

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

In the Matter of Permit Amendment)	FINAL ORDER
T-13579, Umatilla County)	DENYING A CHANGE IN POINT OF
)	APPROPRIATION

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

STORMY BOTEFUHR
BRADLEY DUNCAN
32016 DIAGONAL ROAD
HERMISTON, OR 97838

Findings of Fact

1. On December 10, 2020, STORMY BOTEFUHR AND BRADLEY DUNCAN filed an application to change the point of appropriation under Permit G-17689. The Department assigned the application number T-13579.
2. On July 9, 2013, the Department approved a partial assignment of the permit from Mike Kelley to Timothy Jack Kelley.
3. On July 10, 2013, the Department approved a partial assignment of the permit from Mike Kelley to Attila Koppany.
4. On August 30, 2013, the Department approved a partial assignment of the permit from Timothy Jack Kelley to Tami J. Foster.
5. On March 5, 2015, the Department approved a partial assignment of the permit from Mike Kelley to the Arthur E. Kelley Revocable Trust and Irene Kelley Family Trust.
6. On July 22, 2015, the Department approved a partial assignment of the permit from the Arthur E. Kelley Revocable Trust and Irene Kelley Family Trust to John and Ronna Lindstrom.

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.

7. On October 21, 2016, the Department approved an extension of time for complete application of water to October 1, 2021.
8. On September 25, 2019, the Department approved a partial assignment of the permit from Tami J. Foster to Linda Salmon.
9. On December 8, 2020, the Department approved a partial assignment of the permit from John and Ronna Lindstrom to Stormy Botefuhr and Brandley Duncan.
10. Notice of the application for the permit amendment was published in the Department's weekly notice on December 29, 2020, pursuant to ORS 540.520(5). No comments were filed in response to the notice.
11. On February 22, 2021, the Department contacted the applicant by written correspondence to notify the applicant and the applicant's agent of a deficiency in the application. Permit amendment application T-13579 was not signed by all holders of Permit G-17689. The Department requested that the deficiencies be resolved by March 24, 2021.
12. On March 12, 2021, the Department received an Affidavit of Consent from a Deeded Landowner, resolving the deficiency.
13. On September 17, 2021, the Department sent correspondence to the applicant's agent, recommending an Application for Extension of Time on Permit G-17689 be submitted. Permit G-17689 contained a date to complete full beneficial use of the water by October 1, 2021. Permit amendment applications cannot be approved with an expired completion date.
14. On June 3, 2022, the Department sent correspondence to the applicant and agent, to check the status on submittal of an Application for Extension of Time on a Permit. The Department and the agent has not received a response from the applicant.
15. As of July 22, 2022, the Department has not received an Application for Extension of Time on a Permit.
16. Permit Amendment Application T-13579 proposes to move the authorized point of appropriation, for a 2.3 acre portion that is originally authorized to be appropriated from UMAT 6141, approximately 468 feet from the existing point of appropriation to:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
4 N	29 E	WM	6	NW SW	UMAT 58309 - 760 FEET SOUTH AND 1095 FEET EAST FROM THE W1/4 CORNER OF SECTION 6

Permit Amendment Review Criteria

17. The change would not result in injury to other water rights.
18. The change does not enlarge the permit.

19. The change does not alter any other terms of the permit.
20. The Department has not received an Application for an Extension of Time for Permit G-17689. Therefore, the applicant is unable to complete application of the water to beneficial use under Permit G-17689.

Conclusions of Law

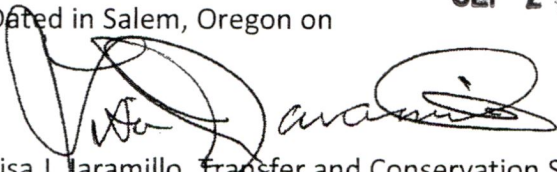
The change in point of appropriation proposed by Permit Amendment Application T-13579 is **NOT** consistent with the requirements of ORS 537.211. Completion of full beneficial use of the water was due on or before October 1, 2021. The applicant has not submitted an Application for an Extension of Time for Permit G-17689. Without a current date for complete application of the water, the Department cannot approve T-13579.

Now, therefore, it is ORDERED:

Permit Amendment T-13579 is denied.

Dated in Salem, Oregon on

SEP 27 2022



Lisa J. Jaramillo, Transfer and Conservation Section Manager, for
DOUGLAS E. WOODCOCK, ACTING DIRECTOR
Oregon Water Resources Department

Mailing Date: **SEP 28 2022**