

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

In the Matter of Permit Amendment	)	FINAL ORDER APPROVING
T-12963, Polk County	)	ADDITIONAL POINTS OF DIVERSION,
	)	AND CHANGES IN PLACES OF USE

**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.

**Applicants**

LEFT COAST CELLARS LLC  
PO BOX 219  
RICKREALL, OR 97371

VICKI BROWNRIGG REVOCABLE TRUST  
63430 OB RILEY RD  
BEND, OR 97701

LARUE FAMILY TRUST  
JACK & CHERI LARUE  
PO BOX 137  
RICKREALL, OR 97371

**Findings of Fact**

1. On June 29, 2018, LEFT COAST CELLARS, LLC, LARUE FAMILY TRUST, and VICKI BROWNRIGG REVOCABLE TRUST filed an application for additional points of diversion and changes in places of use under Permit S-51534 and S-54692. The Department assigned the application number T-12963.
2. On December 8, 2010, the Department approved an assignment of Permit S-54692 to Left Coast Cellars, LLC.
3. On January 6, 2015, the Department approved a partial assignment of Permit S-51534 to Left Coast Cellars, LLC.
4. On February 12, 2016, the Department approved an extension of time for Permit S-51534 for complete application of water to October 1, 2020.
5. On June 16, 2017, the Department approved an extension of time for Permit S-54692 for complete application of water to October 1, 2023.

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 August 4, 2017, the Department approved an assignment by proof of Permit S-51534 to Left Coast Cellars, LLC, LaRue Family, Johan Vineyards, and Richard Brownrigg.
7. On April 9, 2018, the Department approved a partial assignment of Permit S-51534 to Vicki Brownrigg Revocable Trust.
8. On May 30, 2018, the Department approved an assignment of Permit S-51534 to LaRue Family Trust.
9. Notice of the application for the permit amendment was published in the Department's weekly notice on July 10, 2018, and in the Polk Itemizer-Observer newspaper on February 2 and 9, 2022, pursuant to ORS 540.520(5). No comments were filed in response to the notices.
10. On June 20, 2019, the Department notified the applicants by mail regarding deficiencies in the application, specifically regarding Permit S-54692.
11. On July 9, 15, 16, and 17, 2019, the agent for the applicant provided amended application pages and maps satisfying the deficiency.
12. On January 21, 2020, the Department contacted the agent for the applicant regarding deficiencies in Table 2 of the application.
13. On February 7, 2020, the agent for the applicant provided amended application pages and maps satisfying the deficiency.
14. On June 8, 2020, the Department contacted the agent for the applicant via email to clarify scrivener's errors in the amended application pages and maps provided on February 7, 2020.
15. On June 10, 2020, the agent for the applicant clarified the scrivener's errors via email.
16. On November 5, 2021, the Department approved an extension of time for Permit S-51534 for complete application of water to October 1, 2022.
17. Under Permit S-51534, Permit Amendment Application T-12963 proposes additional points of diversion approximately 0.1 to 0.3 mile from the existing points of diversion

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
7 S	4 W	WM	6	NE NE	POD #9 - 640 FEET SOUTH AND 1105 FEET WEST FROM THE NE CORNER OF SECTION 6
7 S	4 W	WM	6	NE NE	POD #10 - 945 FEET SOUTH AND 810 FEET WEST FROM THE NE CORNER OF SECTION 6
7 S	4 W	WM	6	NW NE	POD #8 - 270 FEET SOUTH AND 1354 FEET WEST FROM THE NE CORNER OF SECTION 6
7 S	4 W	WM	6	SW NE	POD #5 - 1800 FEET SOUTH AND 350 FEET WEST FROM THE NE CORNER OF SECTION 6
7 S	4 W	WM	6	NE NW	POD #6 - 1090 FEET SOUTH AND 3730 FEET WEST FROM THE NE CORNER OF SECTION 6
7 S	4 W	WM	6	NE NW	POD #7 - 717 FEET SOUTH AND 2685 FEET WEST FROM THE NE CORNER OF SECTION 6

18. Under Permit S-51534, Permit Amendment Application T-12963 also proposes to change the place of use as follows:

IRRIGATION AND LIVESTOCK							
Twp	Rng	Mer	Sec	Q-Q	DLC	Acres	POD
6 S	4 W	WM	31	SW NW		13.6	1,5-10
6 S	4 W	WM	31	SW SW		10.9	1,5-10
6 S	4 W	WM	31	SE SW		0.8	1,5-10
6 S	4 W	WM	31	NE SE		1.2	2
6 S	4 W	WM	31	NW SE		12.3	2
6 S	4 W	WM	31	SW SE		12.2	2
6 S	4 W	WM	31	SW SE		0.8	1,5-10
6 S	4 W	WM	31	SE SE		2.3	2
7 S	4 W	WM	6	NW NE		1.2	1,5-10
7 S	4 W	WM	6	SW NE		9.1	1,5-10
7 S	4 W	WM	6	SE NE		8.5	1,5-10
7 S	4 W	WM	6	NE NW		0.7	1,5-10
7 S	4 W	WM	6	NE SE	38	1.9	1,5-10
7 S	4 W	WM	6	NW SE	38	1.8	1,5-10
Total						77.3	

