

**BEFORE THE WATER RESOURCES DEPARTMENT
OF THE
STATE OF OREGON**

In the Matter of Transfer Application)	SUPERSEDING FINAL ORDER
T-9072, Josephine County)	APPROVING CHANGES IN PLACE OF
)	USE AND POINT OF DIVERSION AND
)	CORRECTING SCRIVENER'S
)	ERRORS IN A PREVIOUS ORDER

ORS 540.505 to 540.580 establishes the process in which a water right holder may submit a request to transfer the point of diversion, place of use, or character of use authorized under an existing water right. OAR Chapter 690, Division 380 implements the statutes and provides the Department's procedures and criteria for evaluating transfer applications.

Applicants

AMOS Y. AND NORMA VAHRENWALD
4091 HOLLAND LOOP ROAD
CAVE JUNCTION, OREGON 97523

Findings of Fact

1. On March 27, 2002, Amos Y. and Norma Vahrenwald filed a transfer application to change the place of use and points of diversion under Certificates 7148 and 63788. The Department assigned the application number T-9072.
2. 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 9.96 ACRES. The amount of water to which this right is entitled is limited to an amount actually beneficially used and shall not exceed 0.20 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 October 31 of each year. Note: this right is supplemented by water from Gravelly Slough under a priority date of

NOTICE OF RIGHT TO PETITION FOR RECONSIDERATION OR JUDICIAL REVIEW

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 137-004-0080, you may either petition for judicial review or petition the Director for reconsideration of this order. A petition for reconsideration may be granted or denied by the Director, and if no action is taken within 60 days following the date the petition was filed, the petition shall be deemed denied.

1903 and from springs in SE $\frac{1}{4}$ of Section 36, T 39 S, R 8 W, W.M. under a priority date of 1878.

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 authorized place of use is located as follows:

Twp	Rng	Mer	Sec	Q-Q	Acres	Change Proposed
40 S	8 W	WM	1	NE NW	8.06	POD only
40 S	8 W	WM	1	NE NW	1.90	POD and POU

3. 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 15.96 ACRES. The amount of water to which this right is entitled is limited to an amount actually beneficially used and shall not exceed 0.20 CUBIC FOOT PER SECOND, if available at the original point of diversion: NW $\frac{1}{4}$ SW $\frac{1}{4}$, 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 use shall conform to any reasonable rotation system ordered by the proper state officer.

The right to use water for the above purpose is restricted to beneficial use on the lands or place of use described.

The authorized point of diversion is located:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
39 S	7 W	WM	31	NW SW	1420 FEET NORTH AND 75 FEET EAST FROM THE SW CORNER OF SECTION 31

The authorized place of use is located as follows:

Twp	Rng	Mer	Sec	Q-Q	Acres	Change Proposed
40 S	8 W	WM	1	NE NW	8.06	POD only
40 S	8 W	WM	1	NE NW	2.90	POD and POU
40 S	8 W	WM	1	SE NW	5.00	POD only

4. Application T-9072 proposes to change the place of use of 1.90 acres under Certificate 7148 and 2.90 acres under Certificate 63788 to:

CERTIFICATE 7148 PRIMARY AND CERTIFICATE 63788 SUPPLEMENTAL					
Twp	Rng	Mer	Sec	Q-Q	Acres
40 S	8 W	WM	1	SE NW	1.90

CERTIFICATE 63788 PRIMARY					
Twp	Rng	Mer	Sec	Q-Q	Acres
40 S	8 W	WM	1	SE NW	1.00

5. The applicant proposes to change the point of diversion for both rights to a well (Well Log #41845) located:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
40S	8W	WM	1	NE NW	126.47 FEET NORTH AND 79.83 FEET WEST FROM THE NW CORNER OF DLC 46

6. An affidavit was received from Amos and Norma Vahrenwald, owners of certain land and the water right appurtenant to it. The landowners request a portion of a water right be DIMINISHED FROM PRIMARY IRRIGATION TO SUPPLEMENTAL IRRIGATION.

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"

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 9.96 ACRES from SUCKER CREEK, tributary to the ILLINOIS RIVER. The amount used was 0.13 cubic foot per second.

The DIMINISHED portion is located as follows:

CERTIFICATE 63788 SUPPLEMENTAL					
Twp	Rng	Mer	Sec	Q-Q	Acres
40 S	8 W	WM	1	NE NW	9.96*

* 8.06 acres to remain in NE NW as per Finding of Fact #3, and 1.90 acres to be transferred to SE NW as per Finding of Fact #4.

7. On January 2, 2003 the Department issued a Final Order for the transfer, recorded at Special Order Volume 57, Pages 10 to 14. In 2011 the Department recognized a scrivener's error in the listing of the number of acres in each quarter quarter section that were to receive a change in POD only or changes in POU and POD. Also, the certificate numbers of the rights to be transferred into the SE NW of Section 1 requires clarification. Therefore, the order did not accurately reflect the changes shown in the transfer application and map.
8. This order is issued to correct the scrivener's errors and to supersede the previous order recorded at Special Order Volume 57, Pages 10 to 14.

Conclusions of Law

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 T-9072 should be approved and the scrivener's errors in Special Order Volume 57, Pages 10 to 14 should be corrected in the record.

Now, therefore, it is ORDERED:

1. The order entered at Special Order Volume 57, Pages 10 to 14 is withdrawn and of no further force and effect and is superseded by this order.

2. The proposed changes in place of use and place of use and points of diversion in application T-9072 are approved.
3. That portion of Certificate 63788 requested to be diminished is diminished to supplemental irrigation.
4. Certificates 7148 and 63788 are cancelled. Certificate 79836 has been issued to confirm the portion of Certificate 7148 NOT involved in this transfer and diminution or in Transfer Application T-9071. The portion of Certificate 63788 not involved in this transfer is included in Transfer Application T-9071.
5. 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.
6. The proposed changes shall be completed on or before October 1, 2004.
7. 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.
8. Water shall be acquired from the same surface water source as the original point of diversion.
9. The former places of use shall no longer be irrigated as a part of these water rights.
10. When satisfactory proof of the completed changes is received, new certificates confirming these water rights will be issued.

Dated at Salem, Oregon this 13 day of July, 2011.



Dwight French, Water Right Services Administrator, for
PHILLIP C. WARD, DIRECTOR

Mailing date: JUL 15 2011