

STATE OF OREGON

COUNTY OF HARNEY

ORDER APPROVING A CHANGE IN PLACE OF USE,
POINT OF DIVERSION, AND PARTIAL CANCELLATION
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 9271 submitted by

BELL A GRAZING COOPERATIVE
P.O. BOX 783
HINES, OREGON 97738.

The FIRST right to be modified, was confirmed by decree of the Circuit Court of the State of Oregon for Harney County as evidenced by a PORTION of Decree Number 914739. The decree is recorded in the Order Record of the Water Resources Director in Volume 9, at Page 147. The Date of Priority is 1894.

The right allows the use of POISON CREEK, a tributary of the SILVIES RIVER AND FOLEY SLOUGH a distributary of the SILVIES RIVER, for IRRIGATION OF 82.8 ACRES. The amount of water to which this right is entitled is limited to an amount actually beneficially used and shall not exceed ONE-EIGHTIETH of one cubic feet per second for each acre irrigated, if available at the authorized point of diversion (Denstedt 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 existing for the same lands, is limited to a diversion of not to exceed 2.0 acre-feet for each acre irrigated during the irrigation season of each year.

The authorized place of use is located as follows:

1894

NW¹/₄ NE¹/₄ 39.1 ACRES
SW¹/₄ NE¹/₄ 40.0 ACRES
NE¹/₄ SW¹/₄ 3.7 ACRES

SECTION 18

TOWNSHIP 23 SOUTH, RANGE 32 EAST, W.M.

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.

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

The SECOND right to be modified, was confirmed by decree of the Circuit Court of the State of Oregon for Harney County as evidenced by a PORTION of Decree Number 916593. The decree is recorded in the Order Record of the Water Resources Director in Volume 9, at Page 165. The Dates of Priority are 1903 and 1906.

The right allows the use of MAIN (SILVIES RIVER) and POISON CREEK SLOUGH, a tributary of the SILVIES RIVER, for IRRIGATION OF 229.5 ACRES. The amount of water to which this right is entitled is limited to an amount actually beneficially used and shall not exceed ONE-EIGHTIETH of one cubic feet per second for each acre irrigated, if available at the authorized point of diversion (Unnamed Dams), 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 a diversion of not to exceed 2.0 acre-feet for each acre irrigated during the irrigation season of each year.

The authorized place of use is located as follows:

1903

SW¹/₄ SW¹/₄ 29.5 ACRES (lot 4)
SE¹/₄ SW¹/₄ 40.0 ACRES
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1906

NE¹/₄ SE¹/₄ 40.0 ACRES
NW¹/₄ SE¹/₄ 40.0 ACRES
SW¹/₄ SE¹/₄ 40.0 ACRES
SE¹/₄ SE¹/₄ 40.0 ACRES
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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 change the Place of Use to:

1894

NW¹/₄ NE¹/₄ 40.0 ACRES
SW¹/₄ NE¹/₄ 40.0 ACRES
SE¹/₄ NW¹/₄ 2.8 ACRES
SECTION 22

1903

NE¹/₄ NW¹/₄ 40.0 ACRES
SE¹/₄ NW¹/₄ 29.5 ACRES
SECTION 22

1906

SW¹/₄ SW¹/₄ 40.0 ACRES
SE¹/₄ SW¹/₄ 32.3 ACRES
SECTION 15
NW¹/₄ NW¹/₄ 40.0 ACRES
SW¹/₄ NW¹/₄ 40.0 ACRES
SE¹/₄ NW¹/₄ 7.7 ACRES
SECTION 22

ALL TOWNSHIP 23 SOUTH, RANGE 32 EAST, W.M.

The applicant further proposes to change the Poison Creek and Poison Creek Slough Point of Diversion to:

POISON CREEK SLOUGH - NE¹/₄ SE¹/₄, SECTION 20, T 23 S, R 32 E, W.M.; 2175 FEET NORTH AND 20 FEET WEST FROM THE SE CORNER, SECTION 20.

The Main (Silvies River) and Foley Slough Diversions will remain at the point at which the Foley Slough splits from the Silvies River located at:

SILVIES RIVER (FOLEY SLOUGH SPLIT) - NE¹/₄ NE¹/₄, SECTION 26, T 22 S, R 30 E, W.M.

An affidavit was received from Steven Rickman, President of the Same Day Service Corporation, owner of certain lands and the water rights appurtenant to it. A portion of Decree Numbers 914739, 916593, and Water Right Certificate 36883 has been abandoned and are requested to be canceled. In addition, the transfer application requested the cancellation of a portion of Water Right Certificate 36883 for supplemental irrigation use.

The FIRST abandoned water right is a PORTION of the right confirmed by Decree Number 914739. The decree is recorded in the Order Record of the Water Resources Director in Volume 9, at Page 147. The Date of Priority is 1894. The abandoned right allows the use of 1/80 of one cubic foot per second per acre from POISON CREEK, a tributary of the SILVIES RIVER and FOLEY SLOUGH a distributary of the SILVIES RIVER, for IRRIGATION OF 0.9 ACRE.

The authorized place of use of the abandoned right is as follows:

NW¹/₄ NE¹/₄ 0.9 ACRE
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The SECOND abandoned water right is a PORTION of the right confirmed by Decree Number 916593. The decree is recorded in the Order Record of the Water Resources Director in Volume 9, at Page 165. The Date of Priority is 1903. The abandoned right allows the use of 1/80th of one cubic foot per second per acre from the MAIN (SILVIES RIVER) and POISON CREEK SLOUGH, a tributary of the SILVIES RIVER, for IRRIGATION OF 2.76 ACRES.

The authorized place of use of the abandoned right is as follows:

SW¹/₄ SW¹/₄ 2.76 ACRES (lot 4)
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The THIRD abandoned water right is a PORTION of the right described by Certificate 36883. The Date of Priority is May 2, 1966.

The abandoned right is for the Use of 1.09 Cubic Feet per Second from TWO WELLS being 0.07 CFS from WELL #1 and 1.02 CFS from WELL #2 for IRRIGATION OF 1.5 ACRES and SUPPLEMENTAL IRRIGATION of 85.8 ACRES.

The authorized place of use of the abandoned right is as follows:

	Primary	Supplemental
NW ¹ / ₄ NE ¹ / ₄	1.3 (well 2)	40.0 (well 2)
SW ¹ / ₄ NE ¹ / ₄	0.2 (well 2)	40.0 (well 2)
SW ¹ / ₄ SW ¹ / ₄		2.6 (well 1)
SE ¹ / ₄ SW ¹ / ₄		3.2 (well 1)

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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, 2006.
2. The quantity of water diverted at the new point of diversion, shall not exceed the quantity of water lawfully available at the original point 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.

Certificate 36883 is also proposed to be modified by Transfer Application T-9692. Upon issuance of the order involving T-9692, a new Certificate will be issued to confirm the portion of the right NOT involved in T-9271 and T-9692. Except as modified herein, all other conditions and restrictions of Certificate 36883 remain in effect.

The portions of the water rights abandoned are cancelled pursuant to ORS 540.621.

Dated at Salem, Oregon this 9th day of November, 2004.



Phillip C. Ward
Acting Director

Mailing date: NOV 29 2004