

STATE OF OREGON

COUNTY OF WASHINGTON

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 8778 submitted by

DUYCK BROTHERS  
11220 NW ROY ROAD  
BANKS, OREGON 97106.

The FIRST right to be modified, as evidenced by Certificate 19964, was perfected under Permit 16204 with a date of priority of MARCH 12, 1945. The right allows the use of the WEST FORK OF DAIRY CREEK, a tributary of DAIRY CREEK, for IRRIGATION OF 40.0 ACRES. The amount of water to which this right is entitled is limited to an amount actually beneficially used and shall not exceed 0.50 cubic foot per second, if available at the authorized points of diversion: SW¼ NE¼ & NW¼ SE¼, AS PROJECTED ON ISAAC LEICY DLC NO. 38, SECTION 24, T 2 N, R 4 W, W.M., or its equivalent in case of rotation, measured at the points 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 NE¼	1.6 ACRES
SW¼ NW¼	1.4 ACRES
SE¼ NW¼	9.5 ACRES
NE¼ SW¼	12.1 ACRES
NW¼ SE¼	15.4 ACRES

ALL AS PROJECTED ON ISAAC LEICY DLC NO. 38  
SECTION 24  
TOWNSHIP 2 NORTH, RANGE 4 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 23058, was perfected under Permit 20980 with a date of priority of APRIL 20, 1951. The right allows the use of the WEST FORK OF DAIRY CREEK, a tributary of DAIRY CREEK, for IRRIGATION OF 22.8 ACRES. The amount of water to which this right is entitled is limited to an amount actually beneficially used and shall not exceed 0.1 cubic foot per second, if available at the authorized point of diversion: NW¼ SE¼, AS PROJECTED WITHIN ISAAC LEICY DLC NO. 38, SECTION 24, T 2 N, R 4 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:

SW¼ NE¼	5.4 ACRES
SE¼ NE¼	2.6 ACRES
NW¼ SE¼	13.6 ACRES
SW¼ SE¼	1.2 ACRES

ALL AS PROJECTED WITHIN LEICY DLC NO. 38  
SECTION 24  
TOWNSHIP 2 NORTH, RANGE 4 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 point of diversion to:

NW¼ SE¼, SECTION 14, T 2 N, R 4 W, W.M.; 700 FEET SOUTH AND 2430 FEET WEST FROM THE E¼ CORNER, SECTION 14.

The applicant further proposes to TEMPORARILY change the place of use to:

NE¼ SE¼	20.7 ACRES
NW¼ SE¼	34.5 ACRES
SW¼ SE¼	2.7 ACRES
SE¼ SE¼	1.0 ACRE
NE¼ SW¼	3.9 ACRES

SECTION 14  
TOWNSHIP 2 NORTH, RANGE 4 WEST, W.M.

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

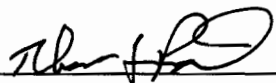
1. This change is temporary. This change shall be effective upon issuance of this order.
2. The former place of use shall **not** be irrigated as part of this water right during the 2001 irrigation season.
3. The portions of the water right evidenced by Certificate 43721 (Permit S-35015) appurtenant to the proposed place of use shall **not** be used during the irrigation season.
4. The use shall revert to the authorized place of use at the end of the 2001 irrigation season.
5. The approval of this temporary transfer may be revoked or modified if the Department finds the change causes injury to any existing water right.
6. When required by the Department 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 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 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.

8. The use of the remaining water right described by Certificate 23058 shall continue to be in accordance with the terms and conditions of Certificate 23058.

WITNESS the signature of the Water Resources

Director, affixed     **JUN 25 2001**    .

  
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For Paul R. Cleary, Director