

**BEFORE THE WATER RESOURCES DEPARTMENT
OF THE
STATE OF OREGON**

In the Matter of Permit G-17014, Baker
County

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PROPOSED FINAL ORDER
APPROVING ASSIGNMENT OF
WATER RIGHT PERMIT AND
ISSUANCE OF REPLACEMENT
WATER RIGHT PERMITS

Authority

ORS 537.225 establishes the process in which a water right permit holder may submit a request for full or partial assignment of a water right permit and issuance of replacement permits. OAR Chapter 690, Division 325 establishes the requirements and procedures to be used by the Department to evaluate an application by a landowner of record holding a water right permit for irrigation, nursery, temperature control, stock watering, or agricultural water use to assign all or part of the water right permit and to issue a replacement permit to reflect an assignment from the current permit holder to one or more additional permit holders.

Applicant

COMPANY FARM
TOM AND FAWN KERNS
13974 LAUNCHPAD LN.
HAINES, OR 97833

Applicant

COMPANY FARM
ELDON AND HOPE BUCKNER
13967 HUNT MOUNTAIN LN.
BAKER CITY, OR 97814

Applicant

COMPANY FARM
GREG AND JOYCE ROBERTS
8906 NE 202 AVE.
VANCOUVER, WA 98682

Applicant

COMPANY FARM
K DIAMOND RANCH LLC
45298 POCAHONTAS RD.
HAINES, OR 97833

Applicant

COMPANY FARM
AVERETT RANCH LLC
13619 HUNT MOUNTAIN LN
BAKER CITY, OR 97814

Pursuant to OAR 690-325-0100, any person may file a protest or standing statement within 45 days after the date of publication of notice of this Proposed Final Order.

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.

Findings of Fact

Background

1. On April 3, 2017, COMPANY FARM filed an application for partial assignment of Water Right Permit G-17014 and requested issuance of replacement permits. The Department assigned the application number T-12560.
2. On September 9, 2009, the Department approved an extension of time for complete application of water under then Permit G-13157 to October 1, 2017.
3. The Applicants identified the following landowners within the authorized place of use, who are not participating in the request for assignment:

Name and Address
Kerns Rainbow Ranch Inc. c/o Tim & Jan Kerns 45917 Quail Rd. Haines, OR 97833

4. The Permit to be modified and assigned is as follows:

Permit: G-17014 in the name of KERNS RAINBOW RANCH INC.

Use: SUPPLEMENTAL IRRIGATION of 581.0 ACRES, BEING 421.0 ACRES FROM ORIGINAL WELL NO.1 AND 160.0 ACRES FROM ORIGINAL WELL NO. 2

Priority Date: AUGUST 23, 1994

Rate: 4.50 CUBIC FEET PER SECOND (CFS), being 2.5 CFS from ORIGINAL WELL NO. 1 and 2.0 CFS from ORIGINAL WELL NO. 2.

Limit/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: WHEN NECESSARY FOR BENEFICIAL USE

Source: 12 WELLS within the WILLOW CREEK AND PINE CREEK BASINS

Authorized Points of Appropriation:

Well log	Twp	Rng	Mer	Sec	Q-Q	Measured Distances
--	8 S	38 E	WM	1	SE NW	WELL NO. 10: 1531 FEET SOUTH AND 2340 FEET EAST FROM THE NW CORNER OF SECTION 1
--	8 S	38 E	WM	1	SE SE	WELL NO. 11: 1210 FEET NORTH AND 868 FEET WEST FROM THE SE CORNER OF SECTION 1
BAKE 50701	8 S	38 E	WM	12	NE NE	NEW WELL NO. 1 (HOME PLACE NO 3): 10 FEET SOUTH AND 450 FEET WEST FROM THE NE CORNER OF SECTION 12
--	8 S	38 E	WM	12	NW SE	WELL NO. 2 (SAKOS PLACE NO 5): 10 FEET SOUTH AND 330 FEET EAST FROM THE CENTER $\frac{1}{4}$ CORNER OF SECTION 12
BAKE 50955	8 S	39 E	WM	6	SW SW	WELL NO. 3 (BOYS PLACE NO 2): 1120 FEET NORTH AND 50 FEET EAST FROM THE SW CORNER OF SECTION 6

