

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

In the Matter of Permit G-18391,)
Klamath County)
)
)

FINAL ORDER
APPROVING ASSIGNMENT OF A WATER
RIGHT PERMIT AND ISSUANCE OF
REPLACEMENT WATER RIGHT PERMITS

Authority

ORS 537.225 establishes the process in which a water right permit holder may submit a request for full or partial assignment of a water right permit and issuance of replacement permits. OAR Chapter 690, Division 325 establishes the requirements and procedures to be used by the Department to evaluate an application by a landowner of record holding a water right permit for irrigation, nursery, temperature control, stock watering or agricultural water use to assign all or part of the water right permit and to issue replacement permits to reflect an assignment from the current permit holder to one or more additional permit holders.

Applicants

Gregory Drew Heaton
PO Box 210
Merrill, OR 97633

Daniel Chin/ Wong Potatoes Inc.
17817 Cheyne Road
Klamath Falls, OR 97603

Scott and Matthew Bedford
1231 Tulloch Drive
Tracy, CA 95377

Findings of Fact

Background

1. On July 6, 2021, Gregory Drew Heaton, Wong Potatoes Daniel Chin, and Scott and Matthew Bedford, filed an application for partial assignment of Water Right Permit G-18391 and requested issuance of replacement permits. The Department assigned the application number T-13775.
2. On February 12, 2018, the Department approved a partial assignment of Permit G-18391 from Daniel Chin to Gregory Drew Heaton, Scott Bedford, MLM Property, LLC, and Wong Potatoes, Inc.

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.

3. On July 26, 2019, the Department approved an extension of time for complete application of water to October 1, 2024.
4. On March 18, 2022, the Department contacted applicant Scott and Matthew Bedford regarding a deficiency, specifically a missing signature on the application from Matthew Bedford.
5. On April 18, 2022, the Department received amended application documents with the required signature, satisfying the deficiency.
6. Notice of the application for transfer was published on May 3, 2022, pursuant to OAR 690-325-0080.
7. Notice of the application for the assignment of the water right permit and request for issuance of replacement water right permits was published in the Department's weekly notice on May 3, 2022, pursuant to ORS 537.325(3)(e) and OAR 690-325-0080. Due to a clerical error, the notice was not published correctly in the Department's weekly notice on May 3, 2022. The notice was republished in the Department's weekly notice on August 2, 2022. No comments were filed in response to the notice. In addition, the Department provided copies of the draft Proposed Final Order, draft replacement permits, the application, map, and existing water right permit to each owner of land upon which the water right permit is appurtenant.
8. On September 7, 2022, the Department issued a Proposed Final Order considering any comments received, and sent a copy to the applicant, each owner of land upon which the water right permit is appurtenant. Notice of the Proposed Final Order was published in the Department's weekly notice on September 13, 2022. No protests were filed in response to the notice.
9. The Permit to be modified and assigned is as follows:
 - Permit:** G-18391 in the names of DANIEL CHIN, WONG POTATOES, INC., GREGORY DREW HEATON, SCOTT BEDFORD
 - Use:** SUPPLEMENTAL IRRIGATION USE ON 257.55 ACRES
 - Priority Date:** MARCH 1, 2005
 - Quantity:** MAXIMUM RATE: 3.22 CUBIC FEET PER SECOND (CFS), BEING 2.51 CFS FROM WELL 1 FOR SUPPLEMENTAL IRRIGATION ON 200.9 ACRES AND 0.71 CFS FROM WELL 2 FOR SUPPLEMENTAL IRRIGATION ON 56.65 ACRES
 - Limit/Duty:** The amount of water used for irrigation, 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:** APRIL 1 THROUGH OCTOBER 31
 - Source:** WELL 1 (KLAM 53043) IN DODDS HOLLOW BASIN; WELL 2 (KLAM 10518) IN LOST RIVER BASIN

Authorized Points of Appropriation:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
41 S	10 E	WM	29	SW NW	WELL 2 - 1420 FEET SOUTH AND 20 FEET EAST FROM THE NW CORNER OF SECTION 29
41 S	11 E	WM	7	SW NE	WELL 1 - 1360 FEET SOUTH AND 1860 FEET WEST FROM THE NE CORNER OF SECTION 7

Authorized Place of Use:

