BEFORE THE WATER RESOURCES DEPARTMENT OF THE STATE OF OREGON

In the Matter of Permit Amendment)	FINAL ORDER
T-12371, Linn County)	APPROVING A CHANGE IN POINT
)	OF DIVERSION

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 diversion and/or place of use authorized under an existing water right permit.

Applicant

DAVID VAN ESSEN 39161 RIVER DR LEBANON, OR 97355

Findings of Fact

- 1. On May 6, 2016, David Van Essen filed an application to change the point of diversion under Permit S-53870. The Department assigned the application number T-12371.
- 2. On May 6, 2016, the Department approved an extension of time for complete application of water to October 1, 2021.
- 3. Notice of the application for the permit amendment was published in the Department's weekly notice on May 17, 2016, pursuant to ORS 540.520(5). No comments were filed in response to the notice.
- 4. Permit Amendment Application T-12371 proposes to move the authorized point of diversion approximately 1120 feet downstream from the existing point of diversion to:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances	
12 S	1 W	WM	29	NE NE	220 FEET SOUTH AND 470 FEET EAST FROM THE NORTH 1/4 CORNER OF SECTION 29	

5. The Oregon Department of Fish and Wildlife has determined that a fish screen is necessary at the new point of diversion to prevent fish from entering the diversion and that the diversion is currently equipped with an appropriate fish screen.

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

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

Conclusions of Law

The change in point of diversion proposed by Permit Amendment Application T-12371 is consistent with the requirements of ORS 537.211.

Now, therefore, it is ORDERED:

- 1. The change in point of diversion proposed by Permit Amendment Application T-12371 is approved.
- 2. Permit S-55004, in the name of David Van Essen, is issued to replace Permit S-53870 and incorporates the amendments approved by this order and the extension of time. Permit S-53870, in the name of David Van Essen, is no longer of any force or effect.
- 3. The quantity of water diverted at the new 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 water user 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 water user shall maintain the meter or measuring device in good working order.
 - c. The water user 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.
- 5. The water user shall operate and maintain the approved fish screen at the new point of diversion. If Oregon Department of Fish and Wildlife (ODFW) determines the screen is not functioning properly, and is unsuccessful in working with the water user to meet ODFW standards, ODFW may request that OWRD regulate the use of water until OWRD receives notification from ODFW that the fish screen is functioning properly.
- 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-55004 remain the same.

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Dated at Salem, Oregon this	day of _	A09151	_, 2016.
Dwight Frek			
Dwight French, Water Right So	ervices Admir	nistrator, for	
Thomas M Dylar Director			

Thomas M. Byler, Director Oregon Water Resources Department

Mailing Date: AUG 17 2016