

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

In the Matter of Permit Amendment T-8352, )  
 Permit G-13319 (Application G-14562) and )  
 Permit G-13392 (Application G-14545), )  
 Morrow County )  
 )

FINAL ORDER APPROVING ADDITIONAL  
 POINTS OF APPROPRIATION AND A  
 CHANGE IN PLACE OF USE AND  
 CANCELLING TWO PERMITS TO USE  
 GROUND WATER

**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. ORS 537.260 establishes the process for cancelling water use permits.

**Applicant**

BRIAN S. & SUSAN J. THOMPSON  
 55805 HWY 74  
 HEPPNER, OR 97836

**Agent**

BILL PORFILY  
 PO BOX 643  
 STANFIELD, OR 97875-0643

**Findings of Fact**

**Background**

1. Permit G-12506 was originally issued on June 19, 1996, in the name of Albert L. Osmin. On June 18, 1999, the permit was assigned to TKO, LLC and Northwest Farm Credit Services.
2. On October 25, 1999, TKO, LLC filed an application to amend the point of appropriation and place of use under Permit G-12506 (Application G-14031). The Department assigned the application number T-8352.
3. The most recent assignment of Permit G-12506 occurred on May 25, 2004, and resulted in the permit being assigned to Brian S. and Susan J. Thompson and Northwest Farm Credit Services.
4. On November 27, 2009, Bill Porfily (agent) submitted a revision to Application T-8352 on behalf of the applicants. The revision resulted in a modification to the proposed place of use.
5. On December 24, 2009, the Department received an affidavit from Northwest Farm Credit Services consenting to the proposed changes, as revised, under Application T-8352.

This is a final order in other than a 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, you may 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. The permit to be amended is as follows:

**Permit:** G-12506 (Application G-14031), in the name of ALBERT L. OSMIN (*assigned to Brian S. and Susan J. Thompson and Northwest Farm Credit Services*)  
**Use:** IRRIGATION of 182.8 ACRES  
**Priority Date:** APRIL 10, 1995  
**Quantity:** 2.28 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 (or its equivalent) and 3.0 acre-feet for each acre irrigated during the irrigation season of each year.  
**Source:** ONE WELL in the Willow Creek Basin

**Dates for Completion of Construction and Complete Application of Water:** OCTOBER 1, 2012

**Authorized Point of Appropriation:**

Twp	Rng	Mer	Sec	¼ ¼	Measured Distances
2 S	26 E	WM	7	NW SW	1,330 FEET NORTH AND 1,310 FEET EAST FROM THE SW CORNER OF SECTION 7

**Authorized Place of Use:**

Twp	Rng	Mer	Sec	¼ ¼	Acres
2 S	26 E	WM	7	NW NW	8.0
2 S	26 E	WM	7	SW NW	31.0
2 S	26 E	WM	7	SE NW	1.5
2 S	26 E	WM	7	NE SW	25.0
2 S	26 E	WM	7	NW SW	38.5
2 S	26 E	WM	7	SW SW	38.8
2 S	26 E	WM	7	SE SW	40.0
<b>TOTAL:</b>					<b>182.8</b>

7. Application T-8352 proposes to add three points of appropriation, located between approximately 600 and 2,244 feet from the permitted well, described as follows:

Twp	Rng	Mer	Sec	¼ ¼	Lot	Tax Lot	Measured Distances	Approximate Distance from Authorized Well
2 S	26 E	WM	7	SW NE	---	1203	WELL #1 – 2,110 FEET SOUTH AND 2,630 FEET WEST FROM THE NE CORNER OF SEC. 7	2,145 FEET NORTHEAST
2 S	26 E	WM	7	NW SE	---	1500	WELL #3 – 2,870 FEET SOUTH AND 1,980 FEET WEST FROM THE NE CORNER OF SEC. 7	2,244 FEET NORTHEAST
2 S	26 E	WM	7	---	Lot 4	1202	WELL #4 – 725 FEET NORTH AND 1,310 FEET EAST FROM THE SW CORNER OF SEC. 7	600 FEET SOUTH

8. Application T-8352 also proposes to change the place of use of the permit to:

<b>Twp</b>	<b>Rng</b>	<b>Mer</b>	<b>Sec</b>	<b>¼ ¼</b>	<b>Tax Lot</b>	<b>Acres</b>
2 S	26 E	WM	7	NE NE	1203	3.9
2 S	26 E	WM	7	NW NE	1203	7.0
2 S	26 E	WM	7	SW NE	1203	1.1
2 S	26 E	WM	7	SE NE	1203	3.9
2 S	26 E	WM	7	NE NW	1202	2.4
2 S	26 E	WM	7	NW NW	1202	7.6
2 S	26 E	WM	7	SW NW	1202	29.0
2 S	26 E	WM	7	SE NW	1202	4.4
2 S	26 E	WM	7	NE SW	1202	22.5
2 S	26 E	WM	7	NW SW	1202	30.1
2 S	26 E	WM	7	SW SW	1202	37.8
2 S	26 E	WM	7	NW SE	1202	3.1
2 S	25 E	WM	12	NE NE	300	12.3
2 S	25 E	WM	12	SE NE	300	17.45
2 S	25 E	WM	12	NE SE	300	0.25
<b>TOTAL:</b>						<b>182.8</b>

9. Notice of the application for the permit amendment was published in the Department's weekly notice on November 2, 1999, and in the *East Oregonian* newspaper on October 20, October 27 and November 3, 2009, pursuant to ORS 540.520(5). No comments were filed in response to the notices.
10. The changes would not result in injury to other water rights.
11. The changes do not enlarge the permit.
12. The proposed place of use is contiguous to the authorized place of use.
13. The proposed place of use is owned and/or controlled by the permit holders.
14. There are two existing irrigation water use permits (Permits G-13319 and G-13392) located on the same land as that to which a portion of the land under Application T-8352 is proposed to be moved.
15. The applicant's agent, on behalf of the applicants, provided a statement on November 27, 2009, indicating that upon the issuance of a final order approving Application T-8352, Permits G-13319 and G-13392 would be voluntarily cancelled by the permit holders of record.
16. The changes do not alter any other terms of the Permit G-12506.

