

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

In the Matter of Permit Amendment) **FINAL ORDER**
 T-11184, Clackamas County) APPROVING AN ADDITIONAL 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

BRADLEY AND MARY GILBERT
 15221 SE HWY 212
 CLACKAMAS OR 97015

Findings of Fact

Background

1. On January 12, 2011, BRADLEY AND MARY GILBERT filed an application for an additional point of appropriation under Permit G-15254. The Department assigned the application number T-11184.

2. The permit to be amended is as follows:

- Permit:** G-15254 in the names of BRADLEY W. AND MARY L. GILBERT (as previously amended by T-10680, Special Order Vol. 76, Page 613)
- Use:** NURSERY USE ON 117.53 ACRES
- Priority Date:** NOVEMBER 29, 2001
- Quantity:** 1.50 CUBIC FEET PER SECOND
- Rate/Duty:** The amount of water used for NURSERY OPERATIONS is limited to a diversion of 0.15 cubic foot per second per acre. For the irrigation of **containerized nursery plants**, the amount of water diverted is limited to ONE-FORTIETH of one cubic foot per second (or its equivalent) and 5.0 acre feet per acre per year. For the irrigation of **in ground nursery plants** the amount of water diverted is limited to ONE-EIGHTIETH of one cubic foot per second (or its equivalent) and 2.5 acre feet per acre per year. The use of water for NURSERY OPERATIONS may be made at anytime, during the year that the use is beneficial. For the irrigation of **any other**

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.

crop, the amount of water diverted is limited to ONE-EIGHTIETH of one cubic foot per second (or its equivalent) and 2.5 acre feet per acre during the irrigation season of each year.

Period of Use: YEAR ROUND

Sources: WELLS 1, 2, 3, AND 4 within the BEAR CREEK BASIN

Authorized Points of Appropriation:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
5 S	1 E	WM	1	SW SE	WELL 1 - 1200 FEET NORTH AND 2385 FEET WEST FROM SE CORNER, SECTION 1
5 S	1 E	WM	12	NE NW	WELL 2 - 990 FEET SOUTH AND 2650 FEET WEST FROM NE CORNER, SECTION 12
5 S	1 E	WM	12	NE NW	WELL 3 - 790 FEET SOUTH AND 2490 FEET EAST FROM NW CORNER, SECTION 12
5 S	1 E	WM	12	NE NW	WELL 4 - 960 FEET SOUTH AND 2360 FEET EAST FROM NW CORNER, SECTION 12

Authorized Place of Use:

NURSERY USES					
Twp	Rng	Mer	Sec	Q-Q	Acres
5 S	1 E	WM	1	NE SW	2.03
5 S	1 E	WM	1	SE SW	40.00
5 S	1 E	WM	1	SW SE	35.50
5 S	1 E	WM	12	NE NW	40.00

3. Permit Amendment Application T-11184 proposes an additional point of appropriation between approximately 4000 and 2000 feet from the existing points of appropriation to:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
5 S	1 E	WM	12	NW SE	WELL 5 - 2750 FEET SOUTH AND 1660 FEET WEST FROM THE NE CORNER OF SECTION 12

4. Notice of the application for the permit amendment was published in the Department's weekly notice on January 18, 2011, and in the Molalla Pioneer newspaper on May 4, 11, and 18, 2011, pursuant to ORS 540.520(5). No comments were filed in response to the notices.

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 additional point of appropriation proposed by Permit Amendment Application T-11184 is consistent with the requirements of ORS 537.211.

Now, therefore, it is ORDERED:

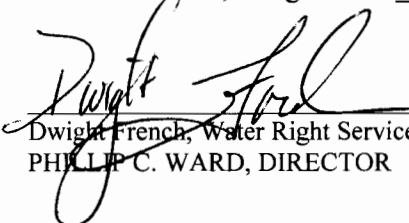
The change and subsequent use of water shall be subject to the following conditions:

1. The combined quantity of water diverted at the new point of appropriation, together with that diverted at the old points of appropriation, shall not exceed the quantity of water lawfully available at the original points of appropriation.
2. Prior to water use from the proposed point of appropriation, 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, and 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 aquifer as the original points of appropriation.
4. All other terms and conditions of Permit G-15254 remain the same.
5. Permit G-15254, in the name of BRADLEY W. AND MARY L. GILBERT, is amended as described herein.

Dated at Salem, Oregon this 6 day of June, 2011.



Dwight French, Water Right Services Administrator, for
PHILIP C. WARD, DIRECTOR

Mailing Date: JUN 07 2011