**STATE OF OREGON**

**COUNTY OF GRANT**

**AMENDING ORDER APPROVING A TEMPORARY CHANGE IN PLACE OF USE AND POINT OF DIVERSION**

Pursuant to ORS 540.523 and ORS 540.531, after notice was given and no objections were filed, and finding that no injury to existing water rights would result if the loss factor methods described below were employed to mitigate injury, this order approves and supercedes the order of the Water Resources Director, entered March 17, 2003, at Special Order Volume 57, Page 206, as conditioned or limited herein, TEMPORARY TRANSFER 9340 submitted by

PETER R. RAWLINS
HC 84, BOX 100
CANYON CITY, OREGON 97820.

The right to be modified, as evidenced by a PORTION of Certificate 64065, was perfected under Permit 47239 with a date of priority of NOVEMBER 26, 1982. The right allows the use of the CANYON CREEK, a tributary of the JOHN DAY RIVER, for IRRIGATION of 4.14 ACRES. The amount of water to which this right is entitled is limited to an amount actually beneficially used and shall not exceed 0.11 cubic foot per second, if available at the authorized points of diversion: NW¼ SE¼,

**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.**

SW¼ NW¼, SECTION 19, T 15 S, R 32 E, W.M.; NE¼ NE¼, SECTION 24, T 15 S, R 31, E, W.M.; CANYON CREEK - 800 FEET SOUTH AND 150 FEET EAST FROM THE C¼, SECTION 19; 1520 FEET SOUTH AND 1120 FEET EAST; 400 FEET SOUTH AND 870 FEET WEST, BOTH FROM THE NE CORNER, SECTION 24, 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 4.0 acre-feet per acre 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:

SW¼ SE¼ 4.14 ACRES (TAX LOT 1600)
SECTION 13
TOWNSHIP 15 SOUTH, RANGE 31 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 right is subject to minimum flows established by the Water Resources Commission with an effective date prior to the right.

The applicant proposes to **temporarily** change the place of use to:

NW¼ NE¼ 4.14 ACRES (TAX LOT 100)
SECTION 35
TOWNSHIP 13 SOUTH, RANGE 31 EAST, W.M.

The applicant further proposes to change the point of diversion to two hydraulically connected wells located:

SW¼ SE¼, SECTION 26, T 13 S, R 31 E, W.M.; NW¼ NE¼, SECTION 35, T 13 S, R 31 E, W.M.; WELL 1 - 254 FEET NORTH AND 728 FEET EAST; WELL 2 - 160 FEET SOUTH AND 838 FEET EAST, BOTH FROM THE N¼ CORNER, SECTION 35, T 13 S, R 31 E, W.M..

Because the distance between the two proposed points of appropriation (two hydraulically connected wells) and the authorized points of diversion is over 10 miles, ORS 540.531 requires the applicant to submit evidence by a licensed geologist that demonstrates that the new point points of appropriation affects the surface water source similarly to the authorized point of diversion. Michael Zwart, WRD staff and licensed geologist, reviewed the data and concluded that the two proposed wells are hydraulically connected to the nearby reach of Canyon Creek and that the pumping of the wells would cause greater than 50 percent stream depletion in less than 10 days. Mr. Zwart also concluded that the proposed transfer is unlikely to cause injury to other ground water users in the area.

The order of the Water Resources Director, entered March 17, 2003, at Special Order Volume 57, Page 206, inadvertently forgot to include the loss factor methods (as described below) which will mitigate injury to other water rights. **This order should replace the original order.**

This temporary transfer requires two separate loss factor methods applied to prevent injury to other water right holders.

Loss factor method #1: The consumptive use portion of the water right can be transferred to the school without injury to intervening water right holders as long as the non-consumptive portion is left available to intervening water right holders. The water right proposed for the transfer, Certificate 64065 allows 0.16 cubic feet per second (cfs) from Canyon Creek for the

irrigation of 6.2 acres. The transfer proposes to transfer the POD and POU for 4.14 acres and 0.10 cfs downstream to the Grant-Union High School athletic field. The "Oregon Crop Water Use and Irrigation Requirements" publication dated June 1992 was used to estimate probable consumptive use at the original POU. The probable consumptive use amount (31.17 inches) was divided by the maximum amount per acre allowed under Certificate 64065 (4 acre feet per acre). This analysis indicates about 65 percent of the 0.10 cfs would have been consumptively used at the original place of use which would have left about 35 percent of the 0.10 available to intervening water right holders via return flow. This breaks down as follows:

- 0.10 cfs times 65% consumptive use = 0.065 cfs available to transfer to the school leaving 0.035 cfs available to intervening water users.

Loss factor method #2: The distance involved between the original and proposed points of diversion = about 11 river miles which requires a loss per mile factor to be applied to prevent injury to intervening water right holders. Best estimates indicate a loss factor of about 1.0 percent per mile would be appropriate to apply. This breaks down as follows:

- 11 miles times 1.0 percent = 11 percent times 0.065 cfs available = 0.007cfs total loss between the original and proposed points of diversion. 0.065 cfs minus 0.007 cfs = 0.058 cfs or 26 gpm available to pump at the proposed pod's.

Note that 0.058 cfs almost exactly equals a rate of 1/80 cfs per acre which is the normal maximum rate allowed for groundwater rights east of the cascades. This amount should be adequate to beneficially irrigate the school grounds.

If the actual loss rate is determined to be different than the 1.0 percent per mile or if the consumptive use versus the return flow figures are determined to be different than applied in this

mitigation analysis, the actual return flow and loss rates will be adjusted accordingly.

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

1. The changes are temporary. The changes shall be effective upon issuance of this order.

2. The former place of use **shall not be irrigated** as part of these water rights during the 2003, 2004, 2005, 2006 and 2007 irrigation season.

3. The quantity of water diverted at the new points of appropriation (two hydraulically connected wells) shall not exceed the quantity of water lawfully available at the original points of diversion.

4. The use shall revert to the authorized place of use and points of diversion at the end of the 2007 irrigation season.

5. The approval of this temporary transfer may be revoked or modified if the Department finds the change causes injury to any existing water right.

6. The use of the remaining water right described by Certificate 64065 shall continue to be in accordance with the terms and conditions of Certificate 64065.

7. **Prior** to the diverting of water from the two hydraulically connected wells, the water user **shall** install an in-line flow meter or other suitable device for measuring and recording the quantity of water used into and out of any natural water source used to convey water. Control gates shall also be used to regulate any water out of natural waterways. 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.

WITNESS the signature of the Water Resources Director, affixed APR 04 2003.

for Paul R. Cleary, Director