**Voluntary Cancellation of Water Use Permits**

- 17. The current permit holders of record for Permit G-13319 (Application G-14562) are Brian S. and Susan J. Thompson and Northwest Farm Credit Services.
- 18. The current permit holders of record for Permit G-13392 (Application G-14545) are Brian S. and Susan J. Thompson.
- 19. On December 24, 2009, Northwest Farm Credit Services submitted an affidavit consenting to the voluntary cancellation of Permit G-13319.
- 20. On February 4, 2010, Brian S. and Susan J. Thompson submitted Voluntary Cancellation forms for Permits G-13319 and G-13392 that are contingent upon the issuance of a final order approving this Permit Amendment Application T-8352.
- 21. The first water use permit to be voluntarily cancelled is as follows:

**Permit:** G-13319 (Application G-14562) in the names of ALBERT L. and DONNA M. OSMIN (*assigned to Brian S. and Susan J. Thompson and Northwest Farm Credit Services*)

**Use:** IRRIGATION of 26.5 ACRES

**Priority Date:** JUNE 27, 1997

**Rate:** 0.331 CUBIC FOOT PER SECOND (cfs)

**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:** MARCH 1 through OCTOBER 31

**Source:** A WELL in the WILLOW CREEK BASIN

**Authorized Point of Diversion:**

Twp	Rng	Mer	Sec	¼ ¼	Measured Distances
2 S	26 E	WM	7	SW NE	2,110 FEET SOUTH AND 2,630 FEET WEST FROM THE NE CORNER OF SECTION 7

**Authorized Place of Use to be Cancelled:**

Twp	Rng	Mer	Sec	¼ ¼	Acres
2 S	26 E	WM	7	NE NE	3.0
2 S	26 E	WM	7	NW NE	7.0
2 S	26 E	WM	7	SW NE	1.1
2 S	26 E	WM	7	SE NE	6.0
2 S	26 E	WM	7	NE NW	2.4
2 S	26 E	WM	7	NW NW	1.2
2 S	26 E	WM	7	SE NW	2.7
2 S	26 E	WM	7	NW SE	3.1
<b>TOTAL:</b>					<b>26.5</b>

22. The second water use permit to be voluntarily cancelled is as follows:

**Permit:** G-13392 (Application G-14545) in the names of ALBERT L. and DONNA M. OSMIN (*assigned to Brian S. and Susan J. Thompson*)  
**Use:** IRRIGATION of 41.0 ACRES  
**Priority Date:** JUNE 12, 1997  
**Rate:** 0.45 CUBIC FOOT PER SECOND (cfs)  
**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:** MARCH 1 through OCTOBER 31  
**Source:** A WELL in the WILLOW CREEK BASIN

**Authorized Point of Diversion:**

Twp	Rng	Mer	Sec	¼ ¼	Measured Distances
2 S	26 E	WM	7	NW SW	1,330 FEET NORTH AND 1,310 FEET EAST FROM THE SW CORNER OF SECTION 7

**Authorized Place of Use to be Cancelled:**

Twp	Rng	Mer	Sec	¼ ¼	Acres
2 S	25 E	WM	12	NE NE	12.0
2 S	25 E	WM	12	SE NE	24.0
2 S	25 E	WM	12	NE SE	5.0
<b>TOTAL:</b>					<b>41.0</b>

**Conclusions of Law**

The additional points of appropriation and change in place of use proposed by Permit Amendment Application T-8352 are consistent with the requirements of ORS 537.211. Furthermore, based upon Findings of Fact #17 through #22, water use Permits G-13319 and G-13392 should be cancelled pursuant to ORS 537.260.

**Now, therefore, it is ORDERED:**

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

1. The combined quantity of water diverted at the new points of appropriation under Permit G-12506 (Application G-14031), 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.
2. Before water use may begin under Permit G-12506 (Application G-14031), 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, 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 ground water source as the original point of appropriation under Permit G-12506 (Application G-14031).
4. The former place of use shall no longer be irrigated as part of Permit G-12506 (Application G-14031).
5. All other terms and conditions of Permit G-12506 (Application G-14031) remain the same.
6. Permit G-12506 (Application G-14031), in the names of Brian S. and Susan J. Thompson and Northwest Farm Credit Services, is amended as described herein.
7. Permit G-13319 (Application G-14562), in the names of Brian S. and Susan J. Thompson and Northwest Farm Credit Services, is cancelled and of no further force or effect.
8. Permit G-13392 (Application G-14545), in the names of Brian S. and Susan J. Thompson, is cancelled and of no further force or effect.

Dated at Salem, Oregon this 11<sup>th</sup> day of February, 2010.

  
for Phillip C. Ward, Director

Mailing Date: FEB 16 2010