

STATE OF OREGON

COUNTY OF BAKER

ORDER APPROVING A CHANGE IN CHARACTER OF USE,  
A CHANGE IN PLACE OF USE, A CHANGE IN POINTS OF DIVERSION,  
AND PARTIAL CANCELLATION OF WATER RIGHTS

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 8604 submitted by

BALDOCK SLOUGH L.L.C.  
2790 MAIN STREET  
BAKER CITY, OREGON 97814.

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 dates of priority are 1865 FOR IRRIGATION OF 25.2 ACRES, JUNE 28, 1902 FOR IRRIGATION 15.6 ACRES, AND 1902 FOR IRRIGATION OF 297.45 ACRES.

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 right allows the use of the POWDER RIVER, a tributary of the SNAKE RIVER, for IRRIGATION OF 338.25 ACRES. The amount of water to which this right is entitled is limited to an amount actually beneficially used and shall not exceed 8.45 cubic feet per second (CFS) being, 0.67 CFS FROM TRACT 1, 0.63 CFS FROM TRACT 23, 0.66 CFS FROM TRACT 56, 2.24 CFS FROM TRACT 59, 0.52 CFS FROM TRACT 64, 0.39 CFS FROM TRACT 65, 0.42 CFS FROM TRACT 67 AND 2.92 CFS FROM TRACT 76, if available at the authorized points of diversion: SE¼ NW¼, SECTION 28, NE¼ SE¼, SECTION 20, T 8 S, R 40 E, W.M.; POINT 30 (TAGGART EAST)- 2650 FEET NORTH AND 1690 FEET EAST FROM THE SW CORNER OF SECTION 28; POINT 31 (PERKINS EAST 2) - 2660 FEET SOUTH AND 140 FEET WEST FROM THE NE CORNER OF SECTION 20, or its equivalent in case of rotation, measured at the points of diversion from the source.

The amount of water used, 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 to which water is applied, 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	¼, ¼	ACRES	PRIORITY DATE	POD #
65	NE¼ NE¼	15.60	6/28/1902	31
23	SW¼ NE¼	25.20	1865	31
59	SE¼ NE¼	35.00	1902	31
59	NE¼ SE¼	20.00	1902	31
76	NE¼ SE¼	8.10	1902	31
76	SW¼ SE¼	22.20	1902	31
76	SE¼ SE¼	38.60	1902	31
SECTION 9				
59	SW¼ NW¼	13.30	1902	31
59	NW¼ SW¼	21.20	1902	31
76	NW¼ SW¼	10.00	1902	31
76	SW¼ SW¼	10.50	1902	31
76	SW¼ SW¼	27.50	1902	31
SECTION 10				
56	NE¼ NE¼	26.50	1902	30
64	NE¼ NE¼	3.25	1902	30
67	NE¼ NE¼	8.20	1902	30
64	NW¼ NE¼	12.70	1902	30
64	SW¼ NE¼	3.30	1902	30
01	SW¼ NE¼	0.30	1902	30
01	SE¼ NE¼	26.50	1902	31
64	SE¼ NE¼	1.50	1902	30
67	SE¼ NE¼	8.80	1902	30
SECTION 16				

TOWNSHIP 8 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 73999, was perfected under Permit 50696 with a date of priority of APRIL 26, 1982. The right allows the use of the POWDER RIVER AND MASON RESERVOIR, CONSTRUCTED UNDER APPLICATION R-31037, PERMIT R-5083, a tributary of the SNAKE RIVER, for IRRIGATION OF 26.9 ACRES AND SUPPLEMENTAL IRRIGATION OF 338.3 ACRES. The amount of water to which this right is entitled is limited to an amount actually beneficially used and shall not exceed 0.67 cubic foot per second, if available at the authorized point of diversion: NE¼ SE¼, SECTION 20, T 8 S, R 40 E, W.M.; PERKINS EAST 2 DITCH - 2660 FEET SOUTH AND 140 FEET WEST FROM THE NE CORNER OF SECTION 20, 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 from direct flow and storage from Mason Reservoir constructed under Permit R-5083. The use of natural flow is limited to the period of March 1 through July 30 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:

¼, ¼	TOTAL IRRIGATED ACRES	PRIMARY IRRIGATION POWDER RIVER AND STORAGE	SUPPLEMENTAL IRRIGATION STORAGE
NE¼ NE¼	15.6		15.6
NW¼ NE¼	16.9	16.9	
SW¼ NE¼	25.2		25.2
SE¼ NE¼	35.0		35.0
NE¼ SE¼	38.1	10.0	28.1
SW¼ SE¼	22.2		22.2
SE¼ SE¼	38.6		38.6
SECTION 9			
SW¼ NW¼	13.3		13.3
NW¼ SW¼	31.2		31.2
SW¼ SW¼	38.0		38.0
SECTION 10			
NE¼ NE¼	37.95		37.95
NW¼ NE¼	12.7		12.7
SW¼ NE¼	3.6		3.6
SE¼ NE¼	36.8		36.8
SECTION 16			

TOWNSHIP 8 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 use confirmed herein may be made only at times when sufficient water is maintaining instream flows.

