

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

In the Matter of Permit Amendment            )    FINAL ORDER  
T-8262, Baker County                            )    APPROVING A CHANGE IN POINTS  
  )    OF APPROPRIATION

**Authority**

ORS 537.211 establishes the process in which a water right permit holder may submit a request to change the point of appropriation and/or place of use authorized under an existing water right permit.

**Applicant**

KERNS RAINBOW RANCH INC.  
45917 QUAIL RD  
HAINES, OR 97833

**Findings of Fact**

**Background**

1. On April 6, 1998, KERNS RAINBOW RANCH INC. filed an application to change the points of appropriation under Permits G-13157 and G-13159. The Department assigned the application number T-8262.
2. On March 21, 2008 the applicant amended the application to include Permits G-11773, G-13158, G-15488, and G-16199. The applicant also modified the proposed points of appropriation.
3. On May 9, 2012 the application and map were amended to include four additional points of appropriation.
4. On May 20, 1998, the Department approved Permit Amendment T-7975 to change the point of appropriation Well 1 under Permit G-13157. The order was enter at Volume 52, Page 533.
5. On September 9, 2007, the Department approved extensions of time for complete application of water to October 1, 2017 for Permits G-13157, G-13158, G-13159, and G-15488.

This is a final order in other than 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. 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.

6. On April 28, 2009, the Department approved an extension of time for complete application of water to October 1, 2017 for Permit G-11773.
7. On May 31, 2013, the Department approved an extension of time for complete application of water to October 1, 2018 for Permit G-16199.
8. On May 13, 2013, the Department approved assignments of Permits G-11773, G-13158, G-13159, G-15488, and G-16199 to Northwest Farm Credit Services, FCLA, and Tim L. and Janice L. Kerns.
9. On March 28, 2008, information was received that better describes the location of Well 1 authorized under Permit G-11773 as being:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
8 S	39 E	WM	7	NE NW	960 FEET SOUTH AND 2160 FEET EAST FROM THE NW CORNER OF SECTION 7

10. Permit Amendment Application T-8262 proposes to change the points of appropriation for Permits G-11773, G-13157, G-13158, G-13159, G-15488, and G-16199, so that either one or a combination of the following wells can be used. The distances from the authorized points of appropriation vary from a minimum radius of 200 feet to a maximum radius of 10560 feet (2.0 miles) to the proposed points of appropriation. The proposed points of appropriation are located as follows:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances	Well Log #
8 S	39 E	WM	7	NE NW	BOYS PLACE NO. 1 - 960 FEET SOUTH AND 2160 FEET EAST FROM THE NW CORNER OF SECTION 7	BAKE 1897
8 S	39 E	WM	18	SE NW	BANK PLACE NO. 2 - 1400 FEET SOUTH AND 50 FEET WEST FROM THE N¼ CORNER OF SECTION 18	n/a
8 S	38 E	WM	12	NE NE	WELL NO. 1 (HOME PLACE NO. 3) - 10 FEET SOUTH AND 450 FEET WEST FROM THE NE CORNER OF SECTION 12	BAKE 50701
8 S	39 E	WM	28	NW NW	WELL NO. 2 (COMPANY FARM NO. 4) - 660 FEET SOUTH AND 165 FEET EAST FROM THE NW CORNER OF SECTION 28	BAKE 50624
8 S	38 E	WM	12	NW SE	WELL NO. 2 (SACKOS PLACE NO. 5) - 10 FEET SOUTH AND 330 FEET EAST FROM THE C¼ CORNER OF SECTION 12	n/a
8 S	39 E	WM	6	SW SW	WELL NO. 3 (BOYS PLACE NO. 2) - 1120 FEET NORTH AND 50 FEET EAST FROM THE SW CORNER OF SECTION 6	BAKE 50955
8 S	39 E	WM	7	NE NE	WELL NO. 4 (WARD 40 NO. 7) - 1000 FEET SOUTH AND 1315 FEET WEST FROM THE NE CORNER OF SECTION 7	n/a
8 S	39 E	WM	7	NE NE	WELL NO. 8 (WARD 40 NO. 2) - 1310 FEET SOUTH AND 1310 FEET WEST FROM THE NE CORNER OF SECTION 7	n/a

