

**STATE OF OREGON**

**COUNTY OF MORROW**

**ORDER APPROVING A CHANGE IN PLACE OF USE,  
POINT OF APPROPRIATION, CHANGE IN POINT OF DIVERSION AND  
PARTIAL DIMINISHMENT OF A CERTAIN WATER RIGHT**

Pursuant to ORS 537.705, and ORS 540.510 to 540.531, 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 9296 submitted by

SIDNEY R. AND RANDY R. BRITT  
78540 BIG BUTTER CREEK ROAD  
ECHO, OREGON 97826.

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 2649. The decree is recorded in the Order Record of the Water Resources Director in Volume 3, at Page 250. The date of priority is 1892.

The right allows the use of BUTTER CREEK, a tributary of the UMATILLA RIVER, for the IRRIGATION OF 3.60 ACRES. The amount of water to which this right is entitled is limited to an amount actually beneficially used and shall not exceed 0.07 cubic foot per second per acre, if available at the authorized point of diversion: NE $\frac{1}{4}$  SW $\frac{1}{4}$ , SECTION 24, T 1 N, R 27 E, W.M., and shall be subject to all other conditions and limitations contained in said decree.

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

The SECOND right to be modified, as evidenced by a PORTION of Certificate 34384, was perfected under Permit G-2797 with a date of priority of DECEMBER 17, 1964. The right allows the use of A WELL, within the BIG BUTTER CREEK BASIN, for SUPPLEMENTAL IRRIGATION OF 3.60 ACRES. The amount of water to which this right is entitled is limited to an amount actually beneficially used and shall not exceed 0.04 cubic feet per second, if

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.

available at the original well; NE $\frac{1}{4}$  SE $\frac{1}{4}$ , SECTION 23, T 1 N, R 27 E, W.M.; 40 FEET NORTH AND 580 FEET WEST FROM THE SE CORNER, NE $\frac{1}{4}$  SE $\frac{1}{4}$ , SECTION 23, or its equivalent in case of rotation, measured at the well.

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 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 THIRD right to be modified, was perfected under Permit 46499, with a date of priority of OCTOBER 16, 1978. The right allows the use of BUTTER CREEK, a tributary of the UMATILLA RIVER, for OUT OF SEASON SUPPLEMENTAL IRRIGATION of 3.60 ACRES.

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-FIFTIETH of one cubic foot per second per acre, from direct flow and shall be further limited to a diversion of not to exceed 1.0 acre-foot per acre for each acre irrigated during the period from September 2 to December 30, provided further that the right allowed herein, together with the amount secured under any other right existing for the same lands shall not exceed 4.0 acre-feet for each acre irrigated in any one year.

The use of water authorized herein shall not establish priority of right as against future appropriations of surface water for beneficial uses or for storage for such beneficial uses, other than similar rights for irrigation from September 2 to December 30, and shall conform to such reasonable rotation system as may be ordered by the proper state officer.

The authorized place of use is for the three rights described above is located as follows:

NE $\frac{1}{4}$  SE $\frac{1}{4}$       2.41 ACRES  
NW $\frac{1}{4}$  SE $\frac{1}{4}$       0.49 ACRE  
SECTION 23

NW $\frac{1}{4}$  SW $\frac{1}{4}$       0.70 ACRE  
SECTION 24

TOWNSHIP 1 NORTH, RANGE 27 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 change the place of use for the three rights described above to:

NE $\frac{1}{4}$  SE $\frac{1}{4}$  1.45 ACRES  
SE $\frac{1}{4}$  SE $\frac{1}{4}$  1.92 ACRES

SECTION 23

SW $\frac{1}{4}$  SW $\frac{1}{4}$  0.23 ACRE

SECTION 24

TOWNSHIP 1 NORTH, RANGE 27 EAST, W.M.

As part of the transfer application, the land owner requests that a portion of the groundwater right for the use of 0.07 cubic feet per second for the primary irrigation of 5.80 acres perfected under Permit G-2797 and evidenced by Certificate 34384 be diminished to supplemental irrigation.

The lands affected by the diminishment are located as follows:

NE $\frac{1}{4}$  SE $\frac{1}{4}$  2.71 ACRES  
NW $\frac{1}{4}$  SE $\frac{1}{4}$  2.54 ACRES  
SE $\frac{1}{4}$  SE $\frac{1}{4}$  0.55 ACRE

SECTION 23

TOWNSHIP 1 NORTH, RANGE 27 EAST, W.M.

