

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

In the Matter of Permit Amendment) APPROVING AN ADDITIONAL POINT
T-11664, Morrow County) 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.

Applicants

BRIAN THOMPSON
55805 HWY 74
HEPPNER, OR 97836

BERNARD DAMON
2315 ROCKY LANE
EUGENE, OR 97401

WILLOW CREEK DISTRICT IMPROVEMENT CO.
ATTN: SHONEE LANGFORD
530 CENTER STREET NE SUITE 400
SALEM, OR 97301

Findings of Fact

1. On September 23, 2013, BRIAN THOMPSON AND BERNARD DAMON filed an application for an additional point of diversion under Permit S-54770. The Department assigned the application number T-11664.
2. The permit holder, WILLOW CREEK DISTRICT IMPROVEMENT COMPANY, provided consent, for the applicants to amend Permit S-54770.
3. On March 11, 2014, the Department issued a draft final order and draft superseding permit for Permit Amendment T-11664.
4. On April 23, 2014, the applicant's placed the application on Administrative Hold to resolve issues with the projects progression.
5. On May 27, 2015, Permit S-54770 was amended by T-11512 and a superseding Permit S-54839 was issued.

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. On October 30, 2015, the Department approved an extension of time for complete application of water to October 1, 2030.
7. On September 28, 2015, the Department received an amended application and amended maps and was asked to move forward with the processing of Permit Amendment application T-11664.
8. Notice of the application for the permit amendment was published in the Department's weekly notice on October 1, 2013, and in the East Oregonian newspaper on January 16, and 23, 2016, pursuant to ORS 540.520(5). No comments were filed in response to the notices.
9. Permit Amendment Application T-11664 proposes an additional point of diversion approximately 0.7 and 7.3 miles upstream from the existing points of diversion to:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
2 S	26 E	WM	27	NE NW	TD1 - 1120 FEET SOUTH AND 1820 FEET EAST FROM THE NW CORNER OF SECTION 27

10. 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 not currently equipped with an appropriate fish screen. This diversion may be eligible for screening cost share funds.

Permit Amendment Review Criteria

11. The change would not result in injury to other water rights.
12. The change does not enlarge the permit.
13. 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-11664 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-11664 is approved.
2. Permit S-54980, in the name of WILLOW CREEK DISTRICT IMPROVEMENT COMPANY, is issued to replace Permit S-54839, and incorporates the amendments approved by this order and the order approving Transfer Application T-12135 and the extension of time. Permit S-54839, in the name of WILLOW CREEK DISTRICT IMPROVEMENT COMPANY, 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 points of diversion, shall not exceed the quantity of water lawfully available at the original points of diversion.
4. Prior to water use from the proposed point of diversion, the permittee shall install a totalizing flow meter or other suitable measuring device as approved by the Director at each point of diversion. The permittee shall maintain the meter or measuring device in good working order.

The permittee 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 by December 1, of each year. 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 any meter or measuring device is located within a private structure, the watermaster shall request access upon reasonable notice.

The Director may provide an opportunity for the permittee to submit alternative measuring and reporting procedures for review and approval.

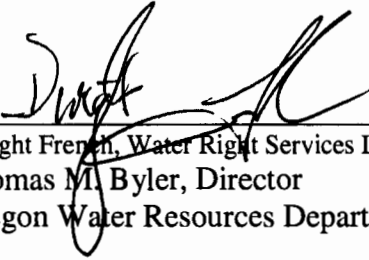
5. Prior to diverting water, the water user shall install a headgate to control and regulate the quantity of water diverted. The type and plans of the headgate must be approved by the Department prior to beginning construction and shall be installed under the general supervision of the Department. The water user shall maintain the headgate as required by the Department.
6. Prior to diverting water, the water user shall install an approved fish screen at the new point of diversion and shall provide to the OWRD a written statement from Oregon Department of Fish and Wildlife (ODFW) that the installed screen meets the state's criteria, or that ODFW has determined a screen is not necessary.

The water user shall operate and maintain the fish screen at the new point of diversion consistent with ODFW's operational and maintenance standards. If 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.

7. Water shall be acquired from the same surface water source as the original points of diversion.

8. All other terms and conditions of Permit S-54839 remain the same.

Dated at Salem, Oregon this 8 day of February, 2016.



Dwight French, Water Right Services Division Administrator, for
Thomas M. Byler, Director
Oregon Water Resources Department

Mailing Date: FEB 17 2016