

STATE OF OREGON

COUNTY OF MORROW

ORDER APPROVING CHANGES IN PLACE OF USE
AND 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 9454 submitted by

EMERT RANCHES, INC.
C/O JOSEPH MCELLIGOTT
P.O. BOX 4
IONE, OREGON 97843.

The FIRST right to be modified was confirmed by decree of the Circuit Court of the State of Oregon for MORROW County as evidenced by Certificate 155. The decree is recorded in the Order Record of the Water Resources Director in Volume 1, at Page 73. The date of priority is 1878.

The right allows the use of WILLOW CREEK AND RHEA CREEK, a tributary of COLUMBIA RIVER, for IRRIGATION OF 105.0 ACRES. The amount of water to which this right is entitled is limited to an amount actually beneficially used and shall not exceed 1.75 cubic feet per second, if available at the authorized point of diversion: NE $\frac{1}{4}$ SW $\frac{1}{4}$, SE $\frac{1}{4}$ SW $\frac{1}{4}$, SECTION 12, T 1 S, R 24 E, W.M., or its equivalent in case of rotation, measured at the point of diversion from the source.

NOTICE OF RIGHT TO PETITION FOR RECONSIDERATION OR JUDICIAL REVIEW

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.

The authorized place of use is located as follows:

NW¼ NE¼	5.0 ACRES
SW¼ NE¼	34.0 ACRES
SE¼ NE¼	33.0 ACRES
NE¼ NW¼	5.0 ACRES
SE¼ NW¼	10.0 ACRES
NE¼ SE¼	15.0 ACRES
NW¼ SE¼	3.0 ACRES

SECTION 11

TOWNSHIP 1 SOUTH, RANGE 24 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:

#2 - SE¼ NE¼, SECTION 11, T 1 S, R 24 E, W.M.; 2120 FEET SOUTH AND 30 FEET WEST FROM THE NE CORNER, SECTION 11.

#3 - PETTY'S DITCH, SW¼ NE¼, SECTION 11, T 1 S, R 24 E, W.M.; 1400 FEET SOUTH AND 1000 FEET EAST FROM N¼ CORNER, SECTION 11.

#4 - HAMMERS & HOWARD, SE¼ NW¼, SECTION 11, T 1 S, R 24 E, W.M.; 1750 FEET SOUTH AND 2060 FEET EAST FROM NW CORNER, SECTION 11.

#5 - NE¼ NE¼, SECTION 10, T 1 S, R 24 E, W.M.; 20 FEET SOUTH AND 1240 FEET WEST FROM NE CORNER, SECTION 10.

The applicant also proposes to CHANGE THE PLACE OF USE to:

SE¼ SW¼	1.1 ACRES
SW¼ SE¼	15.4 ACRES
SE¼ SE¼	12.5 ACRES

SECTION 3

NW¼ NE¼	1.7 ACRES
SW¼ NE¼	17.3 ACRES
SE¼ NE¼	22.2 ACRES
NE¼ NW¼	13.7 ACRES
NW¼ NW¼	2.7 ACRES
SE¼ NW¼	5.8 ACRES
NE¼ SE¼	10.9 ACRES
NW¼ SE¼	1.7 ACRES

SECTION 11

TOWNSHIP 1 SOUTH, RANGE 24 EAST, W.M.

The SECOND right to be modified was confirmed by decree of the Circuit Court of the State of Oregon for MORROW County as evidenced by a PORTION of Certificate 154. The decree is recorded in the Order Record of the Water Resources Director in Volume 1, at Page 73. The date of priority is 1898.

The right allows the use of WILLOW CREEK, a tributary of COLUMBIA RIVER, for IRRIGATION OF 76.08 ACRES. The amount of water to which this right is entitled is limited to an amount actually beneficially used and shall not exceed 1.27 cubic feet per second, if available at the authorized points of diversion: SW¼ NE¼ and SE¼ NW¼, SECTION 11, T 1 S, R 24 E, W.M., or its equivalent in case of rotation, measured at the point of diversion from the source.

