BEFORE THE WATER RESOURCES DEPARTMENT OF THE STATE OF OREGON

In the Matter of Permit Amendment)	FINAL ORDER
T-10723, Harney County)	APPROVING A CHANGE IN POINT OF
)	APPROPRIATION

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

Andy Root Rattlesnake Land and Cattle Co. LLC 524 Highway 20 N Hines, Oregon 97738

Findings of Fact

Background

- 1. On November 14, 2008, Andy Root filed an application to change the point of appropriation for 187.7 acres under Permit G-16150. The Department assigned the application number T-10723.
- 2. The permit to be amended is as follows:

Permit:

G-16150 in the name of Rattlesnake Creek Land and Cattle LLC (as

previously amended by T-10298, Special Order Vol. 74, Page 55)

Use:

Irrigation of 273.8 acres

Priority Date: February 21, 2006

Quantity:

3.42 cubic feet per second

Rate/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.

Period of Use: March 1 through October 31

Source:

Two wells within the Harney Lake Basin

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.

Authorized Points of Appropriation:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
25 S	30 E	WM	34	SE SW	Well 7 - 2090 feet South and 762 feet West from the C¼ Corner of Section 34
25 S	30 E	WM	34	SE SW	Well 2 - 1769 feet South and 121 feet West from the C1/4 Corner of Section 34

Authorized Place of Use:

_	IRRIGATION							
Twp	Rng	Mer	Sec	Q-Q	GLot	Acres NOT affected by the change in POA	Acres affected by the change in POA	
25 S	30 E	WM	34	NE SW		_	0.2	
25 S	30 E	WM	34	SW SW		28.0	0.6	
25 S	30 E	WM	34	SE SW		23.3		
25 S	30 E	WM	34	NE SE			33.1	
25 S	30 E	WM	34	NW SE			34.1	
25 S	30 E	WM	34	SW SE			37.7	
25 S	30 E	WM	34	SE SE			35.8	
26 S	30 E	WM	3	NE NE	1		34.2	
26 S	30 E	WM	3	NW NE	2		4.9	
26 S	30 E	WM	3	SW NE			0.1	
26 S	30 E	WM	3	SE NE			7.0	
26 S	30 E	WM	3	NE NW	3	15.8		
26 S	30 E	WM	3	NW NW	4	19.0		
				ub-total	86.1	187.7		
				2	73.8			

3. Permit Amendment Application T-10723 proposes to change the authorized point of appropriation of Well 7 for 187.7 acres approximately 4500 feet west to Well 9 located:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
25 S	30 E	WM	34	SE SW	Well 9 - 4300 feet South and 30 feet West from the N¼ Corner of Section 33

4. Notice of the application for the permit amendment was published in the Department's weekly notice on November 18, 2008, and in the Burns Times-Herald newspaper on April 22, 29 and May 6, 2009, pursuant to ORS 540.520(5). No comments were filed in response to the notices.

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 changes do not alter any other terms of the permit.

Conclusions of Law

The change in point of appropriation proposed by Permit Amendment Application T-10723 is consistent with the requirements of ORS 537.211.

Now, therefore, it is ORDERED:

The change and subsequent use of water shall be subject to the following conditions:

- The quantity of water diverted at the new point of appropriation shall not exceed the quantity of water lawfully available at the original point of appropriation.
- 2. Prior to water use from the proposed point of appropriation, the permittee shall install a meter or other suitable measuring device as approved by the Director. The permittee shall maintain the meter or measuring device in good working order, and shall keep a complete record of the amount of water used each month and shall submit a report which includes the recorded water use measurements to the Department annually or more frequently as may be required by the Director. Further, the Director may require the permittee to report general water use information, including the place and nature of use of water under the permit.

The permittee 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.

- 3. Water shall be acquired from the same aquifer as the original points of appropriation.
- 4. All other terms and conditions of Permit G-16150 remain the same.
- 5. Permit G-16150, in the name of Rattlesnake Creek Land and Cattle LLC, is amended as described herein.

Dated at Salem, Oregon this 8th day of May, 2009.

Phillip C. Ward, Director Pr

Mailing Date: MAY 2 7 2009