

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

In the Matter of Permit Amendment)	FINAL ORDER APPROVING A
T-12267, Harney County)	CHANGE IN POINTS OF
)	APPROPRIATION, ADDITIONAL
)	POINTS OF APPROPRIATION, A
)	CHANGE IN PLACE OF USE, AND
)	THE PARTIAL DIMINUTION OF A
)	WATER RIGHT PERMIT

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 February 1, 2016, Andy Root filed an application to change points of appropriation, for additional points of appropriation and to change in place of use under Permits G-17574 and G-17499. The Department assigned the application number T-12267.
2. On September 7, 2016, the Department notified the applicant's agent of a change in the water right permit number the agent confirmed that the intended permit number should be G-17575.
3. Notice of the application for the permit amendment was published in the Department's weekly notice on February 9, 2016, and re-noticed with the corrected Permit numbers on September 7, 2016, and in the Burns Herald newspaper on September _____, 2018, pursuant to ORS 540.520(5). No comments were filed in response to the notices.
4. On September 26, 2016, the applicant's agent on behalf of the applicant submitted and amended application and maps.
5. The Department re-noticed the application with the amended information and pages on October 4, 2016.
6. The amended application pages included an affidavit to diminish some of the acres from primary irrigation to supplemental irrigation.

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. For Permit G-17574 Permit Amendment Application T-12267 proposes to move an authorized point of appropriation (POA) and add additional points of appropriation (APOA); the approximate distances from the authorized points of appropriation and additional points of appropriation are all approximately between 0.4 and 2.7 miles in distance. The changes and/or additional points are described in the table below:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances	Type of Change
22 S	32.5 E	WM	34	NW NE	WELL 6A- 1300 FEET SOUTH AND 1300 FEET EAST FROM THE NORTH ¼ CORNER OF SECTION 34	APOA
22 S	32.5 E	WM	29	SW SE	WELL 20- 1250 FEET NORTH AND 2500 FEET WEST FROM THE SE CORNER OF SECTION 29	POA
22 S	32.5 E	WM	32	NW NW	WELL 21- 300 FEET SOUTH AND 300 FEET EAST FROM THE NW CORNER OF SECTION 32	APOA
22 S	32.5 E	WM	34	NW NE	WELL 22- 5 FEET SOUTH AND 1500 FEET EAST FROM THE WEST CORNER OF SECTION 34	APOA

8. Permit Amendment Application T-12267 also proposes to change the place of use for Permit G-17574 to:

IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
22 S	32.5 E	WM	29	NE SW	20.4
22 S	32.5 E	WM	29	NW SW	27.7
22 S	32.5 E	WM	29	SW SW	39.0
22 S	32.5 E	WM	29	SE SW	39.9
22 S	32.5 E	WM	29	SW SE	30.0
22 S	32.5 E	WM	29	SE SE	30.0
22 S	32.5 E	WM	30	SW NE	27.6
22 S	32.5 E	WM	30	SE NE	10.3
22 S	32.5 E	WM	30	SE NW	17.7
22 S	32.5 E	WM	30	NE SE	20.2
22 S	32.5 E	WM	31	NE NE	5.3
22 S	32.5 E	WM	31	SE NE	2.6
22 S	32.5 E	WM	31	SW SE	3.7
22 S	32.5 E	WM	31	SE SE	11.8
22 S	32.5 E	WM	32	NE NE	7.1
22 S	32.5 E	WM	32	NW NE	37.8
22 S	32.5 E	WM	32	SW NE	6.2
22 S	32.5 E	WM	32	SE NE	8.7
22 S	32.5 E	WM	32	NE NW	6.2
22 S	32.5 E	WM	32	NW NW	9.2
22 S	32.5 E	WM	32	NE SW	22.8
22 S	32.5 E	WM	32	NW SW	3.3
22 S	32.5 E	WM	32	SE SW	27.1
22 S	32.5 E	WM	32	NE SE	31.2
22 S	32.5 E	WM	32	NW SE	35.4
22 S	32.5 E	WM	32	SW SE	29.9
22 S	32.5 E	WM	32	SE SE	27.6
22 S	32.5 E	WM	33	NE NE	31.4
22 S	32.5 E	WM	33	NW NE	31.4
22 S	32.5 E	WM	33	SW NE	31.4
22 S	32.5 E	WM	33	SE NE	31.4
22 S	32.5 E	WM	33	NE NW	31.4
22 S	32.5 E	WM	33	NW NW	31.4

IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
22 S	32.5 E	WM	33	SW NW	31.4
22 S	32.5 E	WM	33	SE NW	31.4
22 S	32.5 E	WM	33	NE SE	31.4
22 S	32.5 E	WM	33	NW SE	31.4
22 S	32.5 E	WM	33	SW SE	31.4
22 S	32.5 E	WM	33	SE SE	31.4
22 S	32.5 E	WM	34	NE NE	31.4
22 S	32.5 E	WM	34	NW NE	31.4
22 S	32.5 E	WM	34	SW NE	31.4
22 S	32.5 E	WM	34	SE NE	31.4
22 S	32.5 E	WM	34	NE NW	31.4
22 S	32.5 E	WM	34	NW NW	31.4
22 S	32.5 E	WM	34	SW NW	31.4
22 S	32.5 E	WM	34	SE NW	31.4
22 S	32.5 E	WM	34	NE SW	31.4
22 S	32.5 E	WM	34	NW SW	31.4
22 S	32.5 E	WM	34	SW SW	31.4
22 S	32.5 E	WM	34	SE SW	31.4
Total:					1292.3

Supplemental Irrigation					
Twp	Rng	Mer	Sec	Q-Q	Acres
22 S	32.5 E	WM	31	NE NE	1.7
22 S	32.5 E	WM	31	SE NE	19.2
22 S	32.5 E	WM	31	NE SE	33.1
22 S	32.5 E	WM	31	NW SE	7.6
22 S	32.5 E	WM	31	SW SE	4.3
22 S	32.5 E	WM	31	SE SE	19.9
22 S	32.5 E	WM	32	SW NE	32.30
22 S	32.5 E	WM	32	NE NW	32.20
22 S	32.5 E	WM	32	NW NW	30.80
22 S	32.5 E	WM	32	SW NW	31.50
22 S	32.5 E	WM	32	SE NW	40.00
22 S	32.5 E	WM	32	SW NW	8.5
22 S	32.5 E	WM	32	NE SW	3.1
22 S	32.5 E	WM	32	NW SW	28.5
22 S	32.5 E	WM	32	SW SW	23.6
22 S	32.5 E	WM	32	SE SW	0.9
Totals:					317.2

9. For Permit G-17575, Permit Amendment Application T-12267 proposes to move some of the authorized points of appropriation (POA) and add additional points of appropriation (APOA); the approximate distances between the authorized points of appropriation and the proposed points of appropriation are between 0.4 and 3.0 miles. Descriptions of the points of appropriation and the type of change proposed are described in the table below:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances	Type of Change
22 S	32.5 E	WM	34	NW NE	WELL 6A- 1300 FEET SOUTH AND 1300 FEET EAST FROM THE NORTH ¼ CORNER OF SECTION 34	APOA

Twp	Rng	Mer	Sec	Q-Q	Measured Distances	Type of Change
22 S	32.5 E	WM	32	NW NE	WELL 20- 35 FEET SOUTH AND 1350 FEET WEST FROM THE NE CORNER OF SECTION 32	POA
22 S	32.5 E	WM	32	NW NW	WELL 21- 300 FEET SOUTH AND 300 FEET EAST FROM THE NW CORNER OF SECTION 32	APOA
22 S	32.5 E	WM	32	NW NW	WELL 22- 300 FEET SOUTH AND 300 FEET EAST FROM THE NW CORNER OF SECTION 32	APOA

10. Permit Amendment Application T-12267 also proposes to change the place of use for Permit G-17575 to:

IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
22 S	32.5 E	WM	33	NE SW	30.20
22 S	32.5 E	WM	33	NW SW	30.20
22 S	32.5 E	WM	33	SW SW	30.20
22 S	32.5 E	WM	33	SE SW	30.20
22 S	32.5 E	WM	34	NE SE	31.40
22 S	32.5 E	WM	34	NW SE	31.40
22 S	32.5 E	WM	34	SW SE	31.40
22 S	32.5 E	WM	34	SE SE	31.40
Total:					246.4

Partial Diminishment of a Water Right

11. On September 26, 2016, the Department received an affidavit from Andy Root, Permit Holder of Water Right Permit G-17574, the affidavit diminishes a portion of Permit G-17574 from Primary Irrigation to Supplemental Irrigation and is described as follows:

Permit: G-17574 in the name of ANDY ROOT (perfected under Permit G-13539)

Use: SUPPLEMENTAL IRRIGATION of 128.7 ACRES

Priority Date: FEBRUARY 2, 1998

Rate: 1.61 CUBIC FEET PER SECOND

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 (or its equivalent) and 3.0 acre-feet for each acre irrigated during the irrigation season of each year.