The authorized place of use is located as follows:

SW¼ SW¼	0.33 ACRE
SE¼ SW¼	6.75 ACRES
SW¼ SE¼	12.00 ACRES

SECTION 3

NW¼ NE¼	24.00 ACRES
NE¼ NW¼	24.00 ACRES
NW¼ NW¼	9.00 ACRES

SECTION 10

TOWNSHIP 1 SOUTH, RANGE 24 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:

#2 - SE $\frac{1}{4}$ NE $\frac{1}{4}$, SECTION 11, T 1 S, R 24 E, W.M.; 2120 FEET SOUTH AND 30 FEET WEST FROM THE NE CORNER, SECTION 11.

#5 - NE $\frac{1}{4}$ NE $\frac{1}{4}$, SECTION 10, T 1 S, R 24 E, W.M.; 20 FEET SOUTH AND 1240 FEET WEST FROM NE CORNER, SECTION 10.

The applicant also proposes to CHANGE THE PLACE OF USE to:

SE $\frac{1}{4}$ SW $\frac{1}{4}$	3.00 ACRES
SW $\frac{1}{4}$ SE $\frac{1}{4}$	0.40 ACRE
SECTION 3	

NE $\frac{1}{4}$ NE $\frac{1}{4}$	14.50 ACRES
NW $\frac{1}{4}$ NE $\frac{1}{4}$	14.50 ACRES
NE $\frac{1}{4}$ NW $\frac{1}{4}$	22.65 ACRES
SECTION 10	

NW $\frac{1}{4}$ NW $\frac{1}{4}$	13.40 ACRES
SW $\frac{1}{4}$ NW $\frac{1}{4}$	5.30 ACRES
SE $\frac{1}{4}$ NW $\frac{1}{4}$	2.33 ACRES
SECTION 11	

TOWNSHIP 1 SOUTH, RANGE 24 EAST, W.M.

The THIRD right to be modified was confirmed by decree of the Circuit Court of the State of Oregon for MORROW County as evidenced by Certificate 152. The decree is recorded in the Order Record of the Water Resources Director in Volume 1, at Page 73. The dates of priorities are 1898 for the irrigation of thirty (30) acres and April 1, 1908, for the irrigation of ten (10) acres.

The right allows the use of WILLOW CREEK, a tributary of COLUMBIA RIVER, for IRRIGATION OF 40.0 ACRES. The amount of water to which this right is entitled is limited to an amount actually

beneficially used and shall not exceed 0.5 cubic foot per second as of date 1898 and 0.17 cubic foot per second as of the date April 1, 1908, if available at the authorized point of diversion: SW¼ NE¼ and SE¼ NW¼, SECTION 11, T 1 S, R 24 E, W.M., or its equivalent in case of rotation, measured at the point of diversion from the source.

The authorized place of use is located as follows:

NE¼ NE¼ 18.0 ACRES
SECTION 10
NW¼ NW¼ 22.0 ACRES
SECTION 11
TOWNSHIP 1 SOUTH, RANGE 24 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:

#2 - SE¼ NE¼, SECTION 11, T 1 S, R 24 E, W.M.; 2120 FEET SOUTH AND 30 FEET WEST FROM THE NE CORNER, SECTION 11.

#5 - NE¼ NE¼, SECTION 10, T 1 S, R 24 E, W.M.; 20 FEET SOUTH AND 1240 FEET WEST FROM NE CORNER, SECTION 10.

The applicant also proposes to CHANGE THE PLACE OF USE to:

PRIORITY DATE 1898
NW¼ NW¼ 9.0 ACRES
SECTION 10

NW¼ NE¼ 0.1 ACRE
SW¼ NE¼ 11.7 ACRES
NW¼ NW¼ 2.6 ACRES
SE¼ NW¼ 6.6 ACRES
SECTION 11

PRIORITY DATE APRIL 1, 1908

NW¼ NE¼ 1.4 ACRES
SW¼ NE¼ 5.0 ACRES
SE¼ NE¼ 3.6 ACRES

SECTION 11

TOWNSHIP 1 SOUTH, RANGE 24 EAST, W.M.

The FOURTH right to be modified was confirmed by decree of the Circuit Court of the State of Oregon for MORROW County as evidenced by Certificate 124. The decree is recorded in the Order Record of the Water Resources Director in Volume 1, at Page 73. The date of priority is 1906.

