

STATE OF OREGON

COUNTY OF BAKER

ORDER APPROVING TEMPORARY CHANGES IN PLACE OF USE

Pursuant to ORS 540.523, 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, TEMPORARY TRANSFER 8219 submitted by

KERNS RAINBOW RANCH, INC.
45917 QUAIL ROAD
HAINES, OREGON 97833.

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 74062. The decree is recorded in the Order Record of the Water Resources Director in Volume 6, at Page 291. The date of priority is 1868.

The right allows the use of ROCK CREEK, a tributary of the POWDER RIVER, for IRRIGATION of 34.3 ACRES. The amount of water to which this right is entitled is limited to an amount actually beneficially used and shall not exceed 0.80 cubic foot per second, if available at the authorized point of diversion: NE¼ SW¼, NW¼ SW¼, SECTION 34, T 7 S, R 38 E, WM; HUNSTOCK-MEYERS DITCH - 2663 FEET SOUTH AND 3687 FEET WEST; BROWN-DELONG DITCH - 3567 FEET SOUTH AND 5087 FEET WEST; BOTH FROM THE NE CORNER, SECTION 34, 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:

SW¼ SW¼ 34.3 ACRES
SECTION 6
TOWNSHIP 8 SOUTH, RANGE 39 EAST, W.M.

The first right NOT to be modified, as evidenced by a PORTION of Certificate 66820, was perfected under Permit G-9888 with a date of priority of MARCH 8, 1982. The right allows the use of POND 2 in the POWDER RIVER BASIN, for SUPPLEMENTAL IRRIGATION of 7.3 ACRES. The amount of water to which this right is entitled is limited to an amount actually beneficially used and shall not exceed 0.09 cubic foot per second, if available at the original well; NE¼ NW¼, SECTION 7, T 8 S, R 39 E, WM; POND 2 - 950 FEET SOUTH AND 1300 FEET EAST FROM THE NW CORNER, SECTION 7, 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 per acre for each acre irrigated during the irrigation season of each year. The right shall be limited to any deficiency in the available supply of any prior right for the same land and shall not exceed the limitation allowed herein.

The authorized place of use is as follows:

LOT 7 (SW¼ SW¼) 7.3 ACRES
SECTION 6
TOWNSHIP 8 SOUTH, RANGE 39 EAST, W.M.

The second right NOT to be modified is a portion of the right being perfected under Permit G-13158 with a date of priority of AUGUST 12, 1994. The permit allows the use of WELL 2, in the WILLOW CREEK BASIN, for SUPPLEMENTAL IRRIGATION of 34.3 ACRES. The amount of water to which this right is entitled is limited to an amount actually beneficially used and shall not exceed 0.39 cubic foot per second, if available at the original well; NW¼ SE¼, SECTION 12, T 8 S, R 38 E, WM; 10 FEET SOUTH AND 330 FEET EAST FROM THE C¼ CORNER, SECTION 34, or its equivalent in case of rotation, measured at the well.

The amount of water used for irrigation under this right, together with the amount secured under any other right existing for the same lands, is limited to a diversion of ONE-EIGHTIETH of one cubic foot per second (or its equivalent) and 3.0 acre-feet for each acre irrigated during the irrigation season of each year.

The authorized place of use is as follows:

SW $\frac{1}{4}$ SW $\frac{1}{4}$ 34.3 ACRES
SECTION 6
TOWNSHIP 8 SOUTH, RANGE 39 EAST, W.M.

The third right NOT to be modified is a portion of the right being perfected under Permit G-13159 with a date of priority of FEBRUARY 23, 1995. The permit allows the use of WELL 1, in the WILLOW CREEK BASIN, for SUPPLEMENTAL IRRIGATION of 31.0 ACRES. The amount of water to which this right is entitled is limited to an amount actually beneficially used and shall not exceed 0.32 cubic foot per second, if available at the original well; NE $\frac{1}{4}$ NW $\frac{1}{4}$, SECTION 7, T 8 S, R 39 E, WM; 1237 FEET SOUTH AND 83 FEET WEST FROM THE N $\frac{1}{4}$ CORNER, SECTION 7, or its equivalent in case of rotation, measured at the well.

The amount of water used for irrigation under this right, together with the amount secured under any other right existing for the same lands, is limited to a diversion of ONE-EIGHTIETH of one cubic foot per second (or its equivalent) and 3.0 acre-feet for each acre irrigated during the irrigation season of each year.

The authorized place of use is as follows:

SW $\frac{1}{4}$ SW $\frac{1}{4}$ 31.0 ACRES
SECTION 6
TOWNSHIP 8 SOUTH, RANGE 39 EAST, W.M.

The second right to be modified was confirmed by decree of the Circuit of the State of Oregon for BAKER County as evidenced by a PORTION of Certificate 4053. The decree is recorded in the Order Record of the Water Resources Director in Volume 6, at Page 291. The date of priority is 1901.

The right allows the use of ROCK CREEK, a tributary of the POWDER RIVER, for IRRIGATION of 34.3 ACRES. The amount of water to which this right is entitled is limited to an amount actually beneficially used and shall not exceed 1/40th of one cubic foot per second per acre, if available at the authorized point of diversion: BURKE-OWNES-CARTMILL DITCH, or its equivalent in case of rotation, measured at the point of diversion from the source.

The authorized place of use is as follows:

NW¼ SE¼ 34.3 ACRES
SECTION 1
TOWNSHIP 8 SOUTH, RANGE 38 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 use shall conform to any reasonable rotation system ordered by the proper state officer.

The applicant proposes to TEMPORARILY change, for the 1998 irrigation season, the places of use to:

CERTIFICATE 74062

NW¼ SE¼ 34.3 ACRES
SECTION 1
TOWNSHIP 8 SOUTH, RANGE 38 EAST, W.M.

CERTIFICATE 4053

SW¼ SW¼ 34.3 ACRES
SECTION 6
TOWNSHIP 8 SOUTH, RANGE 39 EAST, W.M.

The applicant states that the portions of the water rights for these lands under Certificate 66820, Permit G-13158, and Permit G-13159 will remain unused in the authorized place of use.

THESE CHANGES TO EXISTING WATER RIGHTS 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 places of use shall not be irrigated as part of these water rights during the 1999 irrigation season. However, the lands may be irrigated as the temporary places of use under the modified water rights.
3. The former place of use shall not be irrigated as part of the supplemental water rights during the 1999 irrigation season.
4. The uses shall revert to the authorized places of use at the end of the 1999 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 rights described by Certificates 74062, 6682, and 4053, and Permits G-13158 and G-13159 shall continue to be in accordance with the terms and conditions of Certificates 74062, 6682, and 4053, and Permits G-13158 and G-13159.

WITNESS the signature of the Water Resources
Director, affixed APR 07 1999.



For Martha O. Pagel, Director

Under the provisions of OAR 137-004-0080, the applicant may petition for reconsideration of this order. The petition shall set forth specific grounds for reconsideration. The petition for reconsideration must be filed within 60 days after the date this order is served.