

STATE OF OREGON

COUNTY OF JACKSON

ORDER APPROVING A CHANGE IN PLACE OF USE
AND POINT OF DIVERSION

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 9079 submitted by

BILL W. AND VIRGINIA L. SMITH
23720 HWY 140
EAGLE POINT, OREGON 97524.

The right to be modified was confirmed by decree of the Circuit Court of the State of Oregon for JACKSON County as evidenced by Certificate 17178. The decree is recorded in the Order Record of the Water Resources Director in Volume 14, at Page 498. The date of priority is JUNE 1898.

The right allows the use of NORTH FORK LITTLE BUTTE CREEK, a tributary of LITTLE BUTTE CREEK, for IRRIGATION OF 8.0 ACRES. The amount of water to which this right is entitled is limited to an amount actually beneficially used and shall not exceed 0.20 cubic foot per second, if available at the authorized point of

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.

diversion: SE¼ SE¼, SECTION 32, T 36 S, R 3 E, W.M., or its equivalent in case of rotation, measured at the head of the ditch or point where the same leaves the natural stream, from April 1st to October 1st of each year.

The authorized place of use is located as follows:

NE¼ SW¼ 8.0 ACRES
SECTION 32
TOWNSHIP 36 SOUTH, RANGE 3 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 applicant proposes to change the place of use to:

NW¼ SE¼ 3.0 ACRES
SW¼ SE¼ 5.0 ACRES
SECTION 32
TOWNSHIP 36 SOUTH, RANGE 3 EAST, W.M.

The applicant further proposes to change the point of diversion to:

SW¼ SE¼, SECTION 32, T 36 S, R 3 E, W.M.; 2020 FEET SOUTH AND 1350 FEET WEST FROM THE E¼ CORNER OF SECTION 32.

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

1. The proposed changes shall be completed on or before October 1, 2003.
2. The quantity of water diverted at the new point of diversion shall not exceed the quantity of water lawfully available at the original point of diversion.

3. **Prior** to the diverting of water at the new point of diversion, the water user **shall** install and maintain a headgate, an in-line flow meter, weir, or other suitable device for measuring and recording the quantity of water diverted. The type and plans of the headgate and measuring device 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.
5. The former place of use shall no longer be irrigated as a part of this water right.
6. 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.

Certificate 17178 is canceled. 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 02 2002 .



Paul R. Cleary, Director