BEFORE THE WATER RESOURCES DEPARTMENT OF THE STATE OF OREGON

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In the Matter of Permit Amendment T-9839, Clackamas County, Oregon

FINAL ORDER

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

J. Frank Schmidt and Son Co. P O Box 189 Boring, Oregon 97009

Findings of Fact

- 1. J. Frank Schmidt and Son Co., filed an application to amend the point of appropriation of Well 6 under Permit G-13860. The Department assigned the application number T-9839.
- 2. The permit to be amended is as follows:

Permit:	G-13860, in the name of J. Frank Schmidt and Son Co.;
	Nursery Operations
Use:	
Priority Date:	October 5, 1999
Quantity:	1.7 cubic feet per second
Rate/Duty:	The amount of water used for NURSERY OPERATIONS is limited to a
	diversion of 0.15 cubic foot per second per acre. For the irrigation of
	containerized nursery plants, the amount of water diverted is limited to
	ONE-FORTIETH of one cubic foot per second (or its equivalent) and
	5.0 acre feet per year. For the irrigation of in ground nursery plants the
	amount of water diverted is limited to ONE-EIGHTIETH of one cubic foot
	per second (or its equivalent) and 2.5 acre feet per acre per year. The use of
	water for NURSERY OPERATIONS may be made at anytime, during the
	year that the use is beneficial. For the irrigation of any other crop, the
	amount of water diverted is limited to ONE-EIGHTIETH of one cubic foot
	per second (or its equivalent) and 2.5 acre feet per acre during the irrigation
	season of each year.
Acres:	136.0 acres

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.

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Source:Well BF6, in the Bear Creek Basin.Date OfCompleteApplication ofOctober 1, 2005

Authorized Point of Appropriation:

Town	nship	Range		Meridian	Sec	1/4 1/4		Location
4	S	1	E	W.M.	19	NW	SE	Well BF6 – 1500 feet North and 2160 feet West from the NE Corner of Section 19.

Authorized Place of Use:

Township		Range		Meridian	Sec	1/4 1/4		Acres
4	S	1	Е	W.M.	18	NE	SE	19.4
4	S	1	E	W.M.	18	NW	SE	8.9
4	S	1	Е	W.M.	18	SW	SE	7.4
4	S	1	Е	W.M.	18	SE	SE	10.7
4	S	1	E	W.M.	19	NW	NE	7.7
4	S	1	Е	W.M.	19	SW	NE	4.0
4	S	1	Е	W.M.	19	NE	NW	30.0
4	S	1	Е	W.M.	19	SE	NW	10.4
4	S	1	Ē	W.M.	19	SE	SW	22.7
4	S	1	E	W.M.	19	NW	SE	11.8
4	S	1	E	W.M.	19	SW	SE	3.0

3. Application T-9839 proposes to change the point of appropriation of Well 6 under the permit to:

Tow	Township		nge	Meridian	Sec	1/4 1/4		Location
4	S	1	E	W.M.	19	SE NW		2630 feet South and 2650 feet West of the NE Corner of Section 19.

- 4. Notice of the application for permit amendment was published 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 all other terms of the permit.

Conclusions of Law

The change in point of appropriation proposed by Permit Amendment Application T-9839 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. The combined quantity of water diverted at the new point of appropriation (well), shall not exceed the maximum rate and duty allowed under Permit G-13860.
- 2. 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.

- 3. Water shall be acquired from the same aquifer as the original point of appropriation.
- 4. All other terms and conditions of Permit G-13860 remain the same.
- 5. Permit G-13860, in the name of J. Frank Schmidt and Son Co., is amended as described herein.

Dated at Salem, Oregon this $\frac{27}{2}$ day of $\frac{1}{2}$ day of $\frac{1}{2}$

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For Phillip C. Ward, Director