

STATE OF OREGON

COUNTY OF BAKER

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 8995 submitted by

CCPD INC
TEDDY CARNER
P.O. BOX 203
PENDLETON, OREGON 96801.

The FIRST right to be modified was confirmed by decree of the Circuit Court of the State of Oregon for BAKER County as evidenced by a PORTION of Certificate 73405. The decree is recorded in the Order Record of the Water Resources Director in Volume 6, at Page 291. The date of priority is MAY 6, 1891.

The right allows the use of the POWDER RIVER, a tributary of the SNAKE RIVER, for IRRIGATION OF 39.0 ACRES. The amount of water to which this right is entitled is limited to an amount actually beneficially used and shall not exceed 0.975 cubic foot per second, if available at the authorized point of diversion: SMITH DITCH 6 - NW¼ NE¼, SECTION 19, T 10 S, R 40 E, W.M.; 945 FEET SOUTH AND 1865 FEET WEST FROM NE CORNER OF SECTION 19, or its equivalent in case of rotation, measured at the point of diversion from the source.

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 for the same lands, is limited to ONE-FORTIETH of one cubic foot per second per acre, unless otherwise stated in each tract, during the irrigation season of each year.

The authorized places of use are located as follows:

TRACT 87
NE $\frac{1}{4}$ SW $\frac{1}{4}$ 5.0 ACRES
SW $\frac{1}{4}$ SW $\frac{1}{4}$ 34.0 ACRES
SECTION 17

TOWNSHIP 10 SOUTH, RANGE 40 EAST W.M.

The right to use water for the above purpose 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 SECOND right to be modified, as evidenced by a PORTION of Certificate 73408, was perfected under Permit 44155 with a date of priority of APRIL 24, 1974. The right allows the use of the POWDER RIVER, a tributary of the SNAKE RIVER, for IRRIGATION OF 14.1 ACRES. The amount of water to which this right is entitled is limited to an amount actually beneficially used and shall not exceed 0.353 cubic foot per second, if available at the authorized point of diversion: SMITH DITCH 6 - NW $\frac{1}{4}$ NE $\frac{1}{4}$, SECTION 19, T 10 S, R 40 E, W.M.; 945 FEET SOUTH AND 1865 FEET WEST FROM NE CORNER OF SECTION 19, 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 3 $\frac{1}{2}$ 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 located as follows:

TRACT 9
NE $\frac{1}{4}$ SW $\frac{1}{4}$ 14.1 ACRES
SECTION 17

TOWNSHIP 10 SOUTH, RANGE 40 EAST, W.M.

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

The THIRD right to be modified was confirmed by decree of the Circuit Court of the State of Oregon for BAKER County as evidenced by Certificate 73597. The decree is recorded in the Order Record of the Water Resources Director in Volume 6, at Page 291. The date of priority is MAY 6, 1891.

The right allows the use of the POWDER RIVER, a tributary of the SNAKE RIVER, for IRRIGATION OF 40.0 ACRES. The amount of water to which this right is entitled is limited to an amount actually beneficially used and shall not exceed 1.0 cubic foot per second, if available at the authorized point of diversion: SMITH DITCH 6 - NW $\frac{1}{4}$ NE $\frac{1}{4}$, SECTION 19, T 10 S, R 40 E, W.M.; 945 FEET SOUTH AND 1865 FEET WEST FROM NE CORNER OF SECTION 19, 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:

NW $\frac{1}{4}$ SW $\frac{1}{4}$ 40.0 ACRES
SECTION 17

TOWNSHIP 10 SOUTH, RANGE 40 EAST, W.M.

The right to use water for the above purpose 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 FOURTH right to be modified, as evidenced by a PORTION of Certificate 73599, was perfected under Permit 32932 with a date of priority of JUNE 19, 1958. The right allows the use of the POWDER RIVER AND 64,400 ACRE-FEET FROM PHILLIPS LAKE RESERVOIR CONSTRUCTED UNDER PERMIT R-5083, a tributary of the SNAKE RIVER, for PRIMARY IRRIGATION OF 1.0 ACRE. The amount of water to which this right is entitled is limited to an amount actually beneficially used and shall not exceed 0.025 cubic foot per second, if available at the authorized point of diversion: SMITH DITCH 6 - NW¼ NE¼, SECTION 19, T 10 S, R 40 E, W.M.; 945 FEET SOUTH AND 1865 FEET WEST FROM NE CORNER OF SECTION 19, 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 from direct flow, and 3¼ acre-feet per acre for each acre irrigated during the irrigation season of each year from both direct flow and stored water, provided further that the right allowed herein shall limit the use of stored water only on the lands described as Supplemental Irrigation from storage.