Source: TWELVE WELLS within the RATTLESNAKE CREEK BASIN

Authorized Points of Appropriation:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
22 S	32.5 E	WM	33	NE NW	WELL 1: 25 FEET SOUTH AND 660 FEET WEST 90 FROM THE N1/4 CORNER OF SECTION 33
22 S	32.5 E	WM	33	NE NW	WELL 2: 110 FEET SOUTH AND 665 FEET WEST FROM THE N1/4 CORNER OF SECTION 33
22 S	32.5 E	WM	34	NW SE	WELL 3: 1365 FEET NORTH AND 1365 FEET WEST FROM THE SE CORNER OF SECTION 33
22 S	32.5 E	WM	34	NE SW	WELL 4: 2710 FEET SOUTH AND 830 FEET WEST FROM THE N1/4 CORNER OF SECTION 34
22 S	32.5 E	WM	33	SE NE	WELL 5: 5 FEET NORTH AND 830 FEET WEST FROM THE E1/4 CORNER OF SECTION 34

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
22 S	32.5 E	WM	34	NW NE	WELL 6: 1320 FEET SOUTH AND 1320 FEET EAST FORM THE NW CORNER OF SECTION 34
22 S	32.5 E	WM	33	NW NW	WELL 7: 25 FEET SOUTH AND 45 FEET EAST FORM THE NW CORNER OF SECTION 33
22 S	32.5 E	WM	32	NE NE	WELL 8: 35 FEET SOUTH AND 1245 FEET WEST FROM THE NE CORNER OF SECTION 32
22 S	32.5 E	WM	34	SE SE	WELL 9: 1055 FEET NORTH AND 130 FEET WEST FROM THE SE CORNER OF SECTION 34
22 S	32.5 E	WM	33	SW NE	WELL 10: 2605 FEET SOUTH AND 750 FEET EAST FROM THE N1/4 CORNER OF SECTION 33
22 S	32.5 E	WM	33	NE NW	WELL 18: 5 FEET SOUTH AND 1320 FEET EAST FROM THE NW CORNER OF SECTION 33
22 S	32.5 E	WM	32	NW NE	WELL 19: 5 FEET SOUTH AND 2640 FEET EAST FROM THE NW CORNER OF SECTION 32

Authorized Place of Use to be diminished:

Lands Diminished from Primary to Supplemental					
Twp	Rng	Mer	Sec	Q-Q	Acres
22 S	32.5 E	WM	32	NE NE	32.9
22 S	32.5 E	WM	32	NW NE	2.2
22 S	32.5 E	WM	32	SW NE	1.4
22 S	32.5 E	WM	32	SE NE	31.3
22 S	32.5 E	WM	32	NE SW	14.6
22 S	32.5 E	WM	32	NE SE	8.8
22 S	32.5 E	WM	32	NW SE	4.6
22 S	32.5 E	WM	32	SW SE	10.1
22 S	32.5 E	WM	32	SE SW	10.4
22 S	32.5 E	WM	32	SE SE	12.4
Total					128.7

Permit Amendment Review Criteria

12. The changes would not result in injury to other water rights.
13. The proposed place of use is owned and/or controlled by the permit holder.
14. The changes do not enlarge the permit.
15. The changes do not alter any other terms of the permit.
16. The proposed place of use is contiguous to the authorized place of use.

Conclusions of Law

The change in point of appropriation, additional point of appropriation, change in place of use and diminishment of a portion of a permit proposed by Permit Amendment Application T-12267 are consistent with the requirements of ORS 537.211.

Now, therefore, it is ORDERED:

1. The change in point of appropriation, additional points of appropriation, change in place of use, and the diminishment of a permit proposed by Permit Amendment Application T-12267 are approved.
2. Permits G-18090 and G-18091, both in the name of Andy Root, are issued to replace Permit G-17574 and Permit G-17575, and incorporate the amendments approved by this order. Permits G-17574 and G-17575, both in the name of Andy Root, are no longer of any force or effect.
3. The quantity of water diverted at the new point of appropriation (Well 20) shall not exceed the quantity of water lawfully available at the original point of appropriation (Well 19).
4. The combined quantity of water diverted at the new points of appropriation (Wells 6A, 21, and 22), together with that diverted at the old points of appropriation (Wells 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 18, and 19), shall not exceed the quantity of water lawfully available at the original points of appropriation.
5. Water use measurement conditions:
 - a. Before water use may begin under this order, the water user shall install a totalizing flow meter, or, with prior approval of the Director, another suitable measuring device at each point of appropriation (new and existing).
 - b. The water user shall maintain the meters or measuring devices in good working order.
 - c. The water user shall allow the Watermaster access to the meters or measuring devices, provided however, where the meters or measuring devices are located within a private structure, the Watermaster shall request access upon reasonable notice.
6. Water shall be acquired from the same aquifer as the original points of appropriation.
7. The former place of use shall no longer be irrigated as part of these permits.
8. All other terms and conditions of Permits G-18090 and G-18091 remain the same.

Dated at Salem, Oregon this OCT 08 2018.


Dwight French, Water Right Services Administrator, for
Thomas M. Byler, Director
Oregon Water Resources Department

Mailing Date: OCT 09 2018