

STATE OF OREGON

COUNTY OF BAKER

CERTIFICATE OF WATER RIGHT

THIS CERTIFICATE ISSUED TO

JOHN AND JANICE GYLLENBERG
P.O. BOX 1110
BAKER CITY, OREGON 97814

WARD AGRICULTURAL PROPERTIES
1500 H STREET
BAKER CITY, OREGON 97814

confirms the right to use the waters of SUTTON CREEK AND WEST SUTTON CREEK, tributary of POWDER RIVER, and POWDER RIVER, tributary of SNAKE RIVER for irrigation of 305.6 acres of land and supplemental irrigation of 145.6 acres.

This right was confirmed by decree of the Circuit Court of the State of Oregon for BAKER County. The decree is of record at Salem, in the Order Record of the WATER RESOURCES DIRECTOR, in Volume 6, at Page 291. The date of priority is Tract 1 - 1873 FOR 100.6 ACRES, Tract 2 - 1886 FOR 21 ACRES, Tract 2 - 1907 FOR 24 ACRES, AND Tract 3 - 1872 FOR 160 ACRES.; supplemental supply for Tract 1 and Tract 2 - 1906 for 145.6 acres

The use is limited to 7.64 CUBIC FEET PER SECOND, being Tract 1 - 2.51 cfs, Tract 2 - 1.13 cfs, and Tract 3 - 4.0 cfs, or its equivalent in case of rotation.

The points of diversion are located as follows:

Tract 1 & 2 - Palmer-Denham #1, 2, 3, 4, 5, & 6

Tract 3 - SETTLERS SLOUGH DITCH: NW 1/4 SW 1/4, SECTION 21, T 9 S, R 40 E, W.M.; 2160 FEET NORTH & 30 FEET EAST FROM SW CORNER, SEC. 21

The amount of water used for irrigation, together with the amount secured under any other right existing for the same lands, is limited to a diversion of ONE-FORTIETH of one cubic foot per second for each acre irrigated during the irrigation season of each year.

A description of the place of use to which this right is appurtenant is as follows:

Priority of 1873
Sutton Creek and West Sutton Creek
Supplemental Supply From
East Sutton Creek or Ebell Creek
With Priority of 1906

Tract 1

| | |
|---------------|------------|
| SW 1/4 NE 1/4 | 23.0 acres |
| NE 1/4 SE 1/4 | 19.0 acres |
| NW 1/4 SE 1/4 | 23.0 acres |
| SE 1/4 SE 1/4 | 35.6 acres |

Section 12

Township 10 South, Range 40 East, W.M.

Priority of 1886 for 21.0 acres
and 1907 for 24.0 acres
Sutton Creek and West Sutton Creek
Supplemental supply from
East Sutton Creek or Ebell Creek
with priority of 1906

Tract 2

| | |
|---------------|------------|
| NE 1/4 NE 1/4 | 28.0 acres |
| NW 1/4 NE 1/4 | 5.0 acres |
| SE 1/4 NE 1/4 | 12.0 acres |

Section 13

Township 10 South, Range 40 East, W.M.

Tract 3

Powder River - 1872

NE 1/4 NE 1/4 40.0 acres

SE 1/4 NE 1/4 40.0 acres

Section 1

Township 9 South, Range 39 East, W.M.

NE 1/4 NW 1/4 40.0 acres

SE 1/4 NW 1/4 40.0 acres

Section 6

Township 9 South, Range 40 East, W.M.

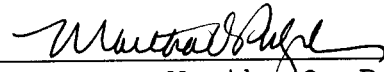
This certificate describes that portion of the water right confirmed by Certificate 4394, R. R. PALMER AND H. E. DENHAM, State Record of Water Right Certificates, NOT modified by the provisions of an order of the Water Resources Director entered on FEB 25 1997 and recorded in Special Order Volume 51, page 148 approving a petition by the Baker Valley Irrigation District under ORS 541.329.

The issuance of this superseding certificate does not confirm the status of the water right in reference to ORS 540.610 pertaining to forfeiture or abandonment.

The right to the use of the water for the above purposes is restricted to beneficial use on the lands or place of use described and is subject to all other conditions and limitations contained in said decree.

Witness the signature of the Water Resources Director, affixed

FEB 25 1997



Martha O. Pagel

Recorded in State Record of Water Right Certificates numbered 73582.

4394.VC