

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

In the Matter of Permit Amendment	)	FINAL ORDER
T-11763, Polk County	)	APPROVING AN ADDITIONAL
	)	POINT OF DIVERSION

**Authority**

ORS 537.211 establishes the process in which a water right permit holder may submit a request to change the point of diversion and/or place of use authorized under an existing water right permit.

**Applicant**

HOWARD AND JUDY POPE TRUST  
ATTN: HOWARD AND JUDY POPE  
12680 S PACIFIC HWY W  
MONMOUTH, OR 97361

**Findings of Fact**

1. On March 17, 2014, HOWARD AND JUDY POPE TRUST, HOWARD AND JUDY POPE filed an application for an additional point of diversion under Permit S-54129. The Department assigned the application number T-11763.
2. On October 8, 2013, the Department approved an extension of time for complete application of water to October 1, 2018.
3. Notice of the application for the permit amendment was published in the Department's weekly notice on March 25, 2014, and in the Polk County Itemizer-Observer newspaper on September 10 and 17, 2014, pursuant to ORS 540.520(5). No comments were filed in response to the notices.
4. Permit Amendment Application T-11763 proposes an additional point of diversion approximately 0.3 mile upstream from the existing point of diversion to:

Twp	Rng	Mer	Sec	Q-Q	DLC	Measured Distances
9 S	4 W	WM	30	NE SE	46	1640 FEET NORTH AND 125 FEET WEST FROM THE SE CORNER OF SECTION 30

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.

### ***Permit Amendment Review Criteria***

5. The change would not result in injury to other water rights.
6. The change does not enlarge the permit.
7. The change does not alter any other terms of the permit.

### **Conclusions of Law**


The additional point of diversion proposed by Permit Amendment Application T-11763 is consistent with the requirements of ORS 537.211.

### **Now, therefore, it is ORDERED:**

1. The additional point of diversion proposed by Permit Amendment Application T-11763 is approved.
2. Permit S-54880, in the name of HOWARD AND JUDY POPE TRUST, is issued to replace Permit S-54129, and incorporates the amendments approved by this order and the extension of time. Permit S-54129, in the name of HOWARD AND JUDY POPE, is no longer of any force or effect.
3. The combined quantity of water diverted at the new point of diversion, together with that diverted at the old point of diversion, shall not exceed the quantity of water lawfully available at the original point of diversion.
4. Water use measurement conditions:
  - a. Before water use may begin under this order, the permittee shall install a totalizing flow meter, or, with prior approval of the Director, another suitable measuring device, at each new point of diversion.
  - b. The permittee shall maintain the meters or measuring devices in good working order.
  - c. The permittee 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.
5. Prior to diverting water, the water user shall install a fish screening and/or by-pass device, as appropriate, at the new point of diversion consistent with the Oregon Department of Fish and Wildlife's (ODFW) design and construction standards. Prior to installation, the water user shall obtain written approval from ODFW that the required screen and/or by-pass device meets ODFW's criteria. Prior to submitting a Claim of Beneficial Use, the water user must obtain written approval from ODFW that the required screening and/or by-pass device was installed to the state's criteria. The water user shall maintain and operate the fish screen and/or by-pass device, as appropriate, at the point of diversion consistent with ODFW's operational and maintenance standards.

6. Water shall be acquired from the same surface water source as the original point of diversion.
7. All other terms and conditions of Permit S-54880 remain the same.

Dated at Salem, Oregon this 30 day of September, 2014.

  
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Dwight French  
Water Right Services Administrator, for  
Director  
Oregon Water Resources Department

Mailing Date: OCT 02 2014