BEFORE THE WATER RESOURCES DEPARTMENT OF THE STATE OF OREGON

In the Matter of Permit Amendment)	FINAL ORDER APPROVING
T-12257, Harney County)	ADDITIONAL POINTS OF
•)	APPROPRIATION AND
)	CHANGES IN PLACE OF USE

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

ANDY ROOT 524 HWY 20 N HINES, OR 97738

Findings of Fact

- 1. On January 22, 2016, Andy Root filed an application for additional points of appropriation, and a change in place of use under Permits G-16461, G-17348, G-16829, and G-17127. The Department assigned the application number T-12257.
- 2. On January 24, 2013, the Department issued a Summary Order rescinding application G-17452, Permit G-16983, until proof of compliance with well construction standards could be shown for Well #21.
- 3. On February 8, 2013, the Department determined that Well #21 met the standards and re-instated Application G-17452 and issued a new permit G-17127.
- 4. On December 19, 2014, the Department approved an extension of time for complete application of water to October 1, 2019, for G-16461.
- 5. On July 8, 2016, the Department approved an extension of time for complete application of water to October 1, 2019, for G-16829.
- 6. Notice of the application for the permit amendment was published in the Department's weekly notice on February 2, 2016, and in the Burns Times Herald newspaper on September _____, 2018, pursuant to ORS 540.520(5). No comments were filed in response to the notices.

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 June 9, 2016, the applicant's agent provided updated application pages and maps.
- 8. On January 9, 2018, the Department contacted the applicant's agent with regard to some lands that appear to not be contiguous to the original place of use.
- 9. On January 15, 2018, the Agent for the applicant provided the Department with amended tables and maps correcting the non-contiguous lands.
- 10. For clarity purposes some of the wells have been re-numbered and the descriptions now include the Department issued Well Identification numbers as described in findings of facts No. 9, No. 10, No. 12, and No. 14.
- 11. Permit Amendment Application T-12257 proposes for Permit G-17348 for additional points of appropriation from approximately 2.7 to 0.5 mile(s) from the existing points of Appropriation to:

Status	New POA#	Twp	Rng	Mer	Sec	Q-Q	Measured Distances
New	#1	25 S	30 E	WM	33	SE NW	HARN 1094 - 1317 FEET SOUTH AND 1355 FEET EAST FROM NW CORNER OF SECTION 33
New	#5	25 S	30 E	WM	33	SW NE	HARN 51146 - 4195 FEET SOUTH AND 2672 FEET WEST FROM THE NE CORNER OF SECTION 33
New	#7	25 S	30 E	WM	34	SE SW	HARN 51272 - 4725 FEET SOUTH AND 1877 FEET EAST FROM THE NW CORNER OF SECTION 34
Authorized	#9 `	25 S	30 E	WM	, 33	SE SW	HARN 51448 - 4423 FEET SOUTH AND 2750 FEET WEST FROM THE NE CORNER OF SECTION 33
Authorized	#10	26 S	30 E	WM	3	NW NW	HARN 51765 - 985 FEET SOUTH AND 455 FEET EAST FROM THE NW CORNER OF SECTION 3
Authorized	#11	26 S	30 E	WM	3	NW NW	HARN 51760 - 1005 FEET SOUTH AND 375 FEET EAST FROM THE NW CORNER OF SECTION 3
Authorized	#12	25 S	30 E	WM	33	SE NW	HARN 51817 - 2605 FEET SOUTH AND 2450 FEET EAST FROM THE NW CORNER OF SECTION 33
Authorized	#13	26 S	30 E	WM	4	NE NW	HARN 51445 - 1090 FEET SOUTH AND 2705 FEET WEST FROM THE NE CORNER OF SECTION 4
Authorized	#14	25 S	30 E	WM	33	SE SE	HARN 51871 - 1000 FEET NORTH AND 10 FEET WEST FROM THE SE CORNER OF SECTION 33
Authorized	#15	25 S	30 E	WM	33	SE SE	HARN 51970 - 1000 FEET NORTH AND 30 FEET WEST FROM THE SE CORNER OF SECTION 33
New	#16	25 S	30 E	WM	29	SE SE	HARN 52121 - 1200 FEET NORTH AND 900 FEET WEST FROM THE S 1/16 CORNER OF SECTIONS 28 AND 29
New	#17	25 S	30 E	WM	3	NW NW	HARN 52154 - 6300 FEET SOUTH AND 440 FEET EAST FROM THE NW CORNER OF SECTION 34
New	#18	25 S	30 E	WM	29	SE SE	HARN 52170 - 1200 FEET NORTH AND 850 FEET WEST FROM THE S 1/16 CORNER OF SECTIONS 28 AND 29

