

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

In the Matter of Permit Amendment T-12460, ) FINAL ORDER APPROVING  
Clackamas County ) ADDITIONAL POINTS OF  
) APPROPRIATION AND A CHANGE IN  
) PLACE OF USE

**Authority**

Oregon Revised Statute (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**

HEYERLY BROTHERS  
31958 SOUTH PALMER RD  
MOLALLA, OR 97038

**Findings of Fact**

1. On August 12, 2016, HEYERLY BROTHERS filed an application for additional points of appropriation and a change in place of use under Permit G-13555. The Department assigned the application number T-12460.
2. On October 14, 2013, the Department approved an assignment of the permit to the Heyerly Brothers.
3. On July 22, 2016, the Department approved an extension of time for complete application of water to October 1, 2023.
4. On April 11, 2017, the agent submitted revised application pages and map.
5. Notice of the application for the permit amendment was published in the Department's weekly notice on August 30, 2016, and in the Woodburn Independent newspaper on October 25 and November 1, 2017, pursuant to ORS 540.520(5). No comments were filed in response to the notices.

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 137-004-0080 and OAR 690-01-0005 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.

6. Permit G-13555 does describe the location of the point of appropriation, however information is available from the applicant and certified water right examiner indicating that the point of appropriation is more accurately described as follows:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
5 S	1 E	WM	12	NE SE	WELL 1 - 420 FEET SOUTH AND 690 FEET WEST FROM THE E¼ CORNER OF SECTION 12

7. Permit Amendment Application T-12460 proposes additional points of appropriation as follows:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances	Distance to Authorized Well
5 S	1 E	WM	12	NW SE	WELL 2 - 1025 FEET SOUTH AND 2520 FEET WEST FROM THE E¼ CORNER OF SECTION 12	0.4 mi
5 S	1 E	WM	12	NW SE	WELL 3 - 275 FEET SOUTH AND 2540 FEET WEST FROM THE E¼ CORNER OF SECTION 12	0.4 mi
5 S	2 E	WM	7	NW SW	WELL 4 - 205 FEET SOUTH AND 700 FEET EAST FROM THE E¼ CORNER OF SECTION 12	0.3 mi

8. Permit Amendment Application T-12460 also proposes to change the place of use of the permit to:

IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
5 S	1 E	WM	12	NE SE	23.7
5 S	1 E	WM	12	NW SE	29.5
5 S	1 E	WM	12	SW SE	36.5
5 S	1 E	WM	12	SE SE	21.3
5 S	1 E	WM	13	NE NE	1.4
5 S	1 E	WM	13	NW NE	21.3
5 S	1 E	WM	13	SW NE	31.9
5 S	1 E	WM	13	SE NE	9.6
5 S	1 E	WM	13	NE SE	35.6
5 S	1 E	WM	13	NW SE	36.6
5 S	1 E	WM	13	SW SE	7.3
5 S	2 E	WM	18	NE SW	0.9
5 S	2 E	WM	18	NW SW	24.4
Total					280.0

**Permit Amendment Review Criteria**

9. The changes would not result in injury to other water rights.
10. The proposed place of use is owned and/or controlled by the permit holder.
11. The changes do not enlarge the permit.
12. The changes do not alter any other terms of the permit.
13. The proposed place of use is contiguous to the authorized place of use.

## Conclusions of Law

The additional points of appropriation and change in place of use proposed by Permit Amendment Application T-12460 are consistent with the requirements of ORS 537.211.

### Now, therefore, it is ORDERED:

1. The additional point of appropriation and change in place of use proposed by Permit Amendment Application T-12460 are approved.
2. Permit G-17897, in the name of Heyerly Brothers, is issued to replace Permit G-13555, and incorporates the amendments approved by this order, the extension of time and the assignment. Permit G-13555, in the name of Heyerly Brothers, is no longer of any force or effect.
3. The combined quantity of water diverted at the new additional points of appropriation, together with that diverted at the old point of appropriation, shall not exceed the quantity of water lawfully available at the original point of appropriation.
4. Water use measurement conditions:
  - a. Before water use may begin under this order, the water user shall install a totalizing flow meter, or, with prior approval of the Director, another suitable measuring device, at each point of appropriation.
  - b. The water user shall maintain the meters or measuring devices in good working order.
  - c. The water user shall allow the Watermaster access to the meters or measuring devices; provided however, where the meters or measuring devices are located within a private structure, the Watermaster shall request access upon reasonable notice.
5. Water shall be acquired from the same aquifer as the original point of appropriation.
6. The former place of use shall no longer be irrigated as part of this permit.
7. All other terms and conditions of Permit G-17897 remain the same.

Issued November 21, 2017

  
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Dwight French, Water Right Services Administrator, for  
Thomas M. Byler, Director  
Oregon Water Resources Department

