

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

In the Matter of Permit Amendment) **FINAL ORDER**
T-10641, Klamath County) APPROVING A CHANGE IN POINT OF
) APPROPRIATION

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

Roger Nicholson / Agri-Water LLC
P.O. Box 458
Fort Klamath, Oregon 97626

Findings of Fact

1. On May 29, 2008, Roger Nicholson / Agri-Water LLC filed an application to change the point of appropriation of Well 4 under Permit G-15744. The Department assigned the application number T-10641.

2. The permit to be amended is as follows:

Permit: G-15744, in the names of Wood River District Improvement Company and Roger Nicholson / Agri-Water LLC
Use: Supplemental Irrigation
Priority Date: September 5, 2002
Quantity: 28.88 cubic feet per second (cfs)
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 and 3.0 acre-feet for each acre irrigated during the irrigation season of each year.
Acres: 2310.1 acres
Source: Five Wells, in the Anna Creek Basin.
Date of Complete Application of Water: October 1, 2008

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 Points of Appropriation:

Township		Range		Meridian	Sec	¼ ¼		Location
33	S	7.5	E	W.M.	16	NW	NE	Well 1 – 270 feet South and 1900 feet West from the NE Corner of Section 16.
33	S	7.5	E	W.M.	9	SE	SE	Well 1A – 700 feet North and 600 feet West from the NE Corner of Section 16.
33	S	7.5	E	W.M.	16	SE	NW	Well 2 – 1700 feet South and 2800 feet West from the NE Corner of Section 16.
33	S	7.5	E	W.M.	16	SE	NW	Well 3 – 2450 feet South and 3760 feet West from the NE Corner of Section 16.
33	S	7.5	E	W.M.	20	NE	NE	Well 4 – 200 feet South and 200 feet West from the NE Corner of Section 20.

Authorized Place of Use:

WOOD RIVER DISTRICT IMPROVEMENT CO.									
SUPPLEMENTAL IRRIGATION									
Township		Range		Meridian	Sec	¼ ¼		Lot	Acres
33	S	7.5	E	W.M.	9	SE	SE	13	2.6
33	S	7.5	E	W.M.	10	SW	SW	21	7.5
33	S	7.5	E	W.M.	10	SW	SW		33.0
33	S	7.5	E	W.M.	10	SE	SW		10.1
33	S	7.5	E	W.M.	15	NE	NW	10	22.7
33	S	7.5	E	W.M.	15	NW	NW	11	40.0
33	S	7.5	E	W.M.	15	SW	NW	12	33.8
33	S	7.5	E	W.M.	15	SE	NW	13	1.1
33	S	7.5	E	W.M.	16	NE	NE	5	34.8
33	S	7.5	E	W.M.	16	NW	NE	1	18.5
33	S	7.5	E	W.M.	16	SW	NE	2	48.5
33	S	7.5	E	W.M.	16	SE	NE	6	31.8
33	S	7.5	E	W.M.	16	SW	NW		0.1
33	S	7.5	E	W.M.	16	SE	NW		17.0
33	S	7.5	E	W.M.	16	NE	SW		40.4
33	S	7.5	E	W.M.	16	NW	SW		33.2
33	S	7.5	E	W.M.	16	SW	SW		38.4
33	S	7.5	E	W.M.	16	SE	SW		38.4
33	S	7.5	E	W.M.	16	NE	SE	7	12.0
33	S	7.5	E	W.M.	16	NE	SE	3	20.4

WOOD RIVER DISTRICT IMPROVEMENT CO.									
SUPPLEMENTAL IRRIGATION									
Township		Range		Meridian	Sec	¼ ¼		Lot	Acres
33	S	7.5	E	W.M.	16	NW	SE		40.8
33	S	7.5	E	W.M.	16	SW	SE		37.8
33	S	7.5	E	W.M.	16	SE	SE	4	26.4
33	S	7.5	E	W.M.	17	NE	SE		14.3
33	S	7.5	E	W.M.	17	SE	SE		23.7
33	S	7.5	E	W.M.	21	NE	NE		4.5
33	S	7.5	E	W.M.	21	NW	NE		26.8
33	S	7.5	E	W.M.	21	NE	NW		39.6
33	S	7.5	E	W.M.	21	NW	NW		40.0
33	S	7.5	E	W.M.	21	SW	NW		40.0
33	S	7.5	E	W.M.	21	SE	NW		40.0
33	S	7.5	E	W.M.	21	NE	SW		40.0
33	S	7.5	E	W.M.	21	NW	SW		40.0
33	S	7.5	E	W.M.	21	SW	SW		40.0
33	S	7.5	E	W.M.	21	SE	SW		40.0
33	S	7.5	E	W.M.	29	NE	NE		40.0
33	S	7.5	E	W.M.	29	SE	NE		40.0
33	S	7.5	E	W.M.	29	SW	SW		40.0
33	S	7.5	E	W.M.	29	SE	SW		40.0
33	S	7.5	E	W.M.	29	NE	SE		40.0
33	S	7.5	E	W.M.	29	SW	SE		40.0
33	S	7.5	E	W.M.	29	SE	SE		40.0
33	S	7.5	E	W.M.	30	NE	SE		40.0
33	S	7.5	E	W.M.	32	NW	NE		38.9
33	S	7.5	E	W.M.	32	NE	NW		40.0
33	S	7.5	E	W.M.	32	NW	NW		40.0
33	S	7.5	E	W.M.	32	SW	NW		39.1
33	S	7.5	E	W.M.	32	SE	NW		37.8
33	S	7.5	E	W.M.	32	NW	SW		28.4
33	S	7.5	E	W.M.	32	SW	SW		29.1

