# BEFORE THE WATER RESOURCES DEPARTMENT OF THE STATE OF OREGON

In the Matter of Permit Amendment	)	FINAL ORDER
T-11360, Malheur 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**

OREGON DEPARTMENT OF TRANSPORTATION 1390 SE 1ST ST ONTARIO, OR 97914

### **Findings of Fact**

# Background

- 1. On February 23, 2012, OREGON DEPARTMENT OF TRANSPORTATION filed an application to change the point of appropriation under Permit G-16475. The Department assigned the application number T-11360.
- 2. Permit Amendment Application T-11360 proposes to move the authorized point of appropriation approximately 550 feet southeast from the existing point of appropriation to:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances	
18 S	47 E	WM	11	NW SW	542 FEET SOUTH AND 350 FEET EAST FROM THE W¼ CORNER OF SECTION 11	

- 3. Notice of the application for the permit amendment was published in the Department's weekly notice on March 6, 2012, pursuant to ORS 540.520(5). No comments were filed in response to the notice.
- 4. ORS 537.211(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 by submitting a permit amendment application to the department on April 23, 2012.

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.

#### Permit Amendment Review Criteria

- 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.

#### **Conclusions of Law**

The change in point of appropriation proposed by Permit Amendment Application T-11360 is consistent with the requirements of ORS 537.211.

#### Now, therefore, it is ORDERED:

- 1. Pursuant to ORS 537.211(4)(e), the use of water under the permit from the proposed point of diversion shall not occur until after April 23, 2012.
- 2. The change in point of appropriation proposed by Permit Amendment Application T-11360 is approved.
- 3. Permit G-16904, in the name of OREGON DEPARTMENT OF TRANSPORTATION, is issued to replace Permit G-16475, and incorporates the amendments approved by this order. Permit G-16475, in the name of OREGON DEPARTMENT OF TRANSPORTATION, is no longer of any force or effect.
- 4. The 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.
- 5. Prior to water use from the proposed point of appropriation, the permittee shall install a totalizing flow meter or other suitable measuring device as approved by the Director at each point of appropriation. The permittee shall maintain the meter or measuring device in good working order, 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.

6. Water shall be acquired from the same aquifer as the original point of appropriation.

7. All other terms and conditions of Permit G-16094 remain the same.

Dated at Salem, Oregon this day of March, 2012.

Dwight French, Water Right Services Administrator, for

PHILLIP C. WARD, DIRECTOR

Mailing Date: MAR 2 9 2012