The right allows the use of WILLOW CREEK, a tributary of COLUMBIA RIVER, for IRRIGATION OF 7.0 ACRES. The amount of water to which this right is entitled is limited to an amount actually beneficially used and shall not exceed 0.12 cubic foot per second, if available at the authorized point of diversion: SE¼ NW¼, SECTION 11, T 1 S, R 24 E, W.M., or its equivalent in case of rotation, measured at the point of diversion from the source.

The authorized place of use is located as follows:

SW¼ NW¼ 7.0 ACRES
SECTION 11
TOWNSHIP 1 SOUTH, RANGE 24 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:

#2 - SE¼ NE¼, SECTION 11, T 1 S, R 24 E, W.M.; 2120 FEET SOUTH AND 30 FEET WEST FROM THE NE CORNER, SECTION 11.

#5 - NE¼ NE¼, SECTION 10, T 1 S, R 24 E, W.M.; 20 FEET SOUTH AND 1240 FEET WEST FROM NE CORNER, SECTION 10.

#3 - PETTY'S DITCH, SW¼ NE¼, SECTION 11, T 1 S, R 24 E, W.M.; 1400 FEET SOUTH AND 1000 FEET EAST FROM N¼ CORNER, SECTION 11.

The applicant also proposes to CHANGE THE PLACE OF USE to:

SE¼ SW¼ 5.2 ACRES
SW¼ SE¼ 1.8 ACRES
SECTION 3
TOWNSHIP 1 SOUTH, RANGE 24 EAST, W.M.

The FIFTH right to be modified was confirmed by decree of the Circuit Court of the State of Oregon for MORROW County as evidenced by Certificate 79486. The decree is recorded in the Order Record of the Water Resources Director in Volume 1, at Page 73. The date of priority is 1908.

The right allows the use of WILLOW CREEK, a tributary of COLUMBIA RIVER, for IRRIGATION OF 20.0 ACRES. The amount of water to which this right is entitled is limited to an amount actually beneficially used and shall not exceed 0.33 cubic foot per second, if available at the authorized point of diversion: SW¼ NE¼, SECTION 11, T 1 S, R 24 E, W.M., or its equivalent in case of rotation, measured at the point of diversion from the source.

The authorized place of use is located as follows:

NE¼ NW¼ 10.0 ACRES
NW¼ NW¼ 5.0 ACRES
SE¼ NW¼ 5.0 ACRES
SECTION 11
TOWNSHIP 1 SOUTH, RANGE 24 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:

#2 - SE $\frac{1}{4}$ NE $\frac{1}{4}$, SECTION 11, T 1 S, R 24 E, W.M.; 2120 FEET SOUTH AND 30 FEET WEST FROM THE NE CORNER, SECTION 11.

#4 - HAMMERS & HOWARD, SE $\frac{1}{4}$ NW $\frac{1}{4}$, SECTION 11, T 1 S, R 24 E, W.M.; 1750 FEET SOUTH AND 2060 FEET EAST FROM NW CORNER, SECTION 11.

#5 - NE $\frac{1}{4}$ NE $\frac{1}{4}$, SECTION 10, T 1 S, R 24 E, W.M.; 20 FEET SOUTH AND 1240 FEET WEST FROM NE CORNER, SECTION 10.

The applicant also proposes to CHANGE THE PLACE OF USE to:

SW $\frac{1}{4}$ SW $\frac{1}{4}$ 1.5 ACRES
SECTION 2

SE $\frac{1}{4}$ SE $\frac{1}{4}$ 6.8 ACRES
SECTION 3

NE $\frac{1}{4}$ NE $\frac{1}{4}$ 2.7 ACRES
SECTION 10

NW $\frac{1}{4}$ NW $\frac{1}{4}$ 3.8 ACRES
SE $\frac{1}{4}$ NE $\frac{1}{4}$ 5.2 ACRES
SECTION 11

TOWNSHIP 1 SOUTH, RANGE 24 EAST, W.M.

