

STATE OF OREGON

COUNTY OF WASCO

ORDER APPROVING CHANGES IN USE, PLACE OF USE
AND PARTIAL CANCELLATION OF A WATER RIGHT

Pursuant to ORS 537.348 and 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 8595 submitted by

OREGON WATER TRUST
111 SW NAITO PARKWAY, SUITE 404
PORTLAND, OREGON 97204.

The FIRST right to be modified, as evidenced by a PORTION of Certificate 4860, was perfected under Permit 4320 with a date of priority of NOVEMBER 25, 1919. The right allows the use of EIGHT MILE CREEK, a tributary of FIFTEEN MILE CREEK, for IRRIGATION OF 0.3 ACRE. The amount of water to which this right is entitled is limited to an amount actually beneficially used and shall not exceed 0.004 cubic foot per second, if available at the authorized point of diversion: SW $\frac{1}{4}$ SE $\frac{1}{4}$, SECTION 19, T 1 S, R 13 E, W.M.; 290 FEET NORTH AND 2200 FEET WEST FROM THE SE CORNER, SECTION 19, 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 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 SE¼ 0.3 ACRE
SECTION 19
TOWNSHIP 1 SOUTH, RANGE 13 EAST, 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 was confirmed by decree of the Circuit Court of the State of Oregon for WASCO County as evidenced by a PORTION of Certificate 5682. The decree is recorded in the Order Record of the Water Resources Director in Volume 7, at Page 406. The date of priority is 1895 for Tract #2 and 1901 for Tract #3.

The right allows the use of EIGHT MILE CREEK, a tributary of FIFTEEN MILE CREEK, for IRRIGATION OF 7.1 ACRES. The amount of water to which this right is entitled is limited to an amount actually beneficially used and shall not exceed 0.09 cubic foot per second, if available at the authorized point of diversion: SW¼ SE¼, SECTION 19, T 1 S, R 13 E, W.M.; 290 FEET NORTH AND 2200 FEET WEST FROM THE SE CORNER, SECTION 19, 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 for the same lands, is limited to a diversion of not to exceed 3.0 acre-feet for each acre irrigated during the irrigation season of each year.

The authorized place of use is located as follows:

TRACT #2

NE $\frac{1}{4}$ SW $\frac{1}{4}$ 1.3 ACRES

SW $\frac{1}{4}$ SW $\frac{1}{4}$ 2.1 ACRES

SECTION 20

TOWNSHIP 1 SOUTH, RANGE 13 EAST, W.M.

TRACT #3

SW $\frac{1}{4}$ SE $\frac{1}{4}$ 0.4 ACRE

SE $\frac{1}{4}$ SE $\frac{1}{4}$ 3.3 ACRES

SECTION 19

TOWNSHIP 1 SOUTH, RANGE 13 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, as evidenced by a PORTION of Certificate 38189, was perfected under Permit 33396 with a date of priority of MARCH 28, 1968. The right allows the use of EIGHT MILE CREEK, a tributary of FIFTEEN MILE CREEK, for IRRIGATION OF 6.9 ACRES. The amount of water to which this right is entitled is limited to an amount actually beneficially used and shall not exceed 0.09 cubic foot per second, if available at the authorized point of diversion: SE $\frac{1}{4}$ SE $\frac{1}{4}$, SECTION 19, NW $\frac{1}{4}$ NE $\frac{1}{4}$, SECTION 30, T 1 S, R 13 E, W.M.; 1920 FEET NORTH AND 330 FEET EAST; 1270 FEET NORTH AND 1890 FEET EAST; BOTH FROM THE SW CORNER, NE $\frac{1}{4}$ NW $\frac{1}{4}$, SECTION 30, 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 3.0 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:

SE $\frac{1}{4}$ SE $\frac{1}{4}$ 1.6 ACRES
SECTION 19

SW $\frac{1}{4}$ SW $\frac{1}{4}$ 4.1 ACRES
SE $\frac{1}{4}$ SW $\frac{1}{4}$ 0.5 ACRE
SECTION 20

NW $\frac{1}{4}$ NE $\frac{1}{4}$ 0.6 ACRE
NE $\frac{1}{4}$ NW $\frac{1}{4}$ 0.1 ACRE
SECTION 30