12. Permit Amendment Application T-12257 proposes for Permit G-16461 additional points of diversion as described in the table below:

Status	New POA#	Twp	Rng	Mer	Sec	Q-Q	Measured Distances
New	#1	25 S	30 E	WM	33	SE NW	HARN 1094 - 1317 FEET SOUTH AND 1355 FEET EAST FROM NW CORNER OF SECTION 33
New	#5	25 S	30 E	WM	33	SW NE	HARN 51146 - 4195 FEET SOUTH AND 2672 FEET WEST FROM THE NE CORNER OF SECTION 33
Authorized	#7	25 S	30 E	WM	34	SE SW	HARN 51272 - 4725 FEET SOUTH AND 1877 FEET EAST FROM THE NW CORNER OF SECTION 34
Authorized	#9	25 S	30 E	WM	33	SE SW	HARN 51448 - 4423 FEET SOUTH AND 2750 FEET WEST FROM THE NE CORNER OF SECTION 33
New	#10	26 S	30 E	WM	3	NW NW	HARN 51765 - 985 FEET SOUTH AND 455 FEET EAST FROM THE NW CORNER OF SECTION 3
Authorized	#11	26 S	30 E	WM	3 .	NW NW	HARN 51760 - 1005 FEET SOUTH AND 375 FEET EAST FROM THE NW CORNER OF SECTION 3
Authorized	#12	25 S	30 E	WM	33	SE NW	HARN 51817 - 2605 FEET SOUTH AND 2450 FEET EAST FROM THE NW CORNER OF SECTION 33
Authorized	#13	26 S	30 E	WM	4	NE NW	HARN 51445 - 1090 FEET SOUTH AND 2705 FEET WEST FROM THE NE CORNER OF SECTION 4
Authorized	#14	25 S	30 E	WM	33	SE SE	HARN 51871 - 1000 FEET NORTH AND 10 FEET WEST FROM THE SE CORNER OF SECTION 33

13. Permit Amendment Application T-12257 also proposes to change the place of use of permit G-16461 to:

	IRRIGATION							
Twp	Rng	Mer	Sec	Q-Q	GLot	Acres		
25 S	30 E	WM	32	NE SE		36.5		
25 S	30 E	WM	32	NW SE		14.5		
25 S	30 E	WM	32	SW SE		8.7		
25 S	30 E	WM	32	SE SE		24.3		
25 S	30 E	WM	33	NE SW		30.2		
25 S	30 E	WM	. 33	NW SW		31.2		
25 S	30 E	WM	33	SW SW		26.7		
25 S	30 E	WM	33	SE SW		27.0		
26 S	30 E	WM	4	NE NW	3	35.9		
26 S	30 E	WM	4	NW NW	4	25.7		
_26 S	30 E	WM	4	SW NW		16.1		
26 S	30 E	WM	4	SE NW		13.6		
26 S	30 E	WM	4	NW SW		20.1		
26 S	30 E	WM	4	SW SW		5.5		
26 S	30 E	WM	5	NE NE	1	5.5		
26 S	30 E	WM	5	SE NE		15.1		
26 S	30 E	WM	5	NE SE		24.3		
26 S	30 E	WM	_ 5	SE SE		38.1		
26 S	30 E	WM	8	(NE NE		1.0		
					Total:	400.0		

14. Permit Amendment Application T-12257 proposes for Permit G-16829 additional points of diversion as described in the table below:

