

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

In the Matter of Permit Amendment)	FINAL ORDER
T-11352, Clackamas County)	APPROVING ADDITIONAL POINTS
)	OF APPROPRIATION AND A
)	CHANGE IN PLACE OF USE

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

J FRANK SCHMIDT AND SON COMPANY
PO BOX 189
BORING OR 97009

Findings of Fact

Background

1. On February 10, 2012, J FRANK SCHMIDT & SON COMPANY filed an application for additional points of appropriation and to change in place of use under Permit G-10605. The Department assigned the application number T-11352.
2. On January 24, 1990, the Department approved an assignment of the permit to J. Frank Schmidt and Son Co.
3. On July 7, 2009, the Department approved an extension of time for complete application of water to October 1, 2010.
4. On September 15, 2009, the Department approved an assignment of the permit to J. Frank Schmidt and Son Co. and Northwest Farm Credit Services, FLCA and PCA.
5. On October 7, 2011, the Department approved an extension of time for complete application of water to October 1, 2013.

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.

6. The applicant has submitted information that better describes the location of the authorized point of appropriation as being:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
4 S	1 E	WM	19	NW NE	WELL BF-2 - 610 FEET SOUTH AND 260 FEET WEST FROM THE SW CORNER OF DLC 37

7. Permit Amendment Application T-11352 proposes additional points of appropriation between approximately 900 and 4300 feet from the existing point of appropriation to:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
4 S	1 E	WM	19	SE SW	WELL BF-1 - 590 FEET NORTH AND 1580 FEET EAST FROM THE SW CORNER OF SECTION 19
4 S	1 E	WM	19	SW NE	WELL BF-3 - 1350 FEET SOUTH AND 1900 FEET WEST FROM THE NE CORNER OF SECTION 19
4 S	1 E	WM	19	NW SE	WELL BF-4 - 2680 FEET SOUTH AND 1350 FEET WEST FROM THE NE CORNER OF SECTION 19
4 S	1 E	WM	19	NE NW	WELL BF-5 - 1200 FEET SOUTH AND 3920 FEET WEST FROM THE NE CORNER OF SECTION 19
4 S	1 E	WM	19	SE NW	WELL BF-6 - 2630 FEET SOUTH AND 2650 FEET WEST FROM THE NE CORNER OF SECTION 19

8. Permit Amendment Application T-11352 also proposes to change the place of use of the permit to:

IRRIGATION						
Twp	Rng	Mer	Sec	Q-Q	DLC	Acres
4 S	1 E	WM	18	SW SE		9.2
4 S	1 E	WM	18	SW SE	37	16.2
4 S	1 E	WM	18	SE SE	37	13.7
4 S	1 E	WM	19	NE NE		16.9
4 S	1 E	WM	19	NW NE		17.2
4 S	1 E	WM	19	SW NE		25.5
4 S	1 E	WM	19	NE NW		4.0
4 S	1 E	WM	19	SE NW		29.6

9. Notice of the application for the permit amendment was published in the Department's weekly notice on February 21, 2012, and in the Canby Herald newspaper on August 29 and September 5, 2012, pursuant to ORS 540.520(5). No comments were filed in response to the notices.

Permit Amendment Review Criteria

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

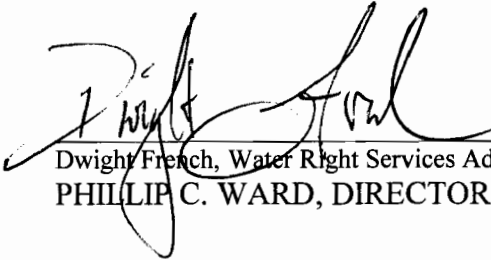
Conclusions of Law

The additional points of appropriation and change in place of use proposed by Permit Amendment Application T-11352 are 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-11352 are approved.
2. Permit G-16943, in the names of J. Frank Schmidt and Son Co. and Northwest Farm Credit Services, FLCA and PCA, is issued to replace Permit G-10605, and incorporates the amendments approved by this order, the extensions of time, and assignments. Permit G-10605, in the name of O. LELAND PELLATZ, is no longer of any force or effect.
3. The combined quantity of water diverted at the proposed additional points of appropriation, together with that diverted at the old point of appropriation, shall not exceed the quantity of water lawfully available at the original point of appropriation.
4. The permittee shall install and maintain a weir, meter, or other suitable measuring device, and shall keep a complete record of the amount of groundwater withdrawn.
5. Water shall be acquired from the same aquifer as the original point of appropriation.
6. The former place of use shall no longer be irrigated as part of this permit.
7. All other terms and conditions of Permit G-16943 remain the same.

Dated at Salem, Oregon this 1 day of October, 2012.


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

Mailing Date: OCT 12 2012