TOWNSHIP 1 SOUTH, RANGE 13 EAST, 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 change the USE and PLACE OF USE to INSTREAM USE FOR FISHERIES ENHANCEMENT in EIGHT MILE CREEK. The stream reach is from the authorized points of diversion, being SW $\frac{1}{4}$ SE $\frac{1}{4}$, SECTION 19, T 1 S, R 13 E, W.M.; 290 FEET NORTH AND 2200 FEET WEST FROM THE SE CORNER, SECTION 19 and SE $\frac{1}{4}$ SE $\frac{1}{4}$, SECTION 19, NW $\frac{1}{4}$ NE $\frac{1}{4}$, SECTION 30, T 1 S, R 13 E, W.M.; 1920 FEET NORTH AND 3330 FEET EAST; 1270 FEET NORTH AND 1890 FEET EAST; BOTH FROM THE SW CORNER, NE $\frac{1}{4}$ NW $\frac{1}{4}$, SECTION 30 (all approximately River Mile 18) to the mouth of Eight Mile Creek in the SE $\frac{1}{4}$ SE $\frac{1}{4}$, SECTION 32, T 2 N, R 14 E, W.M. (River Mile 2.75 on Fifteen Mile Creek).

The applicant proposes the instream flow be for a rate of 0.184 cubic foot per second from June 1 to September 28 of each year.

The applicant proposes to replace portions of the instream water rights for Eight Mile Creek, evidenced by Certificates 64743 and 75565 for the stream reach and period described above.

The Director finds, in accordance with OAR 690-77-075(2):

1. The amount and timing of the proposed instream flow is allowable within the limits and use of the original water right; and,
2. The proposed reaches are appropriate considering;
 - a. The instream water right begins at the recorded point of diversion;
 - b. The location of confluences with other streams downstream of the point of diversion; and,
 - c. There are no known areas of natural loss of streamflow to the river bed.

An affidavit was received from Todd Davis, owner of certain land and the water right appurtenant to it. The affidavit voluntarily cancels a portion of the water right because it is a right that is supplemental to the portion of the primary water right that is being transferred to instream use.

The portion is described by Certificate 38188, State Record of Water Right Certificates. The date of priority is May 13, 1968. The portion to be canceled is for water use for supplemental irrigation of 14.3 acres from a well, in the Eight Mile Creek Basin. The amount used for the portion to be canceled was 0.18 cubic foot per second.

The portion that is subject to this voluntary cancellation is located as follows:

SW $\frac{1}{4}$ SE $\frac{1}{4}$ 0.4 ACRE
SE $\frac{1}{4}$ SE $\frac{1}{4}$ 5.2 ACRES

SECTION 19

NE $\frac{1}{4}$ SW $\frac{1}{4}$ 1.3 ACRES
SW $\frac{1}{4}$ SW $\frac{1}{4}$ 6.2 ACRES
SE $\frac{1}{4}$ SW $\frac{1}{4}$ 0.5 ACRES

SECTION 20

NW $\frac{1}{4}$ NE $\frac{1}{4}$ 0.6 ACRE
NE $\frac{1}{4}$ NW $\frac{1}{4}$ 0.1 ACRE

SECTION 30

TOWNSHIP 1 SOUTH, RANGE 13 EAST, W.M.

ORS 540.610 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."

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 effective upon the date of this order.
2. This instream water right shall replace a portion of the existing instream water right for Eight Mile Creek, evidenced by Certificates 64743 and 75565, during the period from June 1 to September 28 of each year.
3. The former place of use shall no longer be irrigated as a part of this water right.

The portion of the water right evidenced by Certificate 38188 requested to be canceled is canceled. A new certificate will be issued to confirm the remaining portion of this right not canceled by this transfer.

Certificates 4860, 5682 and 38189 are canceled. New certificates will be issued to confirm the remaining portion of these rights that were NOT subject to this transfer. New certificates will be issued to confirm the new instream right created by this transfer.

WITNESS the signature of the Water Resources

Director, affixed JUN 20 2001.



for Paul R. Cleary, Director