

**STATE OF OREGON**

**COUNTY OF BAKER**

**ORDER APPROVING A CHANGE IN  
POINT OF DIVERSION OF A WATER RIGHT**

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 7791 submitted by

PEYRON RANCH INC.  
HCR 88 BOX 39  
BAKER CITY, OR 97814

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 15176. The decree is recorded in the Order Record of the Water Resources Director in Volume 14, at Page 384. The date of priority is March, 1905.

The right allows the use of the POWDER RIVER, a tributary of the SNAKE RIVER, for IRRIGATION OF 12.0 ACRES. The amount of water to which this right is entitled is limited to an amount actually beneficially used and shall not exceed ONE-FORTIETH of one cubic foot per second per acre, if available at the authorized point of diversion: SMITH DITCH - NW¼ NE¼, SECTION 19, TOWNSHIP 10 SOUTH, RANGE 40 EAST, W.M.

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-FORTIETH of one cubic foot per second per acre, or its equivalent for each acre irrigated during the irrigation season of each year.

**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:

SE $\frac{1}{4}$  SE $\frac{1}{4}$  12.0 ACRES  
SECTION 36  
TOWNSHIP 8 SOUTH, RANGE 40 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, as evidenced by a PORTION of Certificate 73533, was perfected under permit 32989 with a date of priority of September 5, 1967. The right allows the use of the POWDER RIVER, a tributary of the SNAKE RIVER, for IRRIGATION OF 418.1 ACRES. The amount of water to which this right is entitled is limited to an amount actually beneficially used and shall not exceed 10.45 cubic foot per second, if available at the authorized point of diversion: SMITH DITCH - NW $\frac{1}{4}$  NE $\frac{1}{4}$ , SECTION 19, T 10 S, R 40 E, W.M.; 6150 FEET SOUTH AND 1920 FEET WEST FROM THE NE CORNER OF SECTION 18; CORRELL DITCH - SW $\frac{1}{4}$  NW $\frac{1}{4}$ , SECTION 9, T 9 S, R 40 E, W.M.; 50 FEET NORTH AND 2720 FEET EAST FROM THE CENTER OF SECTION 8, 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-FORTIETH 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 3 $\frac{1}{2}$  acre-feet for each acre irrigated during the irrigation season of each year.

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

The authorized place of use is located as follows:

NE $\frac{1}{4}$  SW $\frac{1}{4}$  40.0 ACRES  
NW $\frac{1}{4}$  SW $\frac{1}{4}$  39.0 ACRES  
SW $\frac{1}{4}$  SW $\frac{1}{4}$  39.0 ACRES  
SE $\frac{1}{4}$  SW $\frac{1}{4}$  40.0 ACRES  
SECTION 25

NW¼ NE¼ 39.0 ACRES  
SW¼ NE¼ 35.0 ACRES  
NE¼ SW¼ 40.0 ACRES

SECTION 33

SE¼ NE¼ 24.9 ACRES  
NE¼ NW¼ 40.0 ACRES  
NW¼ NW¼ 39.0 ACRES  
SW¼ SW¼ 24.4 ACRES  
SE¼ SW¼ 17.8 ACRES

SECTION 36

TOWNSHIP 8 SOUTH, RANGE 40 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.

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 a PORTION of Certificate 73598. The decree is recorded in the Order Record of the Water Resources Director in Volume 14, at Page 390. The date of priority is March, 1905.

The right allows the use of the POWDER RIVER, a tributary of the SNAKE RIVER, for IRRIGATION OF 168.1 ACRES and STORAGE FROM BAKER RESERVOIR. The amount of water to which this right is entitled is limited to an amount actually beneficially used and shall not exceed 4.20 cubic feet per second, if available at the authorized point of diversion: SMITH DITCH - NW¼ NE¼, SECTION 19, T 10 S, R 40 E, W.M.; 945 FEET SOUTH AND 1865 FEET WEST FROM THE NE CORNER OF SECTION 19, 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-FORTIETH of one cubic foot per second per acre, or its equivalent 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 $\frac{1}{4}$  40.0 ACRES

SE $\frac{1}{4}$  SE $\frac{1}{4}$  22.0 ACRES

SECTION 36

TOWNSHIP 8 SOUTH, RANGE 40 EAST, W.M.

SW $\frac{1}{4}$  NW $\frac{1}{4}$  15.0 ACRES

NE $\frac{1}{4}$  SW $\frac{1}{4}$  17.7 ACRES

NW $\frac{1}{4}$  SW $\frac{1}{4}$  40.0 ACRES

SW $\frac{1}{4}$  SW $\frac{1}{4}$  29.3 ACRES

SE $\frac{1}{4}$  SW $\frac{1}{4}$  4.1 ACRES

SECTION 31

TOWNSHIP 8 SOUTH, RANGE 41 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, as evidenced by a PORTION of Certificate 73999, was perfected under permit 50696 with a date of priority of April 26, 1982. The right allows the use of the POWDER RIVER AND MASON RESERVOIR CONSTRUCTED UNDER APPLIATION R-31037, a tributary of the SNAKE RIVER, for IRRIGATION OF 18.9 ACRES and SUPPLEMENTAL IRRIGATION OF 29.3 ACRES. The amount of water to which this right is entitled is limited to an amount actually beneficially used and shall not exceed 0.14 cubic foot per second, if available at the authorized point of diversion: SMITH DITCH - NW $\frac{1}{4}$  NE $\frac{1}{4}$ , SECTION 19, T 10 S, R 40 E, W.M.; 945 FEET SOUTH AND 1865 FEET WEST FROM THE NE CORNER OF SECTION 19, 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-FORTIETH 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 3 $\frac{1}{2}$  acre-feet for each acre irrigated during the irrigation season of each year from direct flow and storage from Mason Reservoir constructed under