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

The authorized place of use is located as follows:

SE¼ SE¼ 1.0 ACRE
SECTION 18

TOWNSHIP 10 SOUTH, RANGE 40 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 FIFTH right to be modified, as evidenced by a PORTION of Certificate 73604, was perfected under Permit 44155 with a date of priority of APRIL 24, 1974. The right allows the use of the POWDER RIVER, a tributary of the SNAKE RIVER, for IRRIGATION OF 0.2 ACRE. The amount of water to which this right is entitled is limited to an amount actually beneficially used and shall not exceed 0.005 cubic foot per second, if available at the authorized point of diversion: SMITH DITCH 6 - NW¼ NE¼, SECTION 19, T 10 S, R 40 E, W.M.; 945 FEET SOUTH AND 1865 FEET WEST FROM NE CORNER OF SECTION 19, 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 3½ 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 located as follows:

NW¼ SW¼ 0.2 ACRE
SECTION 17

TOWNSHIP 10 SOUTH, RANGE 40 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 SIXTH right to be modified, as evidenced by a PORTION of Certificate 73610, was perfected under Permit 32932 with a date of priority of JUNE 19, 1958. The right allows the use of The POWDER RIVER AND 64,400 ACRE-FEET FROM PHILLIPS LAKE RESERVOIR CONSTRUCTED UNDER PERMIT R-5083, a tributary of SNAKE RIVER, for PRIMARY IRRIGATION OF 24.0 ACRES. The amount of water to which this right is entitled is limited to an amount actually beneficially used and shall not exceed 0.60 cubic foot per second, if available at the authorized point of diversion: SMITH DITCH 6 - NW¼ NE¼, SECTION 19, T 10 S, R 40 E, W.M.; 945 FEET SOUTH AND 1865 FEET WEST FROM NE CORNER OF SECTION 19, 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 ONE-FORTIETH of one cubic foot per second per acre, or its equivalent from direct flow, and 3½ acre-feet per acre for each acre irrigated during the irrigation season of each year from both direct flow and stored water, provided further that the right allowed herein shall limit the use of stored water only on the lands described as Supplemental Irrigation from storage.

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

The authorized places of use are located as follows:

NE $\frac{1}{4}$ NE $\frac{1}{4}$ 6.8 ACRES
SECTION 19

NW $\frac{1}{4}$ NW $\frac{1}{4}$ 17.20 ACRES
SECTION 20

TOWNSHIP 10 SOUTH, RANGE 40 EAST, W.M.

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

The applicant proposes to change the point of diversion to:

NE $\frac{1}{4}$ NE $\frac{1}{4}$, SECTION 19, T 10 S, R 40 E, W.M.; 200 FEET SOUTH AND 150 FEET WEST FROM THE NE CORNER OF SECTION 19.

NW $\frac{1}{4}$ SW $\frac{1}{4}$, SECTION 17, T 10 S, R 40 E, W.M.; 100 FEET SOUTH AND 250 FEET EAST FROM W $\frac{1}{4}$ CORNER OF SECTION 17.

THIS CHANGE 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 quantity of water diverted at the new points of diversion, together with that diverted at the old points of diversion, shall not exceed the quantity of water lawfully available at the original points of diversion.
3. **PRIOR** to the diverting of water at the new point of diversion, 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 points of diversion.

5. The water user shall install and maintain a fish screen or fish by-pass device. The type and plans of the screen or by-pass device 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 Oregon Department of Fish and Wildlife's cost sharing program for installation of screening and by-pass devices in accordance with ORS 540.525.

Except as modified herein, all other conditions and restrictions of Certificates 73405, 73408, 73599, and 73610 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 confirm those portions of the rights not modified by this or any other order.

Certificates 73597 and 73604 are canceled. A new certificate will be issued to confirm that portion of Certificate 73604 NOT involved in this transfer. When satisfactory proof of the completed change is received, new certificates confirming these water rights will be issued.

WITNESS the signature of the Water Resources
Director, affixed DECEMBER 22, 2003.



for Paul R. Cleary, Director