

STATE OF OREGON

COUNTY OF CROOK

**ORDER APPROVING A CHANGE IN PLACES OF USE
AND A CHANGE IN 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 7605 submitted by

STEARNS LAND COMPANY
BRIAN AND LAURA BARNEY
P.O. BOX 445
PRINEVILLE, OREGON 97754.

The first right to be modified was confirmed by decree of the Circuit Court of the State of Oregon for CROOK County as evidenced by a PORTION of Certificate 679. The decree is recorded in the Order Record of the Water Resources Director in Volume 1, at Page 449. The dates of priority are 1872 and 1884.

The right allows the use of OCHOCO CREEK, a tributary of THE CROOKED RIVER, for IRRIGATION OF 51.5 ACRES, STOCK AND DOMESTIC USE. The amount of water to which this right is entitled is limited to an amount actually beneficially used and shall not exceed 0.64 cubic foot per second for irrigation and a reasonable amount for domestic and stock use, if available at the authorized point of diversion: ZELL AND ALLEN DITCHES, or its equivalent in case of rotation, measured at the point of diversion from the source.

This is a final 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.

The amount of water used for irrigation, together with the amount secured under any other right 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 4.0 acre-feet for each acre irrigated during the irrigation season of each year.

The authorized place of use is located as follows:

	<u>POD and POU</u>	<u>POD ONLY</u>
LOT 1 (NE $\frac{1}{4}$ NE $\frac{1}{4}$)	7.3 ACRES (1884)	1.8 ACRES (1884)
SW $\frac{1}{4}$ NE $\frac{1}{4}$		13.4 ACRES (1884)
SE $\frac{1}{4}$ NE $\frac{1}{4}$	0.8 ACRE (1884)	24.2 ACRES (1884)
SE $\frac{1}{4}$ NE $\frac{1}{4}$		4.0 ACRES (1872)
SECTION 4		
TOWNSHIP 15 SOUTH, RANGE 16 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:

NE $\frac{1}{4}$ NE $\frac{1}{4}$	4.4 ACRES
NW $\frac{1}{4}$ NE $\frac{1}{4}$	0.5 ACRE
SE $\frac{1}{4}$ NE $\frac{1}{4}$	3.2 ACRES
SECTION 35	
TOWNSHIP 14 SOUTH, RANGE 16 EAST, W.M.	

The applicant proposes to change the point of diversion for these 8.1 acres to:

OCHOCO FEED CANAL - SW $\frac{1}{4}$ NW $\frac{1}{4}$, SECTION 5, T 15 S, R 17 E, W.M.;
500 FEET NORTH AND 250 FEET EAST FROM THE W $\frac{1}{4}$ CORNER, SECTION 5.

The applicant proposes to change the point of diversion for the remaining 43.4 acres to:

DIRECT DIVERSION 69 - SE $\frac{1}{4}$ NE $\frac{1}{4}$, SECTION 4, T 15 S, R 16 E, W.M.;
110 FEET NORTH AND 1160 FEET WEST FROM THE E $\frac{1}{4}$ CORNER, SECTION 4.

The second right to be modified was confirmed by decree of the Circuit Court of the State of Oregon for CROOK County as evidenced by a PORTION of Certificate 55977. The decree is recorded in the Order Record of the Water Resources Director in Volume 1, at Page 449. The date of priority is 1876.

The right allows the use of OCHOCO CREEK, a tributary of THE CROOKED RIVER, for IRRIGATION OF 10.8 ACRES, STOCK AND DOMESTIC USE. The amount of water to which this right is entitled is limited to an amount actually beneficially used and shall not exceed 0.18 cubic foot per second for irrigation and a reasonable amount for domestic and stock use, if available at the authorized point of diversion: POWELL - BIGGS DITCH, 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- 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 4.0 acre-feet for each acre irrigated during the irrigation season of each year.

The authorized place of use is located as follows:

NE $\frac{1}{4}$ SE $\frac{1}{4}$ 10.8 ACRES
SECTION 4
TOWNSHIP 15 SOUTH, RANGE 16 EAST, W.M.

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

DIRECT DIVERSION 69 - SE $\frac{1}{4}$ NE $\frac{1}{4}$, SECTION 4, T 15 S, R 16 E, W.M.;
110 FEET NORTH AND 1160 FEET WEST FROM THE E $\frac{1}{4}$ CORNER, SECTION 4.

The third right to be modified, as evidenced by a portion of Certificate 68394, was perfected under Permit 5426 with a date of priority of MARCH 13, 1916, FROM MCKAY CREEK, AND AUGUST 10, 1917, FROM ALL OTHER SOURCES NAMED HEREIN. The right allows the use of OCHOCO, MCKAY, DRY, AND JOHNSON CREEKS, ALL WASTE AND RETURN WATER FLOWING IN ALL UNNAMED WATERWAYS, AND OCHOCO RESERVOIR CONSTRUCTED UNDER PERMIT R-528, tributaries of THE CROOKED RIVER, for SUPPLEMENTAL IRRIGATION OF 8.1 ACRES. The amount of water to which this right is entitled is limited to an amount actually beneficially used and shall not exceed 0.10 cubic foot per second, if available at the authorized point of diversion: SE $\frac{1}{4}$ NE $\frac{1}{4}$, SECTION 4, T 15 S, R 16 E, W.M.; 110 FEET NORTH AND 1160 FEET WEST FROM THE E $\frac{1}{4}$ CORNER,

SECTION 4, 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 and shall be further limited to a diversion of not to exceed 4.0 acre-feet for each acre irrigated during the irrigation season of each year.

The authorized place of use is located as follows:

LOT 1 (NE $\frac{1}{4}$ NE $\frac{1}{4}$) 7.3 ACRES
SE $\frac{1}{4}$ NE $\frac{1}{4}$ 0.8 ACRE
SECTION 4
TOWNSHIP 15 SOUTH, RANGE 16 EAST, W.M.

The applicant proposes to change the place of use to:

NE $\frac{1}{4}$ NE $\frac{1}{4}$ 4.4 ACRES
NW $\frac{1}{4}$ NE $\frac{1}{4}$ 0.5 ACRE
SE $\frac{1}{4}$ NE $\frac{1}{4}$ 3.2 ACRES
SECTION 35
TOWNSHIP 14 SOUTH, RANGE 16 EAST, W.M.

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

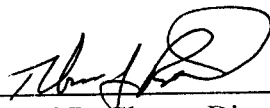
1. The proposed changes shall be completed on or before October 1, 2003.
2. The quantity of water diverted at the new points of diversion, together with that diverted at the old points of diversion, shall not exceed the quantity of water lawfully available at the original points of diversion.
3. When required by the Department, 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.

Except as modified herein, all other conditions and restrictions of Certificates 679, 55977, and 68394 remain in effect.

When the Director determines that it is necessary, or to facilitate records keeping, new certificates will be issued to confirm all completed changes for which satisfactory proof has been made and to confirm those portions of the rights not modified by this or any other order.

WITNESS the signature of the Water Resources Director, affixed MAR 27 2002.



Paul R. Cleary, Director