

STATE OF OREGON

COUNTY OF MARION

ORDER APPROVING A CHANGE IN PLACE OF USE  
AND CANCELLATION OF A PORTION OF A WATER RIGHT

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 7335 submitted by

ROBERT FESSLER  
11796 MONITOR-MCKEE ROAD  
WOODBURN, OREGON 97071.

The right to be modified, as evidenced by a portion of Certificate 22402, was perfected under Permit 23108 with a date of priority of FEBRUARY 15, 1954. The right allows the use of ZOLLNER CREEK, a tributary of the PUDDING RIVER, for IRRIGATION OF 4.4 ACRES. The amount of water to which this right is entitled is limited to an amount actually beneficially used and shall not exceed 0.05 cubic foot per second, if available at the authorized point of diversion: SE $\frac{1}{4}$  NW $\frac{1}{4}$ , SECTION 33, T 5 S, R 1 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 an 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:

NE $\frac{1}{4}$  NW $\frac{1}{4}$  4.1 ACRES  
SE $\frac{1}{4}$  NW $\frac{1}{4}$  0.3 ACRE  
SECTION 33  
TOWNSHIP 5 SOUTH, RANGE 1 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 change the place of use to:

NE $\frac{1}{4}$  NW $\frac{1}{4}$  2.4 ACRES  
SE $\frac{1}{4}$  NW $\frac{1}{4}$  2.0 ACRES  
SECTION 33  
TOWNSHIP 5 SOUTH, RANGE 1 WEST, W.M.

An affidavit was received from Robert F. and Martha J. Fessler, owners of certain land and the water right appurtenant to it. A portion of the water right has been abandoned and requested to be cancelled.

The portion is described by Certificate 22402, State Record of Water Right Certificates. The date of priority is February 15, 1954. The water use was for irrigation of 4.5 acres from Zollner Creek, a tributary of the Pudding River. The amount used was 0.06 cubic foot per second.

The abandoned portion is located as follows:

NE $\frac{1}{4}$  NW $\frac{1}{4}$  4.5 ACRES  
SECTION 33  
TOWNSHIP 5 SOUTH, RANGE 1 WEST, 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 cancelling the water right."

THIS CHANGE TO AN EXISTING WATER RIGHT 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, 1999.
2. The former place of use shall no longer be irrigated as a part of this water right.

The portion of the water right requested to be cancelled is cancelled. Certificate 22402 is cancelled. A new certificate will be issued to confirm those portion of the right NOT involved in the transfer and cancellation proceedings. When satisfactory proof of the completed change is received, a new certificate confirming this water right will be issued.

WITNESS the signature of the Water Resources  
Director, affixed AUG 21 1998.

  
for Martha O. Pagel, Director