

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

In the Matter of Permit Amendment)	FINAL ORDER
T-13237, Klamath County)	APPROVING A CHANGE IN POINT OF
)	APPROPRIATION, ADDITIONAL POINTS OF
)	APPROPRIATION, A CHANGE IN PLACE OF
)	USE AND 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

DROST LAND CO. LLC
24624 SCHAUPP RD
KLAMATH FALLS, OR 97603

Findings of Fact

1. On August 5, 2019, DROST LAND CO. LLC., filed an application to change the points of appropriation, for additional points of appropriation and to change in place of use under Permit G-13005. The Department assigned the application number T-13237.
2. On March 24, 2014, the Department approved an assignment of the permit to Highland Properties 1713, LLC.
3. On April 11, 2014, the Department approved an assignment of the permit to Drost Land Company, LLC.
4. On August 7, 2015, the Department approved an extension of time for complete application of water to October 1, 2020.
5. On January 14, 2020, the Department contacted the applicant and agent for the applicant by email regarding deficiencies in the application, specifically the identification of which acres proposed for change are primary and which are supplemental, whether or not certain acres are assigned to specific points of appropriation, a map clearly identifying primary and supplemental acres, and an affidavit for partial diminution. The Department set a deadline of February 14, 2020 for the applicant to amend the application to satisfy the deficiencies.

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.

6. On February 11, 2020, the agent for the applicant requested more time to satisfy the deficiencies outlined in the January 14, 2020 deficiency letter sent by the Department. The deadline to receive an amended application was extended to March 2, 2020.
7. On March 5, 2020, the Department received an amended application, map and affidavit for partial diminution, satisfying the deficiencies.
8. On March 5, 2021, the Department approved an extension of time for complete application of water to October 1, 2021.
9. Notice of the application for the permit amendment was published in the Department's weekly notice on August 13, 2019, and in the Herald and News newspaper on August 24 and 30, 2021, pursuant to ORS 540.520(5). No comments were filed in response to the notices.
10. Permit Amendment Application T-13237 proposes to move the authorized point of appropriation approximately 477 feet from the existing point of appropriation to:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
40 S	11 E	WM	2	SW SW	WELL #1 - 480 FEET NORTH AND 485 FEET EAST FROM THE SW CORNER OF SECTION 2

11. Permit Amendment Application T-13237 proposes to add additional points of appropriation between 0.7 and 1.0 mile from the existing point of appropriation to:

Twp	Rng	Mer	Sec	Q-Q	GLot	Measured Distances
40 S	11 E	WM	3	NE NW	19	WELL #2 - 3960.4 FEET NORTH AND 2646.5 FEET WEST FROM THE SW CORNER OF SECTION 2
40 S	11 E	WM	3	NE NW		WELL #3 - 5328.9 FEET NORTH AND 2695 FEET WEST FROM THE SW CORNER OF SECTION 2
40 S	11 E	WM	3	NE SW		WELL #4 - 2550.5 FEET NORTH AND 2805 FEET WEST FROM THE SW CORNER OF SECTION 2

12. Permit Amendment Application T-13237 also proposes to change the place of use of the permit to:

IRRIGATION						
Twp	Rng	Mer	Sec	Q-Q	Acres	POA
40 S	11 E	WM	2	SW SW	15.0	Well #1
40 S	11 E	WM	11	NW NW	11.0	Well #1
Total					26.0	

SUPPLEMENTAL IRRIGATION						
Twp	Rng	Mer	Sec	Q-Q	Acres	POA
40 S	11 E	WM	2	SW NW	8.36	Well #2, #3, & #4
40 S	11 E	WM	2	SE NW	9.72	Well #2, #3, & #4
40 S	11 E	WM	2	NE SW	39.49	Well #2, #3, & #4
40 S	11 E	WM	2	NW SW	35.20	Well #2, #3, & #4
40 S	11 E	WM	2	SW SW	23.55	Well #2, #3, & #4
40 S	11 E	WM	2	SE SW	24.06	Well #2, #3, & #4
40 S	11 E	WM	3	NW SE	0.78	Well #2, #3, & #4
40 S	11 E	WM	3	SW SE	0.15	Well #2, #3, & #4

SUPPLEMENTAL IRRIGATION						
Twp	Rng	Mer	Sec	Q-Q	Acres	POA
40 S	11 E	WM	3	SE SE	24.9	Well #2, #3, & #4
Total					166.21	

Permit Amendment Review Criteria

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

Partial Diminution of a Certain Water Right Permit

- 18. On August 5, 2019, when the application was filed with the Department, the applicant requested 21.22 acres of primary irrigation on the portion of the property that has not yet been developed for irrigation be moved to be used under an existing pivot and changed to supplemental irrigation.

The portion of the water right permit proposed to be diminished from primary irrigation to supplemental is described as follows:

Permit: G-13005 in the name of DROST LAND CO. LLC
Use: IRRIGATION OF 21.22 ACRES
Priority Date: June 7, 1994
Rate: 0.26 CUBIC FOOT PER SECOND
Limit/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 (or its equivalent) and 3.0 acre-feet per acre for each acre irrigated during the irrigation season of each year.
Period of Use: March 1 through October 31
Source: A WELL in the LOST RIVER BASIN

Authorized Point of Appropriation:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
40 S	11 E	WM	2	SW SW	585 FEET NORTH AND 25 FEET EAST FROM THE SW CORNER OF SECTION 2

Authorized Place of Use:

SUPPLEMENTAL IRRIGATION						
Twp	Rng	Mer	Sec	Q-Q	Acres	POA
40 S	11 E	WM	11	NW NW	21.22	Well #2, #3, & #4

Conclusions of Law

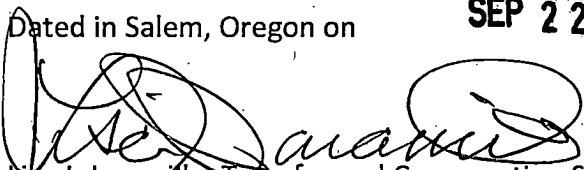
The changes in points of appropriation, additional points of appropriation and place of use proposed by Permit Amendment Application T-13237 are consistent with the requirements of ORS 537.211. The portion of the right requested to be diminished should be diminished to supplemental irrigation.

Now, therefore, it is ORDERED:

1. The changes in points of appropriation, additional points of appropriation and place of use proposed by Permit Amendment Application T-13237 are approved. A portion of Permit G-13005 is diminished.
2. Permit G-18361, in the name of DROST LAND CO., LLC, is issued to replace Permit G-13005, and incorporates the amendments approved by this order, the extension of time, the assignments and diminishment of a portion of the Permit. Permit G-13005, in the name of LLOYD L. AND PATRICIA A. NELSON, is no longer of any force or effect.
3. The quantity of water diverted at the new point of appropriation (POA), shall not exceed the quantity of water lawfully available at the original point (POA) of appropriation.
4. The combined quantity of water diverted at the new points of appropriation (WELL #2, WELL #3, WELL #4), together with that diverted at the old point of appropriation (POA), shall not exceed the quantity of water lawfully available at the original point 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 point of appropriation.
7. The former place of use shall no longer be irrigated as part of this permit.
8. All other terms and conditions of Permit G-18361 remain the same.

Dated in Salem, Oregon on

SEP 22 2021


Lisa J. Jaramillo, Transfer and Conservation Section Manager, for
THOMAS M BYLER, DIRECTOR
Oregon Water Resources Department

Mailing Date: **SEP 23 2021**