

STATE OF OREGON

COUNTY OF BAKER

ORDER APPROVING A CHANGE IN HISTORIC POINT OF DIVERSION

Pursuant to ORS 540.532, 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 8346 submitted by

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The right to be modified was confirmed by decree of the Circuit Court of the State of Oregon for UNION County as evidenced by Certificate 1461. The decree is recorded in the Order Record of the Water Resources Director in Volume 31, at Page 252. The date of priority is 1881 for 182.0 ACRES and 1874 for 7.0 ACRES.

The right allows the use of the NORTH POWDER RIVER, a tributary of the POWDER RIVER, for IRRIGATION OF 189.0 ACRES, DOMESTIC AND STOCK USE. The amount of water to which this right is entitled is limited to an amount actually beneficially used and shall not exceed a rate of flow of 4.73 cubic feet per second from MARCH 1ST TO JULY 1ST and 2.37 cubic feet per second from JULY 1ST TO OCTOBER 1ST of each year, if available at the authorized points of diversion, TRACT 1 - GARDNER MILL RACE; TRACT 2 - POWERS

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.

COMPANY DITCH, or its equivalent in case of rotation, measured at the point of diversion from the source. The total quantity diverted during each session not to exceed 473 acre-feet.

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

The authorized places of use are located as follows:

TRACT 1 (1874)

(TL 100) SE $\frac{1}{4}$ NE $\frac{1}{4}$ 7.0 ACRES
SECTION 33

TRACT 2 (1881)

(TL 100) SW $\frac{1}{4}$ SE $\frac{1}{4}$ 15.0 ACRES
(TL 1100) SE $\frac{1}{4}$ SE $\frac{1}{4}$ 15.0 ACRES
SECTION 28

(TL 100) NE $\frac{1}{4}$ NE $\frac{1}{4}$ 39.0 ACRES
(TL 100) NW $\frac{1}{4}$ NE $\frac{1}{4}$ 40.0 ACRES
(TL 100) SW $\frac{1}{4}$ NE $\frac{1}{4}$ 40.0 ACRES
(TL 100) SE $\frac{1}{4}$ NE $\frac{1}{4}$ 33.0 ACRES
SECTION 33

TOWNSHIP 6 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 applicant proposes to add additional points of diversion to allow both Tract 1 and Tract 2 to use either point of diversion or a combination of both as follows:

POWERS COMPANY DITCH - SW $\frac{1}{4}$ SE $\frac{1}{4}$, SECTION 32, TOWNSHIP 6 SOUTH, RANGE 38 EAST, W.M.; 585 FEET NORTH AND 2154 FEET WEST FROM THE SOUTHEAST CORNER, SECTION 32.

HUTCHINSON/GARDNER MILL RACE - NW $\frac{1}{4}$ NE $\frac{1}{4}$, SECTION 5, TOWNSHIP 7 SOUTH, RANGE 38 EAST, W.M.; 2760 FEET SOUTH AND 2380 FEET WEST FROM THE EAST $\frac{1}{4}$ CORNER, SECTION 32.

An affidavit was received from Baker County, owners of the road right of way and the water right appurtenant to it. A portion of the water right has been abandoned and is requested to be canceled.

The abandoned water right is a portion of the right described by a decree of the Circuit Court of the State of Oregon for BAKER County as evidenced by Certificate 1461, State Record of Water Right Certificates. The date of priority is 1881. The water use was for IRRIGATION OF 1.0 ACRE, DOMESTIC AND STOCK USE from the NORTH POWDER RIVER, a tributary of the POWDER RIVER. The amount used was 0.025 cubic foot per second from MARCH 1ST TO JULY 1ST and 0.012 cubic foot per second from JULY 1ST TO OCTOBER 1ST of each year.

The abandoned portion is located as follows:

SE $\frac{1}{4}$ NE $\frac{1}{4}$ 1.0 ACRE
SECTION 33
TOWNSHIP 9 SOUTH, RANGE 40 EAST, W.M.

ORS 540.610 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."

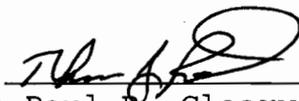
THESE CHANGES TO AN EXISTING WATER RIGHT MAY BE MADE PROVIDED THE FOLLOWING CONDITIONS ARE MET BY THE WATER USER:

1. 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.
2. When required by the Department, 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.
3. Water shall be acquired from the same surface water source as the original point of diversion.

Certificate 1461 is canceled. A new certificate will be issued to confirm that portion of the right involved in this transfer.

WITNESS the signature of the Water Resources

Director, affixed **JUN 11 2001** .



Paul R. Cleary, Director