SUPPLEMENTAL IRRIGATION						
Twp	Rng	Mer	Sec	Q-Q	GLot	Acres
40 S	10 E	WM	7	NE NW	1	14.55
40 S	10 E	WM	7	NW NW		10.3
40 S	10 E	WM	7	SW NW		10.2
40 S	10 E	WM	7	SE NW		21.6
41 S	11 E	WM	11	SW SW		7.2
41 S	11 E	WM	14	NE NW	3	19.6
41 S	11 E	WM	14	NE NW		14.5
41 S	11 E	WM	14	NW NW		12.2
41 S	11 E	WM	14	NW NW	4	16.8
41 S	11 E	WM	14	SW NW		5.6
41 S	11 E	WM	14	SE NW		5.6
41 S	11 E	WM	15	NE NW	2	0.6
41 S	11 E	WM	15	NE NW	6	12.8
41 S	11 E	WM	15	NW NW	3	3.9
41 S	11 E	WM	15	NW NW	7	9.4
41 S	11 E	WM	15	SW NW	8	37.2
41 S	11 E	WM	15	SE NW	9	37.7
41 S	11 E	WM	15	NE SW		7.9
41 S	11 E	WM	15	NW SW	15	9.9
Total						257.55

10. The Applicants request Permit G-18391 be split and replacement permits be issued as follows:

Permit A: GREGORY DREW HEATON

Use: SUPPLEMENTAL IRRIGATION USE ON 119.4 ACRES
Priority Date: MARCH 1, 2005
Quantity: MAXIMUM RATE: 1.49 CUBIC FEET PER SECOND (CFS), BEING 1.49 CFS FROM WELL 1 FOR SUPPLEMENTAL IRRIGATION ON 119.4 ACRES AND 0.71 CFS FROM WELL 2 FOR SUPPLEMENTAL IRRIGATION ON 56.65 ACRES
Limit/Duty: The amount of water used for irrigation, 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: APRIL 1 THROUGH OCTOBER 31
Source: WELL 1 (KLAM 53043) IN DODDS HOLLOW BASIN; WELL 2 (KLAM 10518) IN LOST RIVER BASIN

Authorized Points of Appropriation:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
41 S	10 E	WM	29	SW NW	WELL 2 - 1420 FEET SOUTH AND 20 FEET EAST FROM THE NW CORNER OF SECTION 29
41 S	11 E	WM	7	SW NE	WELL 1 - 1360 FEET SOUTH AND 1860 FEET WEST FROM THE NE CORNER OF SECTION 7

Authorized Place of Use:

SUPPLEMENTAL IRRIGATION						
Twp	Rng	Mer	Sec	Q-Q	GLot	Acres
41 S	11 E	WM	15	NE NW	2	0.6
41 S	11 E	WM	15	NE NW	6	12.8
41 S	11 E	WM	15	NW NW	3	3.9
41 S	11 E	WM	15	NW NW	7	9.4
41 S	11 E	WM	15	SW NW	8	37.2
41 S	11 E	WM	15	SE NW	9	37.7
41 S	11 E	WM	15	NE SW		7.9
41 S	11 E	WM	15	NW SW	15	9.9
					Total	119.4

Permit B: DANIEL CHIN/WONG POTATOES, INC.

Use: SUPPLEMENTAL IRRIGATION USE ON 81.5 ACRES

Priority Date: MARCH 1, 2005

Quantity: MAXIMUM RATE: 1.02 CUBIC FEET PER SECOND (CFS), BEING 1.02 CFS FROM WELL 1 FOR SUPPLEMENTAL IRRIGATION ON 81.5 ACRES AND 0.71 CFS FROM WELL 2 FOR SUPPLEMENTAL IRRIGATION ON 56.65 ACRES

Limit/Duty: The amount of water used for irrigation, 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: APRIL 1 THROUGH OCTOBER 31

Source: WELL 1 (KLAM 53043) IN DODDS HOLLOW BASIN; WELL 2 (KLAM 10518) IN LOST RIVER BASIN

Authorized Points of Appropriation:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
41 S	10 E	WM	29	SW NW	WELL 2 - 1420 FEET SOUTH AND 20 FEET EAST FROM THE NW CORNER OF SECTION 29
41 S	11 E	WM	7	SW NE	WELL 1 - 1360 FEET SOUTH AND 1860 FEET WEST FROM THE NE CORNER OF SECTION 7

Authorized Place of Use:

SUPPLEMENTAL IRRIGATION						
Twp	Rng	Mer	Sec	Q-Q	GLot	Acres
41 S	11 E	WM	11	SW SW		7.2
41 S	11 E	WM	14	NE NW	3	19.6
41 S	11 E	WM	14	NE NW		14.5
41 S	11 E	WM	14	NW NW		12.2
41 S	11 E	WM	14	NW NW	4	16.8
41 S	11 E	WM	14	SW NW		5.6

