

STATE OF OREGON

COUNTY OF BAKER

ORDER APPROVING TEMPORARY CHANGES IN PLACE OF USE
AND TEMPORARILY ADD AN ADDITIONAL POINT OF DIVERSION

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 8220 submitted by

KERNS RAINBOW RANCH, INC.
45913 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 67787. The decree is recorded in the Order Record of the Water Resources Director in Volume 6, at Page 291. The date of priority is JANUARY 20, 1868.

The right allows the use of ROCK CREEK, a tributary of the POWDER RIVER, for IRRIGATION of 33.0 ACRES. The amount of water to which this right is entitled is limited to an amount actually beneficially used and shall not exceed 1/40th OF ONE CUBIC FOOT PER SECOND PER ACRE, if available at the authorized point of diversion: LEONING RICKARD DITCH, or its equivalent in case of rotation, measured at the point of diversion from the source.

The authorized place of use is located as follows:

SW¼ NE¼ 13.0 ACRES
SE¼ NE¼ 20.0 ACRES
SECTION 12
TOWNSHIP 8 SOUTH, RANGE 38 EAST, W.M.

The second right to be modified, as evidenced by a portion of Certificate 7775, was perfected under Permit 5547 with a date of priority of JULY 10, 1922. The right allows the use of ROCK CREEK, a tributary of the NORTH POWDER RIVER, for IRRIGATION of 2.7 ACRES. The amount of water to which this right is entitled is limited to an amount actually beneficially used and shall not exceed 0.03 cubic foot per second, if available at the authorized point of diversion: NE $\frac{1}{4}$ SE $\frac{1}{4}$, SECTION 33, T 7 S, R 38 E, WM, 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 an 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 during the irrigation season of each year.

The authorized place of use is located as follows:

NW $\frac{1}{4}$ SW $\frac{1}{4}$ 2.7 ACRES
SECTION 12
TOWNSHIP 8 SOUTH, RANGE 38 EAST, W.M.

The third right to be modified, as evidenced by a portion of Certificate 38015, was perfected under Permit 32743 with a date of priority of DECEMBER 14, 1966. The right allows the use of TWO UNNAMED DRAINS AND RESERVOIR CONSTRUCTED UNDER PERMIT R-5048, tributaries of WILLOW CREEK, for IRRIGATION of 10.0 ACRES. The amount of water to which this right is entitled is limited to an amount actually beneficially used and shall not exceed 0.14 cubic foot per second being 0.07 cfs from Drain 1 and Reservoir, and 0.07 cfs from Drain 2 and Reservoir, if available at the authorized point of diversion: SE $\frac{1}{4}$ NW $\frac{1}{4}$, SECTION 12, T 8 S, R 38 E, WM; 1740 FEET SOUTH AND 3750 FEET WEST FROM THE NE CORNER, SECTION 12, 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 an 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 for each acre irrigated during the irrigation season of each year from direct flow and storage from reservoir constructed under Permit R-5048.

The authorized place of use is located as follows:

SE $\frac{1}{4}$ NW $\frac{1}{4}$	1.0 ACRE
NE $\frac{1}{4}$ SW $\frac{1}{4}$	6.3 ACRES
NW $\frac{1}{4}$ SW $\frac{1}{4}$	2.7 ACRES

SECTION 12
TOWNSHIP 8 SOUTH, RANGE 38 EAST, W.M.

The rights to use water for the above purposes is restricted to beneficial use on the lands or places of use described and is subject to all other conditions and limitations contained in the decree.

The applicant proposes to TEMPORARILY change the place of use to:

CERTIFICATE 67787

SE $\frac{1}{4}$ NW $\frac{1}{4}$	1.0 ACRE
NE $\frac{1}{4}$ SW $\frac{1}{4}$	31.0 ACRES
NW $\frac{1}{4}$ SW $\frac{1}{4}$	1.0 ACRE

CERTIFICATE 7775

SW $\frac{1}{4}$ SE $\frac{1}{4}$	2.7 ACRES
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CERTIFICATE 38015

SW $\frac{1}{4}$ SE $\frac{1}{4}$	10.0 ACRES
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SECTION 12
TOWNSHIP 8 SOUTH, RANGE 38 EAST, W.M.

The applicant also proposes to TEMPORARILY add an additional point of diversion to:

NW $\frac{1}{4}$ SW $\frac{1}{4}$, SECTION 34, T 7 S, R 38 E, WM; BROWN DELONG DITCH - 3567 FEET SOUTH AND 2447 FEET EAST FROM THE NW CORNER, SECTION 34.

The applicant proposes the temporary transfer be for five years.

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

1. The change is temporary. The change shall be effective upon issuance of this order.

2. The former place of use shall not be irrigated as part of this water right during the 1999, 2000, 2001, 2002, and 2003 irrigation seasons.
3. The use shall revert to the authorized place of use at the end of the 2003 irrigation season.
4. The approval of this temporary transfer may be revoked or modified if the Department finds the change causes injury to any existing water right.
5. The use of the remaining water right described by Certificates 67787, 7775, and 38015 shall continue to be in accordance with the terms and conditions of Certificates 67787, 7775, and 38015.

WITNESS the signature of the Water Resources Director,
affixed APR 21 1999.



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.