Well log	Twp	Rng	Mer	Sec	Q-Q	Measured Distances
--	8 S	39 E	WM	7	NE NE	WELL NO. 4 (WARD 40 NO. 7): 1000 FEET SOUTH AND 1315 FEET WEST FROM THE NE CORNER OF SECTION 7
--	8 S	39 E	WM	7	NE NE	WELL NO. 8 (WARD 40 NO. 2): 1310 FEET SOUTH AND 1310 FEET WEST FROM THE NE CORNER OF SECTION 7
--	8 S	39 E	WM	7	NE NE	WELL NO. 12: 265 FEET SOUTH AND 1158 FEET WEST FROM THE NE CORNER OF SECTION 7
BAKE 1897	8 S	39 E	WM	7	NE NW	BOYS PLACE NO. 1: 960 FEET SOUTH AND 2160 FEET EAST FROM NW CORNER OF SECTION 7
--	8 S	39 E	WM	18	SE NW	BOYS PLACE NO. 2: 1400 FEET SOUTH AND 50 FEET WEST FROM THE NORTH ¼ CORNER OF SECTION 18
--	8 S	39 E	WM	18	SE NW	WELL NO. 13: 1709 FEET SOUTH AND 2037 FEET WEST FROM THE NW CORNER OF SECTION 18
BAKE 50624	8 S	39 E	WM	28	NW NW	ORIGINAL WELL NO. 2 (COMPANY FARM NO. 4): 660 FEET SOUTH AND 165 FEET EAST FROM THE NW CORNER OF SECTION 28

Authorized Place of Use:

SUPPLEMENTAL IRRIGATION					
ORIGINAL WELL NO.1					
Twp	Rng	Mer	Sec	Q-Q	Acres
8 S	38 E	WM	1	SW NW	32.0
8 S	38 E	WM	1	SE NW	38.0
8 S	38 E	WM	1	NE SW	40.0
8 S	38 E	WM	1	NW SW	40.0
8 S	38 E	WM	1	SW SW	39.0
8 S	38 E	WM	1	SE SW	24.0
8 S	38 E	WM	1	SW SE	8.0
8 S	38 E	WM	2	SW NE	24.0
8 S	38 E	WM	2	SE NE	40.0
8 S	38 E	WM	2	NE SE	36.0
8 S	38 E	WM	2	NW SE	19.0
8 S	38 E	WM	2	SE SE	7.0
8 S	38 E	WM	12	NE NE	10.0
8 S	38 E	WM	12	NW NE	8.0
8 S	38 E	WM	12	NE NW	40.0
8 S	38 E	WM	12	NW NW	16.0
Total					421.0

SUPPLEMENTAL IRRIGATION					
ORIGINAL WELL NO. 2					
Twp	Rng	Mer	Sec	Q-Q	Acres
8 S	39 E	WM	28	NE NW	40.0
8 S	39 E	WM	28	NW NW	40.0
8 S	39 E	WM	28	SW NW	40.0
8 S	39 E	WM	28	SE NW	40.0
Total					160.0

5. The quantity of water diverted at the following wells: Boys Place No. 1, Bank Place No. 2, New Well No. 1 (Home Place No. 3), Well No. 2 (Company Farm No. 4), Well No. 2 (Sackos Place No. 5), Well No. 3 (Boys Place No. 2), Well No. 4 (Ward 40 No. 7), Well No.

8 (Ward 40 No. 2), Well No. 10, Well No. 11, Well No. 12, and Well No. 13, shall not exceed the quantity of water lawfully available at original wells:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
8 S	38 E	WM	1	SW SE	ORIGINAL WELL NO. 1: 83 FEET NORTH AND 83 FEET EAST FROM THE EAST 1/16 CORNER OF SECTION 1
8 S	39 E	WM	28	NW NW	ORIGINAL WELL NO. 2: 660 FEET SOUTH AND 165 FEET EAST FROM THE NW CORNER OF SECTION 28

6. The Applicants request Permit G-17014 be split and replacement permits be issued as follows:

Permit A:

Permit: G-17014 in the name of COMPANY FARM

Use: SUPPLEMENTAL IRRIGATION 160.0 ACRES FROM ORIGINAL WELL NO. 2

Priority Date: AUGUST 23, 1994

Rate: 2.00 CUBIC FEET PER SECOND

Limit/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: WHEN NECESSARY FOR BENEFICIAL USE

Source: TWELVE (12) WELLS within the WILLOW CREEK AND PINE CREEK BASINS

Authorized Points of Appropriation:

