BEFORE THE WATER RESOURCES DEPARTMENT OF THE STATE OF OREGON

In the Matter of Permit Amendment)	FINAL ORDER
T-10868, Crook County)	APPROVING A CHANGE IN POINTS
)	OF APPROPRIATION AND A
)	CHANGE IN PLACE OF USE

Authority

ORS 537.211 establishes the process in which a water right permit holder may submit a request to change the point of appropriation and/or place of use authorized under an existing water right permit.

Applicant

GUTIERREZ CATTLE CO. TIM McISAAC P.O. BOX 1076 WEST SACRAMENTO, CALIFORNIA 95691

Findings of Fact

Background

- 1. On May 1, 2009, Gutierrez Cattle Co. filed an application to change the point of appropriation of Well 4 and to change in place of use under Permit G-15078. The Department assigned the application number T-10868.
- The portion of the permit to be amended is as follows:

Permit:

G-15078 in the name of GUTIERREZ CATTLE CO.

Use:

IRRIGATION of 209.0 ACRES

Priority Date: SEPTEMBER 25, 2000

Quantity:

2.61 CUBIC FEET PER SECOND

Rate/Duty:

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.

Period of Use: MARCH 1 THROUGH OCTOBER 31

Source:

WELL 4 within the CROOKED RIVER BASIN

This is a final order in other than 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. A petition for reconsideration may be granted or denied by the Director, and if no action is taken within 60 days following the date the petition was filed, the petition shall be deemed denied.

Authorized Point of Appropriation:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances	
16 S	22 E	WM	26	NW NW	WELL 4 - 480 FEET SOUTH AND 900 FEET EAST FROM THE NW CORNER OF SECTION 26	

Authorized Place of Use:

IRRIGATION									
WELL 4									
Twp	Twp Rng Mer Sec Q-Q Acres								
16 S	22 E	WM	25	SW NW	8.0				
16 S	22 E	WM	26	NW NE	13.0				
16 S	22 E	WM	26	SW NE	40.0				
16 S	22 E	WM	26	SE NE	38.5				
16 S	22 E	WM	26	NE NW	25.2				
16 S	22 E	WM	26	NW NW	6.1				
16 S	22 E	WM	26	SE NW	33.0				
16 S	22 E	WM	26	NE SW	5.5				
16 S	22 E	WM	26	NE SE	19.7				
16 S	22 E	WM	26	NW SE	20.0				

3. Permit Amendment Application T-10868 proposes to move the authorized point of appropriation from Well 4 to:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
16 S	22 E	WM	26	SE NW	WELL 4 (NEW) - 150 FEET NORTH AND 1680 FEET EAST FROM THE W¼ CORNER OF SECTION 26
16 S	22 E	WM	25	SE SE	WELL 5 - 330 FEET NORTH AND 20 FEET WEST FROM THE SE CORNER OF SECTION 25
16 S	22 E	WM	25	NW SW	WELL 8 - 300 FEET SOUTH AND 425 FEET EAST FROM THE W¼ CORNER OF SECTION 25

4. Permit Amendment Application T-10868 also proposes to change the place of use of a portion of the permit to:

WELL 4									
IRRIGATION									
Twp	Twp Rng Mer Sec Q-Q Acres								
16 S	22 E	WM	26	SW NE	32.3				
16 S	22 E	WM	25	NE NW	14.6				
16 S	22 E	WM	26	SE NW	27.9				
16 S	22 E	WM	26	NE SE	14.0				
16 S	22 E	WM	26	NW SE	39.9				
16 S	22 E	WM	26	SW SE	2.4				
16 S	22 E	WM	26	SE NE	9.6				

WELL 5 IRRIGATION						
Twp Rng Mer Sec Q-Q Acre						
16 S	22 E	WM	25	SW SW	3.4	
16 S	22 E	WM	25	SE SW	5.2	

	WELL 8								
	IRRIGATION								
Twp	Twp Rng Mer Sec Q-Q Acres								
16 S	22 E	WM	25	NE NW	27.7				
16 S	22 E	WM	25	NW NW	23.4				
16 S	22 E	WM	25	SW NW	3.5				
16 S	22 E	WM	25	SE NW	4.1				
16 S	22 E	WM	26	SE NE	1.0				

5. Notice of the application for the permit amendment was published in the Department's weekly notice on May 26, 2009, and in the Central Oregonian newspaper on August 26, September 2, and 9, 2009, pursuant to ORS 540.520(5). No comments were filed in response to the notices.

Permit Amendment Review Criteria

- The changes would not result in injury to other water rights.
- 7. The proposed place of use is owned by the permit holder.
- 8. The changes do not enlarge the permit.
- The changes do not alter any other terms of the permit.
- 10. The proposed places of use are contiguous to the authorized place of use.

Conclusions of Law

The change in point of appropriation and changes in place of use proposed by Permit Amendment Application T-10868 are consistent with the requirements of ORS 537.211.

Now, therefore, it is ORDERED:

The changes and subsequent use of water shall be subject to the following conditions:

- The quantity of water diverted at the new points of appropriation shall not exceed the quantity of water lawfully available at the original point of appropriation (Well 4).
- 2. Prior to water use from the proposed point of appropriation, the permittee shall install totalizing flow meters or other suitable measuring devices as approved by the Director. The permittee shall maintain the meters or measuring devices in good working order, and shall keep a complete record of the amount of water used each month and shall submit a report which includes the recorded water use measurements to the Department annually or more frequently as may be required by the Director. Further, the Director may require the permittee to report general water use information, including the place and nature of use of water under the permit.

The permittee shall allow the watermaster access to the meters or measuring devices; provided however, where the meter or measuring device is located within a private structure, the watermaster shall request access upon reasonable notice.

- 3. Water shall be acquired from the same aquifer as the original point of appropriation.
- 4. The former place of use shall no longer be irrigated as part of this permit.
- 5. All other terms and conditions of Permit G-15078 remain the same.
- 6. PermitG-15078, in the name of GUTIERREZ CATTLE CO., is amended as described herein.

Dated at Salem, Oregon this 151 day of Lepkenber, 2009.

Phillip C. Ward, Director *

Mailing Date: SEP 2 1 2009