The THIRD right to be modified, as evidenced by Certificate 51117, was perfected under Permit G-6185 with a date of priority of DECEMBER 6, 1974. The right allows the use of A SUMP, tributary of BALDOCK SLOUGH, for IRRIGATION OF 25.70 ACRES AND SUPPLEMENTAL IRRIGATION OF 305.15 ACRES. The amount of water to which this right is entitled is limited to an amount actually beneficially used and shall not exceed 4.14 cubic feet per second, if available at the point of diversion: SW¼ NE¼, SECTION 16, T 8 S, R 40 E, W.M.; 350 FEET NORTH AND 1100 FEET EAST FROM THE CENTER ¼ CORNER OF SECTION 16, or its equivalent in case of rotation, measured at the point of diversion from the source.

The amount of water used, together with the amount secured under any other right existing for 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 acre-feet per 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:

	<u>PRIMARY</u>	<u>SUPPLEMENTAL</u>
NE¼ NE¼		15.60 ACRES
NW¼ NE¼	15.70 ACRES	
SW¼ NE¼		25.20 ACRES
SE¼ NE¼		35.00 ACRES
NE¼ SE¼	10.00 ACRES	28.10 ACRES
SW¼ SE¼		22.20 ACRES
SE¼ SE¼		38.60 ACRES
SECTION 9		
SW¼ NW¼		8.70 ACRES
NW¼ SW¼		26.10 ACRES
SW¼ SW¼		14.60 ACRES
SECTION 10		
NE¼ NE¼		37.95 ACRES
NW¼ NE¼		12.70 ACRES
SW¼ NE¼		3.60 ACRES
SE¼ NE¼		36.80 ACRES
SECTION 16		

TOWNSHIP 8 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 FOURTH 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 4006. The decree is recorded in the Order Record of the Water Resources Director in Volume 6, at Page 291. The date of priority is JUNE 28, 1902.

The right allows the use of the POWDER RIVER, a tributary of the SNAKE RIVER, for IRRIGATION OF 40 ACRES. The amount of water to which this right is entitled is limited to an amount actually beneficially used and shall not exceed ONE-FORTIETH of one cubic foot per second per acre, if available at the authorized point of diversion: GEDDES-SNAVELY DITCH, or its equivalent in case of rotation, measured at the point of diversion from the source.

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

The authorized place of use is located as follows:

NE $\frac{1}{4}$  NE $\frac{1}{4}$  40.0 ACRES  
SECTION 15

TOWNSHIP 8 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 FIFTH 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 73589. The decree is recorded in the Order Record of the Water Resources Director in Volume 6, at Page 291. The date of priority is JUNE 28, 1902.

The right allows the use of the POWDER RIVER, a tributary of the SNAKE RIVER, for IRRIGATION OF 120.00 ACRES. The amount of water to which this right is entitled is limited to an amount actually beneficially used and shall not exceed 3.0 cubic feet per second, if available at the authorized point of diversion: GEDDES-SNAVELY DITCH, or its equivalent in case of rotation, measured at the point of diversion from the source.

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

The authorized place of use is located as follows:

NE $\frac{1}{4}$  SW $\frac{1}{4}$  40.0 ACRES  
SE $\frac{1}{4}$  SW $\frac{1}{4}$  40.0 ACRES  
SW $\frac{1}{4}$  SE $\frac{1}{4}$  40.0 ACRES  
SECTION 10

TOWNSHIP 8 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 applicant proposes to change the character of use to WILDLIFE MANAGEMENT; INCLUDING BUT NOT LIMITED TO WETLAND ENHANCEMENT AND MAINTENANCE, WATERFOWL AND OTHER WILDLIFE HABITAT IMPROVEMENT AND MAINTENANCE, WETLAND RELATED WATER QUALITY USES INCLUDING DOWNSTREAM IMPROVEMENTS TO THE BALDOCK SLOUGH, AND INSTREAM AQUATIC HABITAT ENHANCEMENT.

The applicant proposes to change the place of use to:

NE $\frac{1}{4}$   
NE $\frac{1}{4}$  SE $\frac{1}{4}$   
S $\frac{1}{2}$  SE $\frac{1}{4}$   
SECTION 9

S $\frac{1}{2}$  NW $\frac{1}{4}$   
SW $\frac{1}{4}$   
SW $\frac{1}{4}$  SE $\frac{1}{4}$   
SECTION 10

NE $\frac{1}{4}$   
SECTION 15

NE $\frac{1}{4}$   
SECTION 16

TOWNSHIP 8 SOUTH, RANGE 40 EAST, W.M.