Well log	Twp	Rng	Mer	Sec	Q-Q	Measured Distances
--	8 S	38 E	WM	1	SE NW	WELL NO.10: 1531 FEET SOUTH AND 2340 FEET EAST FROM THE NW CORNER OF SECTION 1
--	8 S	38 E	WM	1	SE SE	WELL NO.11: 1210 FEET NORTH AND 868 FEET WEST FROM THE SE CORNER OF SECTION 1
BAKE 50701	8 S	38 E	WM	12	NE NE	NEW WELL NO. 1 (HOME PLACE NO. 3): 10 FEET SOUTH AND 450 FEET WEST FROM THE NE CORNER OF SECTION 12
--	8 S	38 E	WM	12	NW SE	WELL NO. 2 (SAKOS PLACE NO. 5): 10 FEET SOUTH AND 330 FEET EAST FROM THE CENTER 1/4 CORNER OF SECTION 12
BAKE 50955	8 S	39 E	WM	6	SW SW	WELL NO. 3 (BOYS PLACE NO. 2): 1120 FEET NORTH AND 50 FEET EAST FROM THE SW CORNER OF SECTION 6
--	8 S	39 E	WM	7	NE NE	WELL NO. 4 (WARD 40 NO. 7): 1000 FEET SOUTH AND 1315 FEET WEST FROM THE NE CORNER OF SECTION 7
--	8 S	39 E	WM	7	NE NE	WELL NO. 8 (WARD 40 NO. 2): 1310 FEET SOUTH AND 1310 FEET WEST FROM THE NE CORNER OF SECTION 7
--	8 S	39 E	WM	7	NE NE	WELL NO. 12: 265 FEET SOUTH AND 1158 FEET WEST FROM THE NE CORNER OF SECTION 7

Well log	Twp	Rng	Mer	Sec	Q-Q	Measured Distances
BAKE 1897	8 S	39 E	WM	7	NE NW	BOYS PLACE NO. 1: 960 FEET SOUTH AND 2160 FEET EAST FROM NW CORNER OF SECTION 7
--	8 S	39 E	WM	18	SE NW	BOYS PLACE NO. 2: 1400 FEET SOUTH AND 50 FEET WEST FROM THE NORTH ¼ CORNER OF SECTION 18
--	8 S	39 E	WM	18	SE NW	WELL NO. 13: 1709 FEET SOUTH AND 2037 FEET WEST FROM THE NW CORNER OF SECTION 18
BAKE 50624	8 S	39 E	WM	28	NW NW	ORIGINAL WELL NO. 2 (COMPANY FARM NO. 4): 660 FEET SOUTH AND 165 FEET EAST FROM THE NW CORNER OF SECTION 28

Authorized Place of Use:

SUPPLEMENTAL IRRIGATION					
ORIGINAL WELL NO.2					
Twp	Rng	Mer	Sec	Q-Q	Acres
8 S	39 E	WM	28	NE NW	40.0
8 S	39 E	WM	28	NW NW	40.0
8 S	39 E	WM	28	SW NW	40.0
8 S	39 E	WM	28	SE NW	40.0
Total					160.0

Permit B:

Permit: G-17014 in the name of KERN'S RAINBOW RANCH INC.
Use: SUPPLEMENTAL IRRIGATION of 421.0 ACRES FROM ORIGINAL WELL NO.1
Priority Date: AUGUST 23, 1994
Rate: 2.50 CUBIC FEET PER SECOND
Limit/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: WHEN NECESSARY FOR BENEFICIAL USE
Source: TWELVE (12) WELLS within the WILLOW CREEK AND PINE CREEK BASINS

Authorized Points of Appropriation:

Well log	Twp	Rng	Mer	Sec	Q-Q	Measured Distances
--	8 S	38 E	WM	1	SE NW	WELL NO. 10: 1531 FEET SOUTH AND 2340 FEET EAST FROM THE NW CORNER OF SECTION 1
--	8 S	38 E	WM	1	SE SE	WELL NO. 11: 1210 FEET NORTH AND 868 FEET WEST FROM THE SE CORNER OF SECTION 1
BAKE 50701	8 S	38 E	WM	12	NE NE	NEW WELL NO. 1 (HOME PLACE NO. 3): 10 FEET SOUTH AND 450 FEET WEST FROM THE NE CORNER OF SECTION 12
--	8 S	38 E	WM	12	NW SE	WELL NO. 2 (SAKOS PLACE NO. 5): 10 FEET SOUTH AND 330 FEET EAST FROM THE CENTER ¼ CORNER OF SECTION 12
BAKE 50955	8 S	39 E	WM	6	SW SW	WELL NO. 3 (BOYS PLACE NO. 2): 1120 FEET NORTH AND 50 FEET EAST FROM THE SW CORNER OF SECTION 6

