

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

In the Matter of Permit Amendment)	FINAL ORDER APPROVING
Applications T-8350 and T-8636, Morrow)	ADDITIONAL POINTS OF
County)	APPROPRIATION AND 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.

Applicants for T-8350

BRIAN & SUSAN THOMPSON
55805 HWY 74
HEPPNER, OR 97836

Applicant for T-8636

RUSTY SPUR RANCH, LLC
PO BOX 280
HEPPNER, OR 97836

Findings of Fact

Background

1. Permit G-12063 (Application G-13626) was issued on February 15, 1996, in the names of Albert L. and Donna M. Osmin.
2. On June 18, 1999, Permit G-12063 was assigned from Albert L. and Donna M. Osmin to TKO, LLC.
3. On October 25, 1999, TKO, LLC filed an application to add two points of appropriation to irrigate the entirety of the lands authorized under Permit G-12063. The Department assigned the application number T-8350.
4. TKO, LLC sold the property upon which Permit G-12063 is located and, on November 29, 2000, assigned a portion of the permit to Rusty Spur Ranch, LLC (being 0.42 cfs of water for 33.6 acres tax lot 1200, Sections 7 and 8, Township 2 South, Range 26 East, W.M.). The other portion of the permit (being 0.54 cfs of water for 43.1 acres located in tax lot 1203, Sections 7 and 8, Township 2 South, Range 26 East, W.M.) was assigned on September 25, 2008 from TKO, LLC to Brian S. and Susan J. Thompson.

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.

5. Permit Amendment Application T-8350 was assigned from TKO, LLC to Brian S. and Susan J. Thompson on May 19, 2008.
6. On November 29, 2000, Rusty Spur Ranch, LLC filed an application to change the point of appropriation authorized under Permit G-12063 for the portion of the permit located on land under their ownership (being 33.6 acres located in tax lot 1200, Sections 7 and 8, Township 2 South, Range 26 East, W.M.). The Department assigned the application number T-8636.
7. Additional information was received on April 24, 2009, to clarify that the two additional points of appropriation proposed in Permit Amendment Application T-8350 are meant to affect only the portion of Permit G-12063 located on land under Brian and Susan Thompson's ownership (being 0.54 cfs of water for 43.1 acres located in tax lot 1203, Sections 7 and 8, Township 2 South, Range 26 East, W.M.).

8. The portion of the permit to be amended by **Application T-8350** is as follows:

Permit: G-12063 (Application G-13626) in the name of ALBERT L. & DONNA M. OSMIN (*assigned to Brian S. & Susan J. Thompson and Rusty Spur Ranch, LLC*)
Use: IRRIGATION of 43.1 ACRES
Priority Date: FEBRUARY 25, 1994
Quantity: 0.54 CUBIC FOOT PER SECOND (242.4 GPM)
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 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 within the WILLOW CREEK BASIN

Date of Complete Application of Water: OCTOBER 1, 2012

Authorized Point of Appropriation:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
2 S	26 E	WM	7	SW NE	2110 feet South and 2630 feet West from the NE corner of Section 7

Authorized Place of Use:

IRRIGATION						
Twp	Rng	Mer	Sec	Q-Q	Tax Lot	Acres
2 S	26 E	WM	7	NE NE	1203	16.6
2 S	26 E	WM	7	NW NE	1203	10.0
2 S	26 E	WM	7	SW NE	1203	1.4
2 S	26 E	WM	7	SE NE	1203	8.4
2 S	26 E	WM	7	NE NW	1203	0.2
2 S	26 E	WM	8	NW NW	1203	6.0
2 S	26 E	WM	8	SW NW	1203	0.5
TOTAL:						43.1

9. Permit Amendment Application T-8350 proposes to add two points of appropriation for the portion of the permit (43.1 acres) described in Finding #8, located between approximately 1000 and 1900 feet from the existing point of appropriation, described as follows:

Twp	Rng	Mer	Sec	Q-Q	Tax Lot	Measured Distances	Approx. Distance from Authorized Well (Well #1)
2 S	26 E	WM	7	SE NE	1203	Well #5 - 2060 feet South and 790 feet West from the NE corner of Section 7	1900 feet East
2 S	26 E	WM	7	NW SE	1203	Well #3 - 2870 feet South and 1980 feet West from the NE corner of Section 7	1000 feet Southeast

