

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

In the Matter of Permit Amendment)	FINAL ORDER
T-10776, Union County)	APPROVING A CHANGE IN POINT OF
)	APPROPRIATION, A CHANGE IN
)	PLACE OF USE, AND PARTIAL
)	CANCELLATION OF A WATER
)	RIGHT

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

SHAWN BINGAMAN
P. O. BOX 143
IMBLER, OREGON 97841

Findings of Fact

Background

1. On January 28, 2009, Shawn Bingaman filed an application to change the point of appropriation and to change in place of use under Permit G-15875. The Department assigned the application number T-10776.
2. The permit to be amended is as follows:

Permit: G-15875 in the name of SHAWN BINGAMAN
Use: IRRIGATION OF 154.7 ACRES
Priority Date: OCTOBER 22, 2004
Quantity: 1.93 CUBIC FEET PER SECOND
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 PIERCE SLOUGH BASIN

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.

Authorized Point of Appropriation:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
2 S	38 E	WM	27	NE NW	2586 FEET NORTH AND 2573 FEET EAST FROM THE W¼ CORNER OF SECTION 27

Authorized Place of Use:

IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
2 S	38 E	WM	21	NE SE	40.0
2 S	38 E	WM	21	SE SE	35.5
2 S	38 E	WM	22	NE SW	39.2
2 S	38 E	WM	22	NW SW	40.0

3. Permit Amendment Application T-10766 proposes to move the authorized point of appropriation approximately 2800 feet from the existing point of appropriation to:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
2 S	38 E	WM	22	SW NE	2516 FEET SOUTH AND 2556 FEET WEST FROM THE NE CORNER OF SECTION 22

4. Permit Amendment Application T-10766 also proposes to change the place of use of the permit to:

IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
2 S	38 E	WM	22	NE NE	35.5
2 S	38 E	WM	22	NW NE	40.0
2 S	38 E	WM	22	SW NE	40.0
2 S	38 E	WM	22	SE NE	39.2

5. On January 28, 2009, an affidavit certifying that a portion of a water right has been abandoned and requesting cancellation of the right was received from Shawn and Molly Bingaman. The right to be cancelled is as follows:

Certificate: 82095 in the name of ORODELL DITCH ASSOCIATION (confirmed by Grande Ronde River, Consolidated decree)

Use: IRRIGATION of 6.0 ACRES

Priority Date: 1872

Limit/Duty: The use is limited to 3.0 acre-feet per acre in any irrigation season diverted at a rate of not to exceed ONE-FORTIETH of a cubic foot per second per acre.

Source: GRANDE RONDE RIVER, tributary to the SNAKE RIVER

Authorized Point of Diversion:

Twp	Rng	Mer	Sec	Q-Q
2 S	38 E	WM	31	SW SW

Authorized Place of Use to be Cancelled:

IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
2 S	38 E	WM	22	NE NE	6.0

6. Notice of the application for the permit amendment was published in the Department's weekly notice on February 17, 2009, and in The Observer newspaper on June 23, 30, and July 7, 2009, pursuant to ORS 540.520(5). No comments were filed in response to the notices.

Permit Amendment Review Criteria

7. The changes would not result in injury to other water rights.
8. The proposed place of use is owned by the permit holder.
9. The changes do not enlarge the permit.
10. The changes do not alter any other terms of the permit.
11. The proposed place of use is contiguous to the authorized place of use.

Conclusions of Law

The change in point of appropriation and change in place of use proposed by Permit Amendment Application T-10776 is consistent with the requirements of ORS 537.211 and the abandoned right should be cancelled.

Now, therefore, it is ORDERED:

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

1. 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.
2. Prior to water use from the proposed point of appropriation, the permittee shall install a totalizing flow 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 point of appropriation.
4. The former place of use shall no longer be irrigated as part of this permit.
5. The portion of the right described by Certificate 82095 that has been abandoned is cancelled.
6. Water Right Certificate 82095 is cancelled. A new certificate will be issued describing those portions of the right described by Certificate 82095 not affected by this cancellation.
7. All other terms and conditions of Permit G-18575 remain the same.
8. Permit G-18575, in the name of SHAWN BINGAMAN is amended as described herein.

Dated at Salem, Oregon this 24th day of July, 2009.


Phillip C. Ward, Director *PCW*

Mailing Date: JUL 28 2009