Twp	Rng	Mer	Sec	Q-Q	Measured Distances	Well Log #
8 S	38 E	WM	1	SE NW	WELL NO. 10 - 1531 FEET SOUTH AND 2340 FEET EAST FROM THE NW CORNER OF SECTION 1	n/a
8 S	38 E	WM	1	SE SE	WELL NO. 11 - 1210 FEET NORTH AND 868 FEET WEST FROM THE SE CORNER OF SECTION 1	n/a
8 S	39 E	WM	7	NE NE	WELL NO. 12 - 265 FEET SOUTH AND 1158 FEET WEST FROM THE NE CORNER OF SECTION 7	n/a
8 S	39 E	WM	18	SE NW	WELL NO. 13 - 1709 FEET SOUTH AND 2037 FEET WEST FROM THE NW CORNER OF SECTION 18	n/a

11. Notice of the application for the permit amendment was published in the Department's weekly notice on April 14, 1998, and in the Baker City Herald newspaper on June 28, July 5 and 12, 2013, pursuant to ORS 540.520(5). No comments were filed in response to the notices.

***Permit Amendment Review Criteria***

12. The change would not result in injury to other water rights.
13. The change does not enlarge the permits.
14. The change does not alter any other terms of the permits.

**Conclusions of Law**

The change in points of appropriation proposed by Permit Amendment Application T-8262 is consistent with the requirements of ORS 537.211.

**Now, therefore, it is ORDERED:**

1. The change in points of appropriation proposed by Permit Amendment Application T-8262 is approved.
2. Permit G-17014, in the name of KERNS RAINBOW RANCH, INC., is issued to replace Permit G-13157, and incorporates the amendments approved by this order, the permit amendment approved under T-7975, and the extension of time. Permit G-13157, in the name of KERNS RAINBOW RANCH INC., is no longer of any force or effect.
3. Permit G-17015, in the names of NORTHWEST FARM CREDIT SERVICES, FCLA, AND TIM L. AND JANICE L. KERNS is issued to replace Permit G-13159, and incorporates the amendments approved by this order and the extension of time. Permit G-13159, in the name of NORTHWEST FARM CREDIT SERVICES, FCLA, AND TIM L. AND JANICE L. KERNS, is no longer of any force or effect.

4. Permit G-17016, in the names of NORTHWEST FARM CREDIT SERVICES, FCLA, AND TIM L. AND JANICE L. KERNS, is issued to replace Permit G-11773, and incorporates the amendments approved by this order and the extension of time. Permit G-11773, in the name of NORTHWEST FARM CREDIT SERVICES, FCLA, AND TIM L. AND JANICE L. KERNS, is no longer of any force or effect.
5. Permit G-17017, in the names of NORTHWEST FARM CREDIT SERVICES, FCLA, AND TIM L. AND JANICE L. KERNS, is issued to replace Permit G-13158, and incorporates the amendments approved by this order and the extension of time. Permit G-13158, in the name of NORTHWEST FARM CREDIT SERVICES, FCLA, AND TIM L. AND JANICE L. KERNS, is no longer of any force or effect.
6. Permit G-17018, in the name of NORTHWEST FARM CREDIT SERVICES, FCLA, AND TIM L. AND JANICE L. KERNS, is issued to replace Permit G-15488, and incorporates the amendments approved by this order and the extension of time. Permit G-15488, in the name of NORTHWEST FARM CREDIT SERVICES, FCLA, AND TIM L. AND JANICE L. KERNS, is no longer of any force or effect.
7. Permit G-17019, in the name of NORTHWEST FARM CREDIT SERVICES, FCLA, AND TIM L. AND JANICE L. KERNS, is issued to replace Permit G-16199, and incorporates the amendments approved by this order and the extension of time. Permit G-16199, in the name of NORTHWEST FARM CREDIT SERVICES, FCLA, AND TIM L. AND JANICE L. KERNS, is no longer of any force or effect.
8. The combined quantity of water diverted at the new points of appropriation shall not exceed the quantity of water lawfully available at the original points of appropriation.
9. Prior to water use from the proposed points of appropriation, the permittee shall install meters or other suitable measuring devices as approved by the Director. The permittee shall maintain the meters or measuring devices in good working order, and shall keep a complete record of the amount of water used each month and shall submit a report which includes the recorded water use measurements to the Department annually or more frequently as may be required by the Director. Further, the Director may require the permittee to report general water use information, including the place and nature of use of water under the permit.

The permittee shall allow the watermaster access to the meter or measuring device; provided however, where the meter or measuring device is located within a private structure, the watermaster shall request access upon reasonable notice.

10. Water shall be acquired from the same aquifer as the original points of appropriation.

11. All other terms and conditions of Permits G-17014, G-17015, G-17016, G-17017, G-17018, and G-17019 remain the same.

Dated at Salem, Oregon this 12 day of August, 2013.

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

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