10. The portion of the permit to be amended by **Application T-8636** is as follows:

Permit: G-12063 (Application G-13626) in the name of ALBERT L. & DONNA M. OSMIN (*assigned to Brian S. & Susan J. Thompson and Rusty Spur Ranch, LLC*)
Use: IRRIGATION of 33.6 ACRES
Priority Date: FEBRUARY 25, 1994
Quantity: 0.42 CUBIC FOOT PER SECOND (188.5 GPM)
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 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 within the WILLOW CREEK BASIN
Date of Complete Application of Water: OCTOBER 1, 2012

Authorized Point of Appropriation:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
2 S	26 E	WM	7	SW NE	2110 feet South and 2630 feet West from the NE corner of Section 7

Authorized Place of Use:

IRRIGATION						
Twp	Rng	Mer	Sec	Q-Q	Tax Lot	Acres
2 S	26 E	WM	7	SW NE	1200	0.1
2 S	26 E	WM	7	SE NE	1200	12.1
2 S	26 E	WM	7	NE SE	1200	1.7
2 S	26 E	WM	7	NW SE	1200	0.1
2 S	26 E	WM	8	SW NW	1200	17.1
2 S	26 E	WM	8	SE NW	1200	2.5
TOTAL:						33.6

11. Permit Amendment Application T-8636 proposes to change the point of appropriation for the portion of the permit (33.6 acres) described in Finding #10, to a well located approximately 2900 feet East from the existing point of appropriation, described as follows:

Twp	Rng	Mer	Sec	Q-Q	Tax Lot	Measured Distances
2 S	26 E	WM	8	SW NW	1200	Well #6 - 566 feet North and 267 feet East from the West ¼ corner of Section 8

12. Notices of the applications for permit amendment were published in the Department's weekly notice on November 2, 1999 (T-8350) and December 5, 2000 (T-8636), and in the *Heppner-Gazette Times* on May 6, 13 and 20, 2009 (T-8350 and T-8636). Notice of the application for permit amendment under T-8350 was also published in the *East Oregonian* newspaper on May 15, 22 and 29, 2009, pursuant to ORS 540.520(5). No comments were filed in response to any of the notices.

Permit Amendment Review Criteria

- 13. The changes would not result in injury to other water rights.
- 14. The changes, as conditioned, do not enlarge the permit.
- 15. The changes do not alter any other terms of the permit.

Conclusions of Law

The additional points of appropriation proposed by Permit Amendment Application T-8350 and the change in point of appropriation proposed by Permit Amendment Application T-8636 are consistent with the requirements of ORS 537.211.

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 two additional points of appropriation, together with that diverted at the original point of appropriation, shall not exceed the quantity of water lawfully available at the original point of appropriation for the portion of the permit affected by Application T-8350 (described in Finding #8 above), being 0.54 cfs of water for 43.1 acres located in tax lot 1203, Sections 7 and 8, Township 2 South, Range 26 East, W.M.
- 2. 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 for the portion of the permit affected by Application T-8636 (described in Finding #10 above), being 0.42 cfs of water for 33.6 acres located in tax lot 1200, Sections 7 and 8, Township 2 South, Range 26 East, W.M.

3. Prior to water use from the proposed points of appropriation, the permittees shall install meters or other suitable measuring devices as approved by the Director. The permittees shall maintain the meters or measuring devices in good working order.

The permittees 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.

The Director may require the permittees to keep and maintain a record of the amount (volume) of water used and may require the permittees to report water use on a periodic schedule as established by the Director. In addition, the Director may require the permittees to report general water use information, the periods of water use and the place and nature of use of water under the permit. The Director may provide an opportunity for the permittees to submit alternative reporting procedures for review and approval.

4. Water shall be acquired from the same aquifer as the original point of appropriation.
5. All other terms and conditions of Permit G-12063 remain the same.
6. Permit G-12063, in the names of Brian S. & Susan J. Thompson and Rusty Spur Ranch, LLC, is amended as described herein.

Dated at Salem, Oregon this 30th day of June, 2009.



Phillip C. Ward, Director *pr*

Mailing Date: JUL 14 2009