

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

In the Matter of Permit Amendment) FINAL ORDER
T-11263, Klamath 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

ROGER NICHOLSON / AGRI-WATER LLC
PO BOX 458
FORT KLAMATH OR 97626

Findings of Fact

Background

1. On June 17, 2011, ROGER NICHOLSON / AGRI WATER LLC filed an application for an additional point of appropriation under Permit G-15744. The Department assigned the application number T-11263.
2. On August 25, 2005, the Department approved a partial assignment of the permit to Roger Nicholson/Agri-Water LLC.
3. On June 25, 2008, the Department approved Permit Amendment T-10641 to change the point of appropriation of Well 4. The order was entered at Volume 75, Page 214.
4. On June 23, 2009, the Department approved an extension of time for complete application of water to October 1, 2018.

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-11263 proposes an additional point of appropriation approximately between 1¼ and 2½ miles from the existing points of appropriation to:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
33 S	7.5 E	WM	19	NW NE	WELL 5 [KLAM 57662] - 20 FEET SOUTH AND 200 FEET EAST FROM THE N¼ CORNER OF SECTION 19

6. Notice of the application for the permit amendment was published in the Department's weekly notice on June 28, 2011, and in the Herald and News Newspaper on January 15, 22, and 29, 2012, pursuant to ORS 540.520(5). No comments were filed in response to the notices.
7. The Department's Ground Water Section estimates that the use of water from the proposed Well 5 could significantly interfere with Sevenmile Creek, Short Creek, and associated springs. Sevenmile Creek and Short Creek appear to get inflow from springs along the western margin of the valley. Using the proposed Well 5 will likely significantly increase the drawdown at the springs and significantly decrease the discharge to Sevenmile and Short Creeks. Assuming that a pro-rated 5.78 cubic feet per second (cfs) of the 28.8 cfs total rate is shifted to the proposed Well 5, the calculated increase in drawdown at the creeks and springs ranges from about 6.5 feet to 10.0 feet at the end of 30 days to 7.5 feet and 12.0 feet at the end of the irrigation season. The calculated recovery for the springs for a two day time period after pumping ceases at the proposed Well 5 is approximately 0.9 to 1.0 foot. Median aquifer properties for Upper Klamath basin volcanics from Gannet and others (2007) were used for the calculations given no local aquifer property data.
8. There is insufficient water level data for the water sources listed in Finding No. 7 to determine if the calculated drawdown would injure other water rights from those sources.
9. Permit G-15744 is junior in priority date to surface water rights from the sources listed in Finding No. 7. The proposed Well 5 shall be subject to regulation if there is insufficient water in those sources to satisfy more senior water rights.

Permit Amendment Review Criteria

10. The change would not result in injury to other water rights.
11. The change does not enlarge the permit.
12. 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-11263 is consistent with the requirements of ORS 537.211.

Now, therefore, it is ORDERED:

1. The additional point of appropriation proposed by Permit Amendment Application T-11263 is approved.
2. Permit G-16886, in the names of WOOD RIVER DISTRICT IMPROVEMENT COMPANY AND ROGER NICHOLSON / AGRI WATER LLC is issued to replace Permit G-15744, and incorporates the amendments approved by this order, the assignment, the permit amendment approved under T-10641, and the extension of time. Permit G-15744, in the names of WOOD RIVER DISTRICT IMPROVEMENT COMPANY AND ROGER NICHOLSON / AGRI WATER LLC is no longer of any force or effect.
3. 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.
4. 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.

5. Water shall be acquired from the same aquifer as the original points of appropriation.
6. All other terms and conditions of Permit G-16886 remain the same.

Dated at Salem, Oregon this 9 day of February, 2012.


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

Mailing Date: **FEB 15 2012**