The applicant proposes to change the points of diversion to:

NE $\frac{1}{4}$  SE $\frac{1}{4}$ , SECTION 20, T 8 S, R 40 E, W.M.; PERKINS EAST 2  
BVID #31 POWDER RIVER - 2660 FEET SOUTH AND 140 FEET WEST FROM THE  
NE CORNER OF SECTION 20.

NW $\frac{1}{4}$  NE $\frac{1}{4}$ , SECTION 16, T 8 S, R 40 E, W.M.; SUMP -  
1900 FEET NORTH AND 1100 FEET EAST FROM THE CENTER OF SECTION 16.

Affidavits were received from Baldock Slough L.L.C., owner of  
certain land and the water rights appurtenant to it. Portions of  
Certificates 51117 and 4006, have been abandoned and are requested  
to be canceled.

The first abandoned water right is a portion of the right described  
by Certificate 51117, State Record of Water Right Certificates.  
The abandoned water right is for use of 0.26 cubic foot per second  
from A SUMP, a tributary of BALDOCK SLOUGH. The date of priority  
is December 6, 1974. The abandoned water right is for SUPPLEMENTAL  
IRRIGATION OF 21.25 ACRES.

A description of the place of use of the abandoned right for  
supplemental irrigation is as follows:

TAX LOT 902

NE $\frac{1}{4}$  NE $\frac{1}{4}$  2.10 ACRES  
SE $\frac{1}{4}$  NE $\frac{1}{4}$  2.30 ACRES  
NE $\frac{1}{4}$  SE $\frac{1}{4}$  1.90 ACRES  
SE $\frac{1}{4}$  SE $\frac{1}{4}$  1.40 ACRES  
SECTION 9

NE $\frac{1}{4}$  NE $\frac{1}{4}$  2.05 ACRES  
NW $\frac{1}{4}$  NE $\frac{1}{4}$  1.40 ACRES  
SW $\frac{1}{4}$  NE $\frac{1}{4}$  6.90 ACRES  
SE $\frac{1}{4}$  NE $\frac{1}{4}$  3.20 ACRES  
SECTION 16

TOWNSHIP 8 SOUTH, RANGE 40 EAST, W.M.

The second abandoned water right is a portion of the right described by Certificate 4006, State Record of Water Right Certificates. The abandoned water right is for the use of ONE-FORTIETH of one cubic foot per second per acre from the POWDER RIVER, a tributary of the Snake River. The date of priority is June 28, 1902. The abandoned water right is for IRRIGATION OF 100.0 ACRES.

A description of the place of use of the abandoned right for irrigation is as follows:

TAX LOT 100

NW¼ NE¼ 30.00 ACRES  
SW¼ NE¼ 30.00 ACRES  
SE¼ NE¼ 40.00 ACRES  
SECTION 15

TOWNSHIP 8 SOUTH, RANGE 40 EAST, W.M.

ORS 540.621 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 changes shall be completed on or before October 1, 2005.
2. The quantity of water diverted from the POWDER RIVER shall not exceed 13.12 cubic feet per second (CFS) being: 0.63 CFS with a priority date of 1865, 4.39 CFS with a priority date of 6/28/1902, 7.43 CFS with a priority date of 1902 and 0.67 CFS with a priority date of 4/26/1982. The quantity of water diverted from the sump shall not exceed 4.14 CFS to supplement any shortage in the supply from the Powder River.
3. Prior to water use under the proposed use, 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. 60 days prior to using water each year, the water user shall provide to the Watermaster's office a map, drawn to OAR 690-015-0070 standards, showing which lands will be receiving water for that current year. If a suitable map is not presented to the Watermaster's office 60 days before water use begins, the Watermaster may deny water to all lands involved in the transfer, or take appropriate enforcement action against illegal water use. Lands receiving water shall not exceed more than 365.15 acres in any year.
5. The water user shall implement and maintain a water use monitoring program approved by the Watermaster. Water use data shall be available to the Watermaster promptly on request. The water user shall provide an annual report of water use. Monitoring data shall be provided in an approved summary format by December 31 of each year.

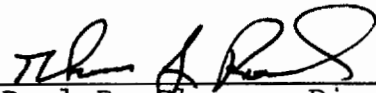
Those portions of Certificates 51117 and 4006 requested to be canceled are canceled.

Except as modified herein, all other conditions and restrictions of Certificates 73409 and 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 confirm those portions of the rights not modified by this or any other order.

Certificates 51117, 4006, and 73589 are canceled. New certificates will be issued to confirm those portions of Certificates 4006 and 73589 NOT involved by this transfer. When satisfactory proof of the completed changes are received, a new certificate confirming this water right will be issued.

WITNESS the signature of the Water Resources

Director, affixed DECEMBER 22, 2003.

  
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For Paul R. Cleary, Director