permit R-5083. The use of natural flow is limited to the period of March 1 through July 30 of each year.

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

The authorized place of use is located as follows:

SUPPLEMENTAL  
SE $\frac{1}{4}$  NE $\frac{1}{4}$  24.9 ACRES  
SECTION 36  
TOWNSHIP 8 SOUTH, RANGE 40 EAST, W.M.

<u>PRIMARY</u>	<u>SUPPLEMENTAL</u>
NW $\frac{1}{4}$ NW $\frac{1}{4}$ 8.3 ACRES	SW $\frac{1}{4}$ NW $\frac{1}{4}$ 4.4 ACRES
SW $\frac{1}{4}$ NW $\frac{1}{4}$ 10.6 ACRES	SECTION 31
SECTION 31	
TOWNSHIP 8 SOUTH, RANGE 41 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.

The FIFTH right to be modified, as evidenced by a PORTION of Certificate 73610, was perfected under permit 32932 with a date of priority of June 19, 1958. The right allows the use of the POWDER RIVER and STORAGE FROM PHILLIPS LAKE RESERVOIR CONSTRUCTED UNDER PERMIT R-5083, a tributary of the SNAKE RIVER, for IRRIGATION OF 12.2 ACRES and SUPPLEMENTAL IRRIGATION OF 175.5 ACRES. The amount of water to which this right is entitled is limited to an amount actually beneficially used and shall not exceed 0.30 cubic foot per second, if available at the authorized point of diversion: SMITH DITCH - NW $\frac{1}{4}$  NE $\frac{1}{4}$ , SECTION 19, T 10 S, R 40 E, W.M.; 945 FEET SOUTH AND 1865 FEET WEST FROM THE NE CORNER OF SECTION 19, 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-FORTIETH 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 3 $\frac{1}{2}$  acre-feet for each acre irrigated during the irrigation season of each year from

direct flow and storage from reservoir constructed under Permit R-5083, provided further that the right allowed herein shall be limited to the use of stored water only on the lands described as supplemental (storage only).

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

The authorized place of use is located as follows:

<u>PRIMARY</u>	<u>SUPPLEMENTAL</u>
SW $\frac{1}{4}$ SE $\frac{1}{4}$ 5.9 ACRES	NE $\frac{1}{4}$ SE $\frac{1}{4}$ 40.0 ACRES
SE $\frac{1}{4}$ SE $\frac{1}{4}$ 2.0 ACRES	SE $\frac{1}{4}$ SE $\frac{1}{4}$ 34.0 ACRES
SECTION 36	SECTION 36
TOWNSHIP 8 SOUTH, RANGE 40 EAST, W.M.	
NE $\frac{1}{4}$ SW $\frac{1}{4}$ 4.3 ACRES	SW $\frac{1}{4}$ NW $\frac{1}{4}$ 10.6 ACRES
SECTION 31	NE $\frac{1}{4}$ SW $\frac{1}{4}$ 17.7 ACRES
	NW $\frac{1}{4}$ SW $\frac{1}{4}$ 40.0 ACRES
	SW $\frac{1}{4}$ SW $\frac{1}{4}$ 29.1 ACRES
	SE $\frac{1}{4}$ SW $\frac{1}{4}$ 4.1 ACRES
	SECTION 31
	TOWNSHIP 8 SOUTH, RANGE 41 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.

The applicant proposes to change the point of diversion to:

CORRELL DITCH: SW $\frac{1}{4}$  NW $\frac{1}{4}$ , SECTION 9, TOWNSHIP 9 SOUTH, RANGE 40 EAST, W.M.; 50 FEET NORTH AND 2720 FEET EAST FROM THE CENTER  $\frac{1}{4}$  CORNER OF SECTION 8.

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

1. The proposed change shall be completed on or before October 1, 2004.
2. **Prior** to diverting water at the new point 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.

3. Water shall be acquired from the same surface water source as the original point of diversion.

Except as modified herein, all other conditions and restrictions of Certificates 73999 and 73610 remain in effect. When the Director determines that it is necessary, or to facilitate records keeping, a new certificate 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.

Certificates 15176, 73533 and 73598 are canceled. When satisfactory proof of the completed change is received, a new certificate confirming this water right will be issued.

WITNESS the signature of the Water Resources Director,  
affixed NOV 25 2003.

  
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For Paul R. Cleary