

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

In the Matter of Permit Amendment                    )    FINAL ORDER  
T-13152, Klamath County                                )    DENYING ADDITIONAL POINTS OF  
  )    APPROPRIATION

**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**

WOOD RIVER DISTRICT IMPROVEMENT COMPANY  
C/O 409 PINE STREET STE 311  
KLAMATH FALLS, OR 97601

**Findings of Fact**

1. On March 14, 2019, WOOD RIVER DISTRICT IMPROVEMENT COMPANY filed an application for additional points of appropriation under Permit G-17506. The Department assigned the application number T-13152.
2. On March 8, 2019, the Department approved an extension of time for complete application of water to October 1, 2023.
3. Notice of the application for the permit amendment was published in the Department's weekly notice on March 26, 2019, pursuant to ORS 540.520(5). No comments were filed in response to the notice.
4. On August 27, 2019, the Department contacted the applicant by written correspondence to notify the applicant and the applicant's agent of a deficiency in the application. Permit holder Roger Nicholson/Agri-Water LLC was not included as an applicant, and did not provide consent to the changes being requested in T-13152. The Department requested that the deficiency be resolved by September 25, 2019.
5. On September 26, 2019, the Department requested the status of receiving Mr. Nicholson's consent for T-13152.
6. On October 1, 2019, the applicant's agent informed the Department that he was waiting for Mr. Nicholson's attorney to reply regarding consent of T-13152. The Department requested that the deficiency be resolved by October 11, 2019.

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.

7. On October 14, 2019, the Department requested the status of receiving Mr. Nicholson's consent for T-13152. The applicant's agent informed the Department that Mr. Nicholson would not sign approval in the time allowed, and that the applicant does not wish to withdraw T-13152. The Department does not have consent from Permit Holder Roger Nicholson/Agri-Water LLC to approve T-13152 pursuant to ORS 537.211.
8. Permit Amendment Application T-13152 proposes to move the authorized point of appropriation for Well 1A approximately 208 feet from the existing point of appropriation to:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
33 S	7.5 E	WM	16	NW SW	WELL 1A - 3053 FEET SOUTH AND 188 FEET EAST FROM THE NW CORNER OF SECTION 16

9. Permit Amendment Application T-13152 proposes additional points of appropriation as follows:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
33 S	7.5 E	WM	7	SW NE	WELL 6 - 1375 FEET SOUTH AND 2637 FEET WEST FROM THE NE CORNER OF SECTION 7
33 S	7.5 E	WM	8	NE SW	WELL 7 - 2807 FEET SOUTH AND 1528 FEET EAST FROM THE NW CORNER OF SECTION 8
33 S	7.5 E	WM	33	NW NW	WELL 8 - 78 FEET SOUTH AND 1319 FEET EAST FROM THE NW CORNER OF SECTION 33

Approximate distance from the authorized points of appropriation in miles (mi.)						
	WELL 1	WELL 1A	WELL 2	WELL 3	WELL 4	WELL 5
WELL 6	2.3 mi.	2.0 mi.	2.3 mi.	2.2 mi.	2.2 mi.	1.7 mi.
WELL 7	1.5 mi.	1.2 mi.	1.4 mi.	1.4 mi.	1.6 mi.	1.7 mi.
WELL 8	3.0 mi.	2.5 mi.	2.7 mi.	2.5 mi.	2.0 mi.	2.7 mi.

***Permit Amendment Review Criteria***

10. The change would result in injury to other water rights.
11. On August 22, 2019, the Department determined the proposed points of appropriation (POA) would not develop the same aquifer (source) as the existing authorized POA. All existing wells are cased and sealed to a minimum depth of 400 ft. below land surface per permit conditions. The proposed construction for the additional points of appropriation from the transfer application is unclear, listing a proposed seal depth of 350 ft. and a casing depth of 150 ft. In order for the Department to make a finding of same source, the proposed wells must meet the existing case and seal depth conditions on the original permit and propose a case and seal depth of at least 400 ft.
12. The change does not enlarge the permit.
13. The change does not alter any other terms of the permit.
14. The Department has not received consent from all permit holders.

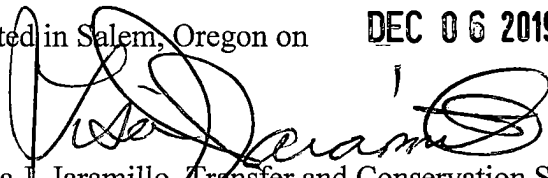
**Conclusions of Law**

The additional points of appropriation proposed by Permit Amendment Application T-13152 are **NOT** consistent with the requirements of ORS 537.211. Pursuant to ORS 537.211, consent from all permit holders has not been received, and the proposed additional points of appropriation will not develop the same source.

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

Permit Amendment Application T-13152 is denied.

Dated in Salem, Oregon on **DEC 06 2019**



Lisa J. Jaramillo, Transfer and Conservation Section Manager, for  
THOMAS M BYLER, DIRECTOR  
Oregon Water Resources Department

*Mailing Date:* **DEC 06 2019**