Status	New POA#	Twp	Rng	Mer	Sec	Q-Q	Measured Distances
New	#1	25 S	30 E	WM	33	SE NW	HARN 1094 - 1317 FEET SOUTH AND 1355 FEET EAST FROM NW CORNER OF SECTION 33
New	#5	25 S	30 E	WM	33	SW NE	HARN 51146 - 4195 FEET SOUTH AND 2672 FEET WEST FROM THE NE CORNER OF SECTION 33
New	#7	25 S	30 E	WM	34	SE SW	HARN 51272 - 4725 FEET SOUTH AND 1877 FEET EAST FROM THE NW CORNER OF SECTION 34
Authorized	#9	25 S	30 E	WM	33	SE SW	HARN 51448 - 4423 FEET SOUTH AND 2750 FEET WEST FROM THE NE CORNER OF SECTION 33
New	#10	26 S	30 E	WM	3	NW NW	HARN 51765 - 985 FEET SOUTH AND 455 FEET EAST FROM THE NW CORNER OF SECTION 3
New	#11	26 S	30 E	WM	3	NW NW	HARN 51760 - 1005 FEET SOUTH AND 375 FEET EAST FROM THE NW CORNER OF SECTION 3
New	#12	25 S	30 E	WM	33	SE NW	HARN 51817 - 2605 FEET SOUTH AND 2450 FEET EAST FROM THE NW CORNER OF SECTION 33
New	#13	26 S	30 E	WM	4	NE NW	HARN 51445 -1090 FEET SOUTH AND 2705 FEET WEST FROM THE NE CORNER OF SECTION 4
New	#14	25 S	30 E	WM	33	SE SE	HARŃ 51871 -1000 FEET NORTH AND 10 FEET WEST FROM THE SE CORNER OF SECTION 33
New	#15	25 S	30 E	WM	33	SE SE	HARN 51970 - 1000 FEET NORTH AND 30 FEET WEST FROM THE SE CORNER OF SECTION 33
New	#16	25 S	30 E	WM	29	SE SE	HARN 52121 -1200 FEET NORTH AND 900 FEET WEST FROM THE S 1/16 CORNER OF SECTIONS 28 AND 29
New	#17	25 S	30 E	WM	3	NW NW	HARN 52154 - 6300 FEET SOUTH AND 440 FEET EAST FROM THE NW CORNER OF SECTION 34
New	#18	25 S	30 E	WM	29	SE SE	HARN 52170 - 1200 FEET NORTH AND 850 FEET WEST FROM THE S 1/16 CORNER OF SECTIONS 28 AND 29

15. Permit Amendment Application T-12257 also proposes to change the place of use of permit G-16829 to:

	IRRIGATION							
Twp	Rng	Mer	Sec	Q-Q	Acres			
25 S	30 E	WM	34	SW NW	0.2			
25 S	30 E	WM	34	SE NW	8.2			
25 S	30 E	WM	34	NE SW	26.2			
25 S	30 E	WM	34	NW SW	3.0			
	Total:							

16. Permit Amendment Application T-12257 proposes for Permit G-17127 additional points of diversion as described in the table below:

Status	New POA#	Twp	Rng	Mer	Sec	Q-Q	Measured Distances
New	#1	25 S	30 E	WM	33	SE NW	HARN 1094- 1317 FEET SOUTH AND 1355 FEET EAST FROM NW CORNER OF SECTION 33
New	#5	25 S	30 E	WM	33	SW NE	HARN 51146 - 4195 FEET SOUTH AND 2672 FEET WEST FROM THE NE CORNER OF SECTION 33
New	#7	25 S	30 E	WM	34	SE SW	HARN 51272 - 4725 FEET SOUTH AND 1877 FEET EAST FROM THE NW CORNER OF SECTION 34
Authorized	#9	25 S	30 E	WM	33	SE SW	HARN 51448 - 4423 FEET SOUTH AND 2750 FEET WEST FROM THE NE CORNER OF SECTION 33
Authorized	#10	26 S	30 E	WM	3	NW NW	HARN 51765 - 985 FEET SOUTH AND 455 FEET EAST FROM THE NW CORNER OF SECTION 3
Authorized	#11	26 S	30 E	WΜ	3	NW NW	HARN 51760 - 1005 FEET SOUTH AND 375 FEET EAST FROM THE NW CORNER OF SECTION 3
New	#12	25 S	30 E	WM	33	SE NW	HARN 51817 - 2605 FEET SOUTH AND 2450 FEET EAST FROM THE NW CORNER OF SECTION 33
Authorized	#13	26 S	30 E	WM	4	NE NW	HARN 51445 - 1090 FEET SOUTH AND 2705 FEET WEST FROM THE NE CORNER OF SECTION 4
New	#14	25 S	30 E	WM	33	SE SE	HARN 51871 - 1000 FEET NORTH AND 10 FEET WEST FROM THE SE CORNER OF SECTION 33
New	#15	25 S	30 E	WM	33	SE SE	HARN 51970 - 1000 FEET NORTH AND 30 FEET WEST FROM THE SE CORNER OF SECTION 33
New	#16	25 S	30 E	WM	29	SE SE	HARN 52121 - 1200 FEET NORTH AND 900 FEET WEST FROM THE S 1/16 CORNER OF SECTIONS 28 AND 29
New	#17	25 S	30 E	WM	3	NW NW	HARN 52154 - 6300 FEET SOUTH AND 440 FEET EAST FROM THE NW CORNER OF SECTION 34
New	#18	25 S	30 E	WM	. 29	SE SE	HARN 52170 - 1200 FEET NORTH AND 850 FEET WEST FROM THE S 1/16 CORNER OF SECTIONS 28 AND 29