The applicant proposes to change the place of use of the diminished portion of the right to:

SW $\frac{1}{4}$  SW $\frac{1}{4}$  5.80 ACRES

SECTION 23

TOWNSHIP 1 NORTH, RANGE 27 EAST, W.M.

The applicant also proposes to change the POINT OF APPROPRIATION for all portions of Certificate 34384 to be modified by the transfer and the diminishment to:

NE $\frac{1}{4}$  SE $\frac{1}{4}$ , SECTION 23, T 1 N, R 27 E, W.M.; 2160 FEET NORTH AND 450 FEET WEST FROM THE SE CORNER, SECTION 23.

The FOURTH 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 80067. The decree is recorded in the Order Record of the Water Resources Director in Volume 3, at Page 250. The dates of priority are 1880 and 1890.

The right allows the use of BIG BUTTER CREEK, a tributary of the UMATILLA RIVER, for the IRRIGATION OF 11.0 ACRES. The amount of water to which this right is entitled is limited to an amount

actually beneficially used and shall not exceed 0.22 cubic foot per second per acre, if available at the authorized point of diversion: MORRIS DITCH - NE $\frac{1}{4}$  NE $\frac{1}{4}$ , SECTION 30, T 1 N, R 28 E, W.M., 730 FEET SOUTH AND 590 FEET WEST FROM THE NE CORNER, SECTION 30.

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

The authorized place of use is for above described right is located as follows:

SW $\frac{1}{4}$  SW $\frac{1}{4}$  11.0 ACRES  
SECTION 24  
TOWNSHIP 1 NORTH, RANGE 27 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 change the point of diversion for the above listed 11.0 acres under Certificate 80067 to:

NE $\frac{1}{4}$  SW $\frac{1}{4}$ , SECTION 24, TOWNSHIP 1 NORTH, RANGE 27 EAST, W.M.; 1540 FEET NORTH AND 470 FEET WEST FROM THE S $\frac{1}{4}$  CORNER, SECTION 24.

The FIFTH right to be modified, as evidenced by a PORTION of Certificate 34196, was perfected under Permit G-681 with a date of priority of OCTOBER 14, 1957. The right allows the use of WELL #4, within the NORTH FORK BUTTER CREEK BASIN, for SUPPLEMENTAL IRRIGATION OF 5.2 ACRES. The amount of water to which this right is entitled is limited to an amount actually beneficially used and shall not exceed 0.065 cubic feet per second, if available at the original well; SE $\frac{1}{4}$  SE $\frac{1}{4}$ , SECTION 24, T 1 N, R 27 E, W.M.; 180 FEET NORTH AND 3900 FEET EAST FROM THE SW CORNER OF THE SE $\frac{1}{4}$  SW $\frac{1}{4}$ , SECTION 24, or its equivalent in case of rotation, measured at the well.

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 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 for above described right is located as follows:

SW<sup>1</sup>/<sub>4</sub> SW<sup>1</sup>/<sub>4</sub> 5.2 ACRES  
SECTION 24  
TOWNSHIP 1 NORTH, RANGE 27 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 change the point of appropriation for the above listed 5.2 acres under Certificate 34196 to:

NE<sup>1</sup>/<sub>4</sub> SE<sup>1</sup>/<sub>4</sub>, SECTION 23, TOWNSHIP 1 NORTH, RANGE 27 EAST, W.M.; 2160 FEET NORTH AND 450 FEET WEST FROM THE SE CORNER, SECTION 23.

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 point of appropriation (well), shall not exceed the quantity of water lawfully available from the original point of appropriation.
3. The water user shall install an in-line flow meter or other suitable device for measuring and recording the quantity of water used. The type and plans of the 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 aquifer as the original point of appropriation.
5. Water shall be acquired from the same surface water sources as the original point of diversion.
6. The quantity of water diverted at the new point of diversion from Butter Creek, shall not exceed the quantity of water lawfully available from the original point of diversion.
7. The former place of use shall no longer be irrigated as part of this water right.

Certificates 2649, 34384, 80067 and 34196 are canceled. New certificates will be issued to confirm those portions of the rights NOT involved in this transfer or in transfer 9081. When satisfactory proof of these completed changes are received, new certificates confirming those water rights will be issued.

The primary right evidenced by Certificate 34384 for the irrigation 5.80 acres is diminished to supplemental irrigation rights as requested by the applicant.

Dated at Salem, Oregon this 14<sup>th</sup> day of June, 2004.

  
for Phillip C. Ward  
Acting Director

Mailing date: JUN 18 2004