

STATE OF OREGON

COUNTY OF BAKER

ORDER APPROVING TEMPORARY CHANGES IN PLACE OF USE
AND POINTS 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, TRANSFER 8250 submitted by

KERNS RAINBOW RANCH
45917 QUAIL ROAD
HAINES, OREGON 97833

HELEN FISHER
14758 MUDDY CREEK LANE
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 JANUARY 20, 1868 for TRACT 1, and 1868 for TRACT 2.

The right allows the use of ROCK CREEK, a tributary of the POWDER RIVER, for IRRIGATION of 65.0 ACRES. The amount of water to which this right is entitled is limited to an amount actually beneficially used and shall not exceed 1.62 cubic foot per second, if available at the authorized point of diversion: NW¼ SW¼, SECTION 34, T 7 S, R 38 E, WM; BROWN DELONG DITCH - 3567 FEET SOUTH AND 5087 FEET WEST 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:

	<u>TRACT 1</u>	<u>TRACT 2</u>
SW $\frac{1}{4}$ NW $\frac{1}{4}$		27.1 ACRES
SE $\frac{1}{4}$ NW $\frac{1}{4}$	37.9 ACRES	
	SECTION 1	
	TOWNSHIP 8 SOUTH, RANGE 38 EAST, W.M.	

The second 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 an order of the Water Resources Director, entered JANUARY 23, 1995, at Special Order Volume 49, Page 32, approving TRANSFER 6900. The decree is recorded in the Order Record of the Water Resources Director in Volume 6, at Page 291. The date of priority is 1880.

The right allows the use of the POWDER RIVER, a tributary of the SNAKE RIVER, for IRRIGATION of 65.0 ACRES. The amount of water to which this right is entitled is limited to an amount actually beneficially used and shall not exceed 1.62 cubic foot per second, if available at the original point of diversion: MAXWELL DITCH, or its equivalent in case of rotation, measured at the point of diversion from the source.

The authorized points of diversion are:

MAXWELL DITCH - SE $\frac{1}{4}$ NW $\frac{1}{4}$, SECTION 35, T 7 S, R 37 E, WM;
and,

FISHER DITCH - SE $\frac{1}{4}$ NE $\frac{1}{4}$, SECTION 34, T 7 S, R 38 E, WM;
500 FEET NORTH AND 730 FEET WEST FROM THE E $\frac{1}{4}$ CORNER, SECTION 34.

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:

SE $\frac{1}{4}$ SW $\frac{1}{4}$	32.5 ACRES
	SECTION 24

NE $\frac{1}{4}$ NW $\frac{1}{4}$ 32.5 ACRES
SECTION 25
TOWNSHIP 7 SOUTH, RANGE 38 EAST, W.M.

The quantity of water diverted at the new point of diversion, together with that diverted at the old diversion, shall not exceed the quantity of water available at the original point of diversion.

The water user shall maintain a headgate, an in-line flow meter, weir, or other suitable device for measuring and recording the quantity of water diverted.

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 applicants propose to TEMPORARILY change the places of use to:

PRIORITY JANUARY 20, 1868 and 1868

SE $\frac{1}{4}$ SW $\frac{1}{4}$ 32.5 ACRES
SECTION 24

NE $\frac{1}{4}$ NW $\frac{1}{4}$ 32.5 ACRES
SECTION 25
TOWNSHIP 7 SOUTH, RANGE 38 EAST, W.M.

PRIORITY 1880

SW $\frac{1}{4}$ NW $\frac{1}{4}$ 27.1 ACRES
SE $\frac{1}{4}$ NW $\frac{1}{4}$ 37.9 ACRES
SECTION 1
TOWNSHIP 8 SOUTH, RANGE 38 EAST, W.M.

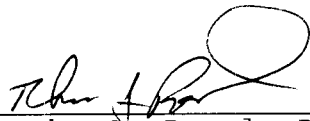
The applicants also propose to change the points of diversion so that the JANUARY 20, 1868 and 1868 rights are diverted through the FISHER DITCH, and the 1880 right is diverted through the BROWN DELONG DITCH, described above.

THESE TEMPORARY 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, these lands may be irrigated as the temporary places of use under the modified water rights.
3. The uses shall revert to the authorized places of use at the end of the 1999 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 rights described by Certificate 74062 and Transfer 6900 shall continue to be in accordance with the terms and conditions of Certificate 74062 and Transfer 6900.

WITNESS the signature of the Water Resources Director,

affixed May 6, 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.