17. Permit Amendment Application T-12257 also proposes to change the place of use of permit G-17127 to:

IRRIGATION								
Twp	Rng	Mer	Sec	Q-Q	G-lot	Acres		
25 S	30 E	WM	34	SE SW		0.17		
25 S	30 E	WM	34	SW SE		1.08		
26 S	30 E	WM	3	NW NE	3、	30.31		
26 S	30 E	WM	3	SW NE	3	34.66		
26 S	30 E	WM	3	SE NE	3	0.69		
26 S	30 E	WM	3	NE NW	3	21.0		
26 S	30 E	WM	3	NW NW	4	9.04		
26 S	30 E	WM	3	SW NW		40.06		
26 S	30 E	WM	3	SE NW		、38.41		
26 S	30 E	WM	3	NE SW		23.05		
26 S	30 E	WM	3	NW SW		11.23		

IRRIGATION									
Twp	Rng	Mer	Sec	Q-Q	G-lot	Acres			
26 S	30 E	WM	3	SW SW		26.30			
26 S	30 E	WM	3	NW SW		24.65			
26 S	30 E	WM	3	NW SE		30.31			
26 S	30 E	WM	3	SW SE		11.60			
26 S	30 E	WM	4	SE NE		0.93			
26 S	30 E	WM	4	SW SE		32.77.			
26 S	30 E	WM	4	SE SE		28.39			
26 E	30 E	WM ·	9	NE NE		31.80			
26 S	30 E	WM	9	NW NE		33.65			
26 S	30 E	WM	9	SW NE		0.35			
26 S	30 E	WM	9	SE NE		0.31			
26 S	30 E	WM	10	NE NW		0.65			
26 S	30 E	WM	10	NW NW		3.21			
			-	,	Total:	434.62			

Permit Amendment Review Criteria

- 18. The changes as conditioned would not result in injury to other water rights.
- 19. The proposed place of use is owned and/or controlled by the permit holder.
- 20. The changes as conditioned do not enlarge the permit.
- 21. The changes do not alter any other terms of the permit.
- 22. The proposed place of use is contiguous to the authorized place of use.

Conclusions of Law

The change in points of appropriation, additional points of appropriation and change in place of use proposed by Permit Amendment Application T-12257 is consistent with the requirements of ORS 537.211.

Now, therefore, it is ORDERED:

- 1. The additional points of appropriation, and change in place of use proposed by Permit Amendment Application T-12257 are approved.
- 2. Permit G-17991, in the name of Rattlesnake Creek Land and Cattle, LLC. is issued to replace Permit G-16829, and incorporates the amendments approved by this order, the extension of time. Permit G-16829, in the name of Rattlesnake Creek Land and Cattle LLC. is no longer of any force or effect.
- 3. Permit G-17989, in the name of Rattlesnake Creek Land and Cattle, LLC. is issued to replace Permit G-16461, and incorporates the amendments approved by this order, the extension of time. Permit G-16461, in the name of Andy Root, is no longer of any force or effect.

- 4. Permit G-17990, in the name of Andy Root, is issued to replace Permit G-17348, and incorporates the amendments approved by this order. Permit G-17348, in the name of Andy Root, is no longer of any force or effect.
- 5. Permit G-17992, in the name of Rattlesnake Ranch Land and Cattle, LLC. is issued to replace Permit G-17127, and incorporates the amendments approved by this order. Permit 17127, in the name of Andy Root, is no longer of any force or effect.
- 6. The combined quantity of water diverted at the new points 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.
- 7. Prior to water use from the proposed point of appropriation,
 - a) The permittee shall install a totalizing flow meter on each well. The totalizing flow meter must be installed and maintained in good working order consistent with those standards identified in OAR 690-507-645 (1) through (3). The permittee 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.
 - b) The permittee shall allow the Watermaster access to the meters; provided however, where the meter is located within a private structure, the Watermaster shall request access upon reasonable notice.
- 8. Water shall be acquired from the same aquifer as the original points of appropriation.
- 9. The former place of use shall no longer be irrigated as part of this permit.
- 10. All other terms and conditions of Permits G-16461, G-17990, G-17991, and G-17992 remain the same.

Dated at Salem, Oregon this	OCT 0 8 2018	
Dwight French, Water Right Serv Thomas M. Byler, Director Oregon Water Resources Departm		
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Mailing Date: 0CT **0 9** 2018