ROGER NICHOLSON / AGRI-WATER LLC									
SUPPLEMENTAL IRRIGATION									
Township		Range		Meridian	Sec	¼ ¼		Lot	Acres
33	S	7.5	E	W.M.	20	NE	NE		40.0

ROGER NICHOLSON / AGRI-WATER LLC									
SUPPLEMENTAL IRRIGATION									
Township		Range		Meridian	Sec	¼ ¼		Lot	Acres
33	S	7.5	E	W.M.	20	NW	NE		40.0
33	S	7.5	E	W.M.	20	SW	NE		40.0
33	S	7.5	E	W.M.	20	SE	NE		40.0
33	S	7.5	E	W.M.	20	SW	SW		39.3
33	S	7.5	E	W.M.	20	SE	SW		39.3
33	S	7.5	E	W.M.	20	NE	SE		40.0
33	S	7.5	E	W.M.	20	NW	SE		40.0
33	S	7.5	E	W.M.	20	SW	SE		40.0
33	S	7.5	E	W.M.	20	SE	SE		40.0
33	S	7.5	E	W.M.	29	NW	NE		40.0
33	S	7.5	E	W.M.	29	SW	NE		40.0
33	S	7.5	E	W.M.	29	NE	NW		40.0
33	S	7.5	E	W.M.	29	NW	NW		40.0
33	S	7.5	E	W.M.	29	SW	NW		40.0
33	S	7.5	E	W.M.	29	SE	NW		40.0
33	S	7.5	E	W.M.	29	NE	SW		40.0
33	S	7.5	E	W.M.	29	NW	SW		40.0
33	S	7.5	E	W.M.	29	NW	SE		40.0

3. Application T-10641 proposes to change the point of appropriation of Well 4 of the permit to:

Township		Range		Meridian	Sec	¼ ¼		Location
33	S	7.5	E	W.M.	20	NE	NE	Roger Nicholson / Agri-Water LLC - 60 feet South and 670 feet West from the NE Corner of Section 20.

4. Notice of the application for the permit amendment was published in the Department's weekly notice on June 3, 2008 pursuant to ORS 540.520(5). No comments were filed in response to the notice.
5. The change would not result in injury to other water rights.
6. The change does not enlarge the permit.
7. The change does not alter any other terms of the permit.

8. ORS 540.211(4)(e) states that a permit holder may change the point of appropriation if: "The holder of the permit provides written notice to the department at least 60 days before making any changes to the lands, point of diversion or point of appropriation described in the permit." The applicant provided the required notice to the department on May 29, 2008.

Conclusions of Law

The change in point of appropriation for Well 4 proposed by Permit Amendment Application T-10641 is consistent with the requirements of ORS 537.211.

Now, therefore, it is ORDERED:

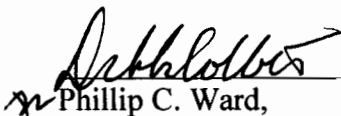
The change and subsequent use of water shall be subject to the following conditions:

1. Pursuant to ORS 540.211(4)(e), the use of water under the permit from the proposed point of appropriation shall not occur until after July 28, 2008.
2. The combined quantity of water diverted at the new point of appropriation shall not exceed the quantity of water lawfully available at the original point of appropriation.
3. Prior to water use from the proposed point of appropriation, the permittee shall install a meter or other suitable measuring device as approved by the Director. The permittee shall maintain the meter or measuring device 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 meter or measuring device; provided however, where the meter or measuring device is located within a private structure, the watermaster shall request access upon reasonable notice.

4. Water shall be acquired from the same aquifer as the original point of appropriation.
5. All other terms and conditions of Permit G-15744 remain the same.
6. Permit G-15744, in the names of Wood River District Improvement Company and Roger Nicholson / Agri-Water, is amended as described herein.

Dated at Salem, Oregon this 25th day of June, 2008.


Phillip C. Ward,
Director

Mailing Date: JUN 27 2008