NOVEMBER 1, 1919. The water use was for IRRIGATION OF 5.04 ACRES from, SUCKER CREEK, tributary to the ILLINOIS RIVER. The amount used was 0.07 cubic foot per second.

The DIMINISHED portion is located as follows:

NE $\frac{1}{4}$  NW $\frac{1}{4}$  5.04 ACRES  
SECTION 1

TOWNSHIP 40 SOUTH, RANGE 8 WEST, W. M.

OAR 690-320-0070 (2) provides: "A primary right may, at the request of the owner of the water right, be diminished to a supplemental status to allow for a new primary right application from a more dependable source of water"

THIS CHANGE 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, 2004.
2. The quantity of water diverted at the new point of diversion (well), together with that diverted at the old point of diversion, shall not exceed the quantity of water lawfully available at the original point of diversion.
3. The water user shall install and maintain headgates, in-line flow meters, weirs, or other suitable devices for measuring and recording the quantity of water diverted. The type and plans of the headgates and measuring devices 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 as the original point of diversion.

That portion of Certificate 63788 requested to be diminished is diminished to supplemental irrigation.

Certificates 7148 and 63788 are cancelled. New certificates will be issued to confirm those portions of these rights NOT involved in this transfer and diminution. When satisfactory proof of the completed change is received, new certificates confirming these water rights will be issued.

WITNESS the signature of the Water Resources

Director, affixed JAN 02 2003

  
Paul R. Cleary, Director