SUPPLEMENTAL IRRIGATION						
Twp	Rng	Mer	Sec	Q-Q	GLot	Acres
41 S	11 E	WM	14	SE NW		5.6
Total						81.5

Permit C: SCOTT AND MATTHEW BEDFORD

Use: SUPPLEMENTAL IRRIGATION USE ON 56.65 ACRES
Priority Date: MARCH 1, 2005
Quantity: MAXIMUM RATE: 0.71 CUBIC FEET PER SECOND (CFS), BEING 0.71 CFS FROM WELL 1 FOR SUPPLEMENTAL IRRIGATION ON 56.65 ACRES AND 0.71 CFS FROM WELL 2 FOR SUPPLEMENTAL IRRIGATION ON 56.65 ACRES
Limit/Duty: The amount of water used for irrigation, 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: APRIL 1 THROUGH OCTOBER 31
Source: WELL 1 (KLAM 53043) IN DODDS HOLLOW BASIN; WELL 2 (KLAM 10518) IN LOST RIVER BASIN

Authorized Points of Appropriation:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
41 S	10 E	WM	29	SW NW	WELL 2 - 1420 FEET SOUTH AND 20 FEET EAST FROM THE NW CORNER OF SECTION 29
41 S	11 E	WM	7	SW NE	WELL 1 - 1360 FEET SOUTH AND 1860 FEET WEST FROM THE NE CORNER OF SECTION 7

Authorized Place of Use:

SUPPLEMENTAL IRRIGATION						
Twp	Rng	Mer	Sec	Q-Q	GLot	Acres
40 S	10 E	WM	7	NE NW	1	14.55
40 S	10 E	WM	7	NW NW		10.3
40 S	10 E	WM	7	SW NW		10.2
40 S	10 E	WM	7	SE NW		21.6
Total						56.65

Split a Permit Review Criteria

The Department has verified the mailing address of each owner of the authorized place of use identified on the map contained in the application as follows:

Name and Address	Acres	Proportionate Rate (cfs)	Twp	Rng	Mer	Sec	Q-Q	Tax Lot
GREGORY DREW HEATON PO BOX 210 MERRILL, OR 97633	119.4	1.49 CFS	41 S	11 E	WM	15	MULTIPLE	400 & 800
DANIEL CHIN/ WONG POTATOES INC. 17817 CHEYNE ROAD KLAMATH FALLS, OR 97603	81.5	1.02 CFS	41 S	11 E	WM	11 & 14		500

SCOTT AND MATTHEW BEDFORD 1231 TULLOCH DRIVE TRACY, CA 95377	56.65	0.71 CFS	41 S	11 E	WM	7		400
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11. The deeds supplied with the application, match the properties proposed for assignment.
12. The applicants affirmed the most recent water use under the permit has been exercised within the relevant terms and conditions of the water right permit.
13. The assignment and issuance of replacement permits would not result in injury to other water right holders.
14. The assignment and issuance of replacement permits would not result in enlargement of the permit.
15. The assignment and issuance of replacement permits does not alter any other terms of Permit G-18391.

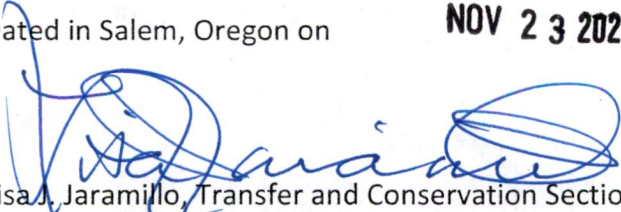
Conclusions of Law

The assignment and issuance of replacement permits proposed by Application T-13775 are consistent with the requirements of ORS 537.225 and OAR Chapter 690, Division 325.

Now, therefore, it is ORDERED:

1. The assignment and issuance of replacement permits proposed by Application T-13775 are approved.
2. Permit G-18783 in the name of Gregory Drew Heaton, Permit G-18784 in the name of Daniel Chin/Wong Potatoes, Inc., and Permit G-18785 in the name of Scott and Matthew Bedford are issued to supersede Permit G-18391 (original permit). Permit G-18391 (original permit) is no longer of any force or affect.
3. All other terms and conditions under Permit G-18391 (original permit) are incorporated into Permits G-18783, G-18784 and G-18785 (superseding permits).

Dated in Salem, Oregon on **NOV 23 2022**


 Lisa J. Jaramillo, Transfer and Conservation Section Manager, for
 DOUGLAS E. WOODCOCK, ACTING DIRECTOR
 Oregon Water Resources Department

Mailing Date: NOV 24 2022