

STATE OF OREGON

COUNTY OF BAKER

ORDER APPROVING A CHANGE IN ADDITIONAL POINTS 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 8206 submitted by

KERNS RAINBOW RANCH, INC
45917 QUAIL ROAD
HAINES, OREGON 97833.

The FIRST right to be modified was confirmed by decree of the Circuit Court of the State of Oregon for BAKER County as evidenced by Certificate 3998. The decree is recorded in the Order Record of the Water Resources Director in Volume 6, at Page 291. The dates of priority are 1868 for 30.0 ACRES and 1898 for 50.0 ACRES.

The right allows the use of ROCK CREEK, a tributary of the POWDER RIVER, for the IRRIGATION OF 80.0 ACRES. The amount of water to which this right is entitled is limited to an amount actually beneficially used and shall not exceed 2.0 cubic feet per second,

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.

if available at the authorized point of diversion: BROWN DELONG DITCH, NW¼SW¼, SECTION 34, T7S, R38E, 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 for the same lands, is limited to ONE-FORTIETH of one cubic foot per second per acre, or its equivalent for each acre irrigated and shall be further limited to all other conditions and limitations contained in said decree.

The authorized place of use is located as follows:

	<u>1868</u>	<u>1898</u>
NE¼ NE¼	22.0 ACRES	18.0 ACRES
NW¼ NE¼	8.0 ACRES	32.0 ACRES
SECTION 2		
TOWNSHIP 8 SOUTH, RANGE 38 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 SECOND right to be modified was confirmed by decree of the Circuit Court of the State of Oregon for BAKER County as evidenced by Certificate 67787. The decree is recorded in the Order Record of the Water Resources Director in Volume 6, at Page 291. The date of priority is JANUARY 20, 1868.

The right allows the use of ROCK CREEK, a tributary of the POWDER RIVER, for the IRRIGATION OF 75.0 ACRES. The amount of water to which this right is entitled is limited to an amount actually beneficially used and shall not exceed 1.88 cubic feet per second, if available at the authorized point of diversion: LEONNIG RICKARD AKA HUNSTOCK-MEYERS DITCH, NE¼SW¼, SECTION 34, T7S, R38E, 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 for the same lands, is limited to ONE-FORTIETH of one cubic foot per second per acre, or its equivalent for each acre irrigated and shall be further limited to all other conditions and limitations contained in said decree.

The authorized place of use is located as follows:

SW¼ NE¼	35.0 ACRES
SE¼ NE¼	20.0 ACRES
SE¼ NW¼	20.0 ACRES

SECTION 12

TOWNSHIP 8 SOUTH, RANGE 38 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 THIRD right to be modified was confirmed by decree of the Circuit Court of the State of Oregon for BAKER County as evidenced by Certificate 67789. The decree is recorded in the Order Record of the Water Resources Director in Volume 6, at Page 291. The date of priority is 1868.

The right allows the use of ROCK CREEK, a tributary of the POWDER RIVER, for the IRRIGATION OF 57.0 ACRES. The amount of water to which this right is entitled is limited to an amount actually beneficially used and shall not exceed 1.42 cubic feet per second, if available at the authorized point of diversion: HUNSTOCK-MEYERS DITCH, NE¼SW¼, SECTION 34, T7S, R38E, 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 for the same lands, is limited to ONE-FORTIETH of one cubic foot per second per acre, or its equivalent for each acre irrigated and shall be further limited to all other conditions and limitations contained in said decree.

The authorized place of use is located as follows:

SW $\frac{1}{4}$ SE $\frac{1}{4}$ 37.0 ACRES

SE $\frac{1}{4}$ SE $\frac{1}{4}$ 20.0 ACRES

SECTION 6

TOWNSHIP 8 SOUTH, RANGE 39 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 FOURTH right to be modified was confirmed by decree of the Circuit Court of the State of Oregon for BAKER County as evidenced by Certificate 67790. The decree is recorded in the Order Record of the Water Resources Director in Volume 6, at Page 291. The date of priority is 1868.

The right allows the use of ROCK CREEK, a tributary of the POWDER RIVER, for the IRRIGATION OF 34.0 ACRES. The amount of water to which this right is entitled is limited to an amount actually beneficially used and shall not exceed 0.85 cubic foot per second, if available at the authorized point of diversion: HUNSTOCK-MEYERS DITCH, NE $\frac{1}{4}$ SW $\frac{1}{4}$, SECTION 34, T7S, R38E, 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 for the same lands, is limited to ONE-FORTIETH of one cubic foot per second per acre, or its equivalent for each acre irrigated and shall be further limited to all other conditions and limitations contained in said decree.

The authorized place of use is located as follows:

SE¼ SE¼ 34.0 ACRES
SECTION 1
TOWNSHIP 8 SOUTH, RANGE 38 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 add ADDITIONAL points of diversion to:

CERTIFICATE 3998:

NE¼ SW¼, SECTION 34, T 7 S, R 38 E, W.M.; HUNSTOCK-MEYERS DITCH - 2663 FEET SOUTH AND 2687 FEET WEST FROM THE NE CORNER, SECTION 34.

CERTIFICATES 67787, 67789 and 67790:

NW¼ SW¼, SECTION 34, T 7 S, R 38 E, W.M.; BROWN-DELONG DITCH - 3567 FEET SOUTH AND 5087 FEET WEST FROM THE NE CORNER, SECTION 34.

THESE CHANGES TO EXISTING WATER RIGHTS 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, 2005.
2. The quantity of water diverted at the new point of diversion, 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.
3. **Prior** to the diverting of water at the new points 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

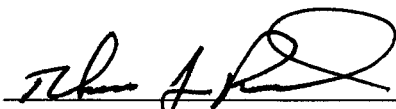
diverted. The type and plans of the headgate and measuring device must be approved by the Department prior to beginning construction and shall be installed under the general supervision of the Department.

4. Those lands under Certificate 67787 involved in a Temporary Change in Place of Use under Transfer 8229 through the 2003 irrigation season may not be irrigated at the original place of use until the 2004 irrigation season.

Certificate 3998, 67787, 67789 and 67790 are canceled. When satisfactory proof of the completed change is received, new certificates confirming these water rights will be issued.

WITNESS the signature of the Water Resources

Director, affixed JUL 21 2003.


52 Paul R. Cleary, Director