The SIXTH right to be modified, as evidenced by Certificate 962, was perfected under Permit 159 with a date of priority of DECEMBER 20, 1912. The right allows the use of WILLOW CREEK, a tributary of COLUMBIA RIVER, for IRRIGATION OF 33.31 ACRES. The amount of water to which this right is entitled is limited to an amount actually beneficially used and shall not exceed 0.42 cubic foot per second, if available at the authorized point of diversion: SW $\frac{1}{4}$ NE $\frac{1}{4}$, SECTION 11, T 1 S, R 24 E, W.M., or its equivalent in case of rotation, measured at the point of diversion from the source.

The use shall conform to any reasonable rotation system ordered by the proper state officer.

The authorized place of use is located as follows:

SW $\frac{1}{4}$ SE $\frac{1}{4}$ 12.37 ACRES
SE $\frac{1}{4}$ SE $\frac{1}{4}$ 20.94 ACRES
SECTION 3
TOWNSHIP 1 SOUTH, RANGE 24 EAST, W.M.

The right to use the water for the above purpose is restricted to beneficial use on the lands or place of use described.

The applicant proposes to ADD ADDITIONAL POINTS OF DIVERSION to:

#2 - SE $\frac{1}{4}$ NE $\frac{1}{4}$, SECTION 11, T 1 S, R 24 E, W.M.; 2120 FEET SOUTH AND 30 FEET WEST FROM THE NE CORNER, SECTION 11.

#4 - HAMMERS & HOWARD, SE $\frac{1}{4}$ NW $\frac{1}{4}$, SECTION 11, T 1 S, R 24 E, W.M.; 1750 FEET SOUTH AND 2060 FEET EAST FROM NW CORNER, SECTION 11.

#5 - NE $\frac{1}{4}$ NE $\frac{1}{4}$, SECTION 10, T 1 S, R 24 E, W.M.; 20 FEET SOUTH AND 1240 FEET WEST FROM NE CORNER, SECTION 10.

The applicant also proposes to CHANGE THE PLACE OF USE to:

SE $\frac{1}{4}$ SW $\frac{1}{4}$ 4.00 ACRES
SW $\frac{1}{4}$ SE $\frac{1}{4}$ 4.30 ACRES
SE $\frac{1}{4}$ SE $\frac{1}{4}$ 2.70 ACRES
SECTION 3

NE $\frac{1}{4}$ NE $\frac{1}{4}$ 5.00 ACRES
NW $\frac{1}{4}$ NE $\frac{1}{4}$ 1.00 ACRE
NW $\frac{1}{4}$ NW $\frac{1}{4}$ 3.40 ACRES
SECTION 10

SW $\frac{1}{4}$ NE $\frac{1}{4}$ 3.10 ACRES
NW $\frac{1}{4}$ NW $\frac{1}{4}$ 4.40 ACRES
SW $\frac{1}{4}$ NW $\frac{1}{4}$ 0.30 ACRE
SE $\frac{1}{4}$ NW $\frac{1}{4}$ 5.11 ACRES
SECTION 11
TOWNSHIP 1 SOUTH, RANGE 24 EAST, W.M.

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

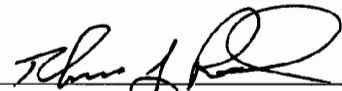
1. The proposed changes shall be completed on or before October 1, 2005.
2. The quantity of water diverted at the new points of diversion, together with that diverted at the old points of diversion, shall not exceed the quantity of water lawfully available at the original points of diversion.
3. The 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. When required by the Department, the water user shall operate the headgate and measuring device, as needed. The water user shall report total flow figures when requested by the Watermaster. The Watermaster may monitor the accuracy of the measuring device, as needed.
5. Water shall be acquired from the same surface water source as the original points of diversion.
6. The former place of use shall no longer be irrigated as a part of these water rights.
7. 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.

Certificates 155, 154, 152, 124, 79486, 962 are cancelled. New certificate will be issued to describe that portion of the right NOT involved in this transfer. When satisfactory proof of the completed change is received, new certificates confirming this water right will be issued.

WITNESS the signature of the Water Resources

Director, affixed AUGUST 11, 2004.


for Phillip C. Ward, Acting Director