Well log	Twp	Rng	Mer	Sec	Q-Q	Measured Distances
--	8 S	39 E	WM	7	NE NE	WELL NO. 4 (WARD 40 NO. 7): 1000 FEET SOUTH AND 1315 FEET WEST FROM THE NE CORNER OF SECTION 7
--	8 S	39 E	WM	7	NE NE	WELL NO. 8 (WARD 40 NO. 2): 1310 FEET SOUTH AND 1310 FEET WEST FROM THE NE CORNER OF SECTION 7
--	8 S	39 E	WM	7	NE NE	WELL NO. 12: 265 FEET SOUTH AND 1158 FEET WEST FROM THE NE CORNER OF SECTION 7
BAKE 1897	8 S	39 E	WM	7	NE NW	BOYS PLACE NO. 1: 960 FEET SOUTH AND 2160 FEET EAST FROM NW CORNER OF SECTION 7
--	8 S	39 E	WM	18	SE NW	BOYS PLACE NO. 2: 1400 FEET SOUTH AND 50 FEET WEST FROM THE NORTH ¼ CORNER OF SECTION 18
--	8 S	39 E	WM	18	SE NW	WELL NO. 13: 1709 FEET SOUTH AND 2037 FEET WEST FROM THE NW CORNER OF SECTION 18
BAKE 50624	8 S	39 E	WM	28	NW NW	ORIGINAL WELL NO. 2 (COMPANY FARM NO. 4): 660 FEET SOUTH AND 165 FEET EAST FROM THE NW CORNER OF SECTION 28

Authorized Place of Use:

SUPPLEMENTAL IRRIGATION					
ORIGINAL WELL NO.1					
Twp	Rng	Mer	Sec	Q-Q	Acres
8 S	38 E	WM	1	SW NW	32.0
8 S	38 E	WM	1	SE NW	38.0
8 S	38 E	WM	1	NE SW	40.0
8 S	38 E	WM	1	NW SW	40.0
8 S	38 E	WM	1	SW SW	39.0
8 S	38 E	WM	1	SE SW	24.0
8 S	38 E	WM	1	SW SE	8.0
8 S	38 E	WM	2	SW NE	24.0
8 S	38 E	WM	2	SE NE	40.0
8 S	38 E	WM	2	NE SE	36.0
8 S	38 E	WM	2	NW SE	19.0
8 S	38 E	WM	2	SE SE	7.0
8 S	38 E	WM	12	NE NE	10.0
8 S	38 E	WM	12	NW NE	8.0
8 S	38 E	WM	12	NE NW	40.0
8 S	38 E	WM	12	NW NW	16.0
Total					421.0

- On March 6, 2018, the Department issued a Proposed Final Order considering any comments received, and sent a copy to the applicant, each owner of land upon which the water right permit is appurtenant. Notice of the Proposed Final Order was published in the Department's weekly notice on March 6, 2018. No protests were filed in response to the notice.

Split a Permit Review Criteria

8. The Department has verified the mailing address of each owner of the authorized place of use identified on the map contained in the application as follows:

Name and Address	Acres	Proportionate Rate	Twp	Rng	Sec	Q-Q	Tax Lot
COMPANY FARM TOM AND FAWN KERNS 13974 LAUNCHPAD LN. HAINES, OR 97833	160	2.0 cfs	8 S	39 E	28	NE NW	6900
						NW NW	
						SW NW	
						SE NW	
COMPANY FARM ELDON AND HOPE BUCKNER 13967 HUNT MOUNTAIN LN. BAKER CITY, OR 97814	160	2.0 cfs	8 S	39 E	28	NE NW	6900
						NW NW	
						SW NW	
						SE NW	
COMPANY FARM GREG AND JOYCE ROBERTS 8906 NE 202 AVE. VANCOUVER, WA 98682	160	2.0 cfs	8 S	39 E	28	NE NW	6900
						NW NW	
						SW NW	
						SE NW	
COMPANY FARM K DIAMOND RANCH LLC 45298 POCAHONTAS RD. HAINES, OR 97833	160	2.0 cfs	8 S	39 E	28	NE NW	6900
						NW NW	
						SW NW	
						SE NW	
COMPANY FARM AVERETT RANCH LLC 13619 HUNT MOUNTAIN LN BAKER CITY, OR 97814	160	2.0 cfs	8 S	39 E	28	NE NW	6900
						NW NW	
						SW NW	
						SE NW	
KERNS RAINBOW RANCH INC. C/O TIM & JAN KERNS 45917 QUAIL RD. HAINES, OR 97833	421.0	2.5 cfs	8 S	38 E	1	SW NW	100
						SE NW	
						NE SW	
						NW SW	
						SW SW	
						SE SW	
			8 S	38 E	12	SW SE	500
						NE NW	
						NW NW	
			8 S	38 E	2	SW NE	600
						SE NE	
						NE SE	
8 S	38 E	2	NW SE	700			
			SE SE				
			NE NE				
8 S	38 E	12	NW NE	2201			
			NE NW				