IRRIGATION						
Twp	Rng	Mer	Sec	Q-Q	Acres	POD
6 S	4 W	WM	31	NW SW	29.2	1,5-10
6 S	4 W	WM	31	SW SW	24.3	1,5-10
Total					53.5	

19. Under Permit S-54692, Permit Amendment Application T-12963 proposes an additional point of diversion between 0.1 and 0.7 mile from the existing points of diversion to:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
7 S	4 W	WM	6	SE NE	POD #5 - 1800 FEET SOUTH AND 350 FEET WEST FROM THE NE CORNER OF SECTION 6

20. Permit Amendment Application T-12963 also proposes to change the place of use of Permit S-54692 of the permit to:

IRRIGATION						
Twp	Rng	Mer	Sec	DLC	Q-Q	Acres
6 S	4 W	WM	31		SE SW	10.4
6 S	4 W	WM	31		SW SE	1.3
7 S	4 W	WM	5		SW NW	0.5
7 S	4 W	WM	6		NE NE	3.2
7 S	4 W	WM	6		NW NE	3.1
7 S	4 W	WM	6		SW NE	11.9
7 S	4 W	WM	6		SE NE	4.0
7 S	4 W	WM	6		NE NW	39.3
7 S	4 W	WM	6		NW NW	5.1
7 S	4 W	WM	6		SW NW	4.8
7 S	4 W	WM	6		SE NW	37.8
7 S	4 W	WM	6		NE SW	3.6
7 S	4 W	WM	6		NW SE	8.3
7 S	4 W	WM	6	38	NE SE	1.0

IRRIGATION						
Twp	Rng	Mer	Sec	DLC	Q-Q	Acres
7 S	4 W	WM	6	38	NW SE	3.3
7 S	4 W	WM	6	38	SW SE	37.1
7 S	4 W	WM	6	38	SE SE	14.3
7 S	4 W	WM	6	38	NE SW	1.6
7 S	4 W	WM	6	38	SE SW	5.2
Total						195.8

**Permit Amendment Review Criteria**

21. The changes would not result in injury to other water rights.
22. The proposed places of use are owned and/or controlled by the permit holders.
23. The changes do not enlarge the permits.
24. The changes do not alter any other terms of the permits.
25. The proposed places of use are contiguous to the authorized place of use.

**Conclusions of Law**

The additional points of diversion and changes in places of use proposed by Permit Amendment Application T-12963 are consistent with the requirements of ORS 537.211.

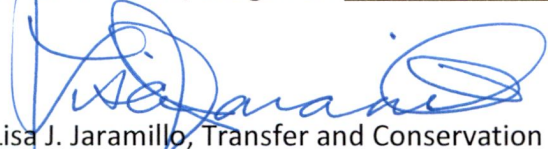
**Now, therefore, it is ORDERED:**

1. The additional points of diversion and places of use proposed by Permit Amendment Application T-12963 are approved.
2. Permit S-55249, in the name of LEFT COAST CELLARS, LLC, LARUE FAMILY TRUST, and VICKI BROWNRIGG REVOCABLE TRUST, is issued to replace Permit S-51534. Permit S-55249 incorporates the amendments approved by this order, the extension of time, and the assignments. Permit S-51534, in the name of CONRAD H. KONING, is no longer of any force or effect.
3. Permit S-55250, in the name of LEFT COAST CELLARS, LLC, LARUE FAMILY TRUST, and VICKI BROWNRIGG REVOCABLE TRUST, is issued to replace Permit S-54692. Permit S-55250 incorporates the amendments approved by this order, and the assignment. Permit S-54692, in the name of LEFT COAST CELLARS, LLC, is no longer of any force or effect.
4. Under Permit S-55249, the combined quantity of water diverted at the new additional points of diversion (POD #5, POD #6, POD #7, POD #8, POD #9, and POD #10), together with that diverted at the old points of diversion (RESERVOIR E, RESERVOIR F, RESERVOIR G, and RESERVOIR H), shall not exceed the quantity of water lawfully available at the original points of diversion (RESERVOