

STATE OF OREGON

COUNTY OF UMATILLA

ORDER APPROVING A CHANGE IN POINT 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 7709 submitted by

SHARI C. MARSH
ROUTE 2, BOX 73-B4
PENDLETON, OREGON 97801.

The first right to be modified was confirmed by decree of the Circuit Court of the State of Oregon for Umatilla County as evidenced by a PORTION of Certificate 72441. The decree is recorded in the Order Record of the Water Resources Director in Volume 3, at Page 127. The date of priority is 1894 for 1.4 acres and 1907 for 1.57 acres.

The right allows the use of MCKAY CREEK, a tributary of the UMATILLA RIVER, for LIVESTOCK AND IRRIGATION OF 2.97 ACRES. The amount of water to which this right is entitled is limited to an amount actually beneficially used and shall not exceed 0.037 cubic foot per second (cfs), being 0.017 cfs for 1894 and 0.02 cfs for 1907, if available at the authorized point of diversion: SE $\frac{1}{4}$ NW $\frac{1}{4}$, SECTION 21, T 2 N, R 32 E, WM; 2640 FEET SOUTH AND 2170 FEET EAST FROM THE NORTHWEST CORNER, SECTION 21, 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 for the same lands, is limited to ONE-EIGHTIETH of one cubic foot per second per acre, or its equivalent, subject to the provisions of paragraph 33 of said decree.

The authorized place of use is located as follows:

NE $\frac{1}{4}$ SW $\frac{1}{4}$ 1.40 ACRES (1894)
NE $\frac{1}{4}$ SW $\frac{1}{4}$ 1.57 ACRES (1907)
SECTION 21
TOWNSHIP 2 NORTH, RANGE 32 EAST, W.M.

The second right to be modified, as evidenced by a portion of Certificate 53298, was perfected under Permit 14294 with a date of priority of APRIL 13, 1940. The right allows the use of MCKAY CREEK, a tributary of the UMATILLA RIVER, for IRRIGATION OF 2.39 ACRES. The amount of water to which this right is entitled is limited to an amount actually beneficially used and shall not exceed 0.045 cubic foot per second, if available at the authorized point of diversion: SE¼ NW¼, SECTION 21, T 2 N, R 32 E, WM; 2640 FEET SOUTH AND 2170 FEET EAST FROM THE NORTHWEST CORNER, SECTION 21, 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 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:

NE¼ SW¼ 2.39 ACRES
SECTION 21
TOWNSHIP 2 NORTH, RANGE 32 EAST, W.M.

The right to use water for the above purposes 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 irrigate the following acres from the following points of diversion:

POD 2 - NE¼ SW¼, SECTION 21, TOWNSHIP 2 NORTH, RANGE 32 EAST, W.M.; 3415 FEET SOUTH AND 2560 FEET EAST FROM THE NORTHWEST CORNER, SECTION 21.

POD 3 - NE¼ SW¼, SECTION 21, TOWNSHIP 2 NORTH, RANGE 32 EAST, W.M.; 3960 FEET SOUTH AND 2545 FEET EAST FROM THE NORTHWEST CORNER, SECTION 21.

<u>TAXLOT</u>	<u>POD 2</u>	<u>PODS 2&3</u>
700 (NESW)		1.69 ACRES
701 (NESW)	3.67 ACRES	
	SECTION 21	
	TOWNSHIP 2 NORTH, RANGE 32 EAST, W.M.	

THESE CHANGES TO AN EXISTING WATER RIGHT 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, 1999.

2. The quantity of water diverted at the new points of diversion, together with that diverted at the old diversion, shall not exceed the quantity of water lawfully available at the original point of diversion.
3. The water user shall install and maintain headgates, in-line flow meters, weirs, or other suitable devices for measuring and recording the quantity of water diverted. The type and plans of the headgates and measuring devices must be approved by the Department prior to beginning construction and shall be installed under the general supervision of the Department.
4. The water user shall install and maintain fish screens or by-pass devices. The type and plans of the screens or by-pass devices 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 Department of Fish and Wildlife's cost sharing program for installation of screening and by-pass devices in accordance with ORS 540.525.

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

Certificates 72441 and 53298 are canceled. New certificates will be issued to confirm those portions of the rights NOT involved in this transfer. When satisfactory proof of the completed changes is received, new certificates confirming these water rights will be issued.

WITNESS the signature of the Water Resources Director, affixed 3/25/98.



Martha O. Pagel, Director