

STATE OF OREGON

COUNTY OF BAKER

ORDER APPROVING A CHANGE IN CHARACTER OF USE,
PARTIAL CANCELLATION

Pursuant to ORS 537.705, 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 8304 submitted by

GORDON O. AND JUDITH L. SCHROEDER
42644 NYE ROAD
BAKER CITY, OREGON 97814.

The right to be modified, as evidenced by Certificate 72646, was perfected under Permit G-12610 with a date of priority of JANUARY 9, 1995. The right allows the use of A WELL, in the POWDER RIVER BASIN. The amount of water to which this right is entitled is limited to an amount actually beneficially used and shall not exceed 0.44 cubic foot per second (CFS), being 0.01 CFS FOR IRRIGATION OF 0.9 ACRE AND 0.43 CFS FOR SUPPLEMENTAL IRRIGATION OF 34.0 ACRES, if available at the original well; SW¼ SE¼, SECTION 2, T 9 S, R 40 E, W.M.; 260 FEET NORTH AND 1380 FEET WEST FROM THE SE CORNER OF SECTION 2, or its equivalent in case of rotation, measured at the well.

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 amount of water used for irrigation, together with the amount secured under any other right existing on 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 3.0 acre-feet per acre for each acre irrigated during the irrigation season of each year. The portion of this right for supplemental irrigation is limited to any deficiency in the available supply of any prior right existing for the same land.

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

The authorized place of use is as follows:

NW¼ SE¼ 0.9 ACRE - PRIMARY
SW¼ SE¼ 34.0 ACRES - SUPPLEMENTAL
SECTION 2
TOWNSHIP 9 SOUTH, RANGE 40 EAST, W.M.

Measurement, Recording and Reporting Conditions:

The water user **SHALL** maintain the meter or other suitable measuring device in good working order

The water user **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.

The director may require the water user to keep and maintain a record of the amount (volume) of water used and may require the water user to report water use on a periodic schedule as established by the Director. In addition, the Director may require the water user to report general water use information, the periods of water use and the place and nature of use of water under the right. The Director may provide an opportunity for the water user to submit alternative reporting procedures for review and approval.

If substantial interference with a senior water right occurs due to withdrawal of water from any well listed on this right, then use of water from the well shall be discontinued or reduced and/or the schedule of withdrawal shall be regulated until or unless the Department approves or implements an alternative administrative action to mitigate the interference. The Department encourages junior and senior appropriators to jointly develop plans to mitigate interferences.

The well **SHALL** be maintained in accordance with the General Standards for the Construction and Maintenance of Water Wells in Oregon.

The Director may require water level or pump test results every ten years.

Failure to comply with any of the provisions of these rights may result in action including, but not limited to, restrictions on the use, civil penalties, or cancellation of the right.

The right to use water for the above purposes is restricted to beneficial use, without waste, on the lands or place of use described. The water user is advised that new regulations may require use of best practical technologies or conservation practices to achieve this end.

By law, the land use associated with this water use must be in compliance with statewide land-use goals and any local acknowledged land-use plan.

The use of water shall be limited when it interferes with any prior surface or ground water rights.

Certificate 76246 contains three scrivener's errors. The certificate describes SUPPLEMENTAL IRRIGATION of 35.0 ACRES from A WELL in the CORRAL CREEK BASIN as follows:

SW¼ SE¼ 35.0 ACRES
SECTION 6
TOWNSHIP 9 SOUTH, RANGE 40 EAST, W.M.

The correct description of the supplemental irrigation should be 34.0 ACRES FROM A WELL in the POWDER RIVER BASIN as follows:

SW¼ SE¼ 34.0 ACRES
SECTION 2
TOWNSHIP 9 SOUTH, RANGE 40 EAST, W.M.

This order corrects the scrivener's errors.

The applicant proposes to change the character of use of 34.0 acres of supplemental irrigation to primary irrigation as follows:

NW¼ SE¼ 0.9 ACRE - PRIMARY IRRIGATION
SW¼ SE¼ 34.0 ACRES - PRIMARY IRRIGATION
SECTION 2
TOWNSHIP 9 SOUTH, RANGE 40 EAST, W.M.

Pursuant to ORS 540.531, affidavits were received from GORDON O. AND JUDITH L. SCHROEDER, owners of certain land and the water rights appurtenant to it. The water rights have been abandoned and are requested to be canceled.

The FIRST abandoned right as evidenced by Certificate 62158, was perfected under Permit 46324, with a priority date of AUGUST 10, 1981. The water use was for IRRIGATION OF 35.5 ACRES from the POWDER RIVER, a tributary of the SNAKE RIVER. The amount used was 0.89 CFS.

The abandoned right is located as follows:

SW¼ SE¼ 35.5 ACRES
SECTION 2
TOWNSHIP 9 SOUTH, RANGE 40 EAST, W.M.

The SECOND abandoned right as evidenced by a PORTION of Certificate 73999, was perfected under Permit 50696, with a priority date of APRIL 26, 1982. The water use was for SUPPLEMENTAL IRRIGATION OF 35.5 ACRES from the POWDER RIVER, a tributary of the SNAKE RIVER.

The abandoned PORTION is located as follows:

SW¼ SE¼ 35.5 ACRES
SECTION 2
TOWNSHIP 9 SOUTH, RANGE 40 EAST, W.M.

ORS 540.610 provides: "Whenever the owner of a perfected and developed water right certifies under oath to the Water Resources Commission that the water right has been abandoned by the owner and that the owner desires cancellation thereof, the commission shall enter an order canceling the water right."

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

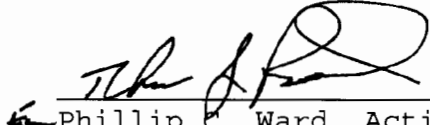
1. The proposed change shall be completed on or before October 1, 2005.
2. The use of water for primary irrigation shall not exceed 0.44 CFS.

Except as modified herein, all other conditions and restrictions of Certificate will 73999 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 describe those portions of the rights not modified by this or any other order.

Certificate 72646 is canceled. A new certificate confirming the water right will be issued.

WITNESS the signature of the Water Resources

Director, affixed August 25, 2004.


Phillip C. Ward, Acting Director