OAR 690-325-0070(1)(a).

9. The deeds supplied with the application, match the properties proposed for assignment. OAR 690-325-0070(1)(b).
10. The applicants affirmed the most recent water use under the permit has been exercised within the relevant terms and conditions of the water right permit. OAR 690-325-0070(1)(c).
11. The assignment and issuance of replacement permits, as outlined in Finding of Fact #6 above, would not result in injury to other water right holders. OAR 690-325-0070(1)(d).

12. The assignment and issuance of replacement permits, as outlined in Finding of Fact #6 above, would not result in enlargement of the permit. OAR 690-325-0070(1)(d).
13. The assignment and issuance of replacement permits does not alter any other terms of Permit G-17014.

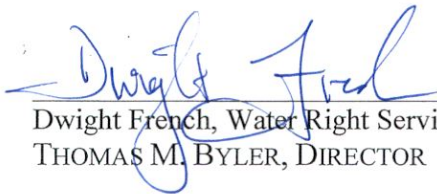
Conclusions of Law

The assignment and issuance of replacement permits proposed by Application T-12174 are consistent with the requirements of ORS 537.225 and OAR Chapter 690, Division 325. If no protests are filed, an Order will be issued which will include the following:

Now, therefore, it is ORDERED:

1. *The assignment and issuance of replacement permits proposed by Application T-12650 are approved.*
2. *Permit G-17014, name of Kerns Rainbow Ranch, is cancelled. Permit G-17776, in the name of Company Farm, and Permit G-17777 in the name of Kerns Rainbow Ranch, Inc. are issued to supersede Permit G-17014.*
3. *All other terms and conditions under Permit G-17014 are incorporated into Permits G-17776 and G-17777.*

Dated at Salem, Oregon this 5th day of March, 2018.



Dwight French, Water Right Services Administrator, for
THOMAS M. BYLER, DIRECTOR

This ^{proposed} Final Order was prepared by Joan Smith. If you should have any questions, please do not hesitate to contact me at 503-986-0892 or Joan.M.Smith@oregon.gov

Protest Rights:

A record landowner, an applicant, an assignee, an affected water right permit holder, or other interested person may protest the Proposed Final Order. Pursuant to OAR 690-325-0100, protests must: 1) provide a detailed explanation of why the proposed order does not conform with the criteria under ORS 537.225, and a description of the changes to the order that are necessary to correct the nonconformity; and 2) raise all reasonably ascertainable issues at the time the protest is filed. The issues must directly pertain to whether the replacement water right permits are authorized under and in conformance with ORS 537.225. In addition, protests must be accompanied by the appropriate protest fees. Protests must be received by the Department no later than 45 days after the notice is published in the Department's weekly notice. If no protests are filed, the Department will issue a final order consistent with the Proposed Final Order.

The Proposed Final Order may be viewed free of charge online at:

<http://apps.wrd.state.or.us/apps/wr/wrinfo/>. Persons interested in receiving a copy of a Proposed Final Order must pay a statutorily-required fee of \$25. Any person paying \$25 to receive a PFO by mail will also receive a copy of the Final Order when it is issued.

Notice Regarding Service members: Active duty service members have a right to stay proceedings under the federal Service members Civil Relief Act, 50 U.S.C. App. §§501-597b. You may contact the Oregon State Bar or the Oregon Military Department for more information. The toll-free telephone number for the Oregon State Bar is: 1 (800) 452-8260. The toll-free telephone number of the Oregon Military Department is: 1 (800) 452-7500. The Internet address for the United States Armed Forces Legal Assistance Legal Services Locator website is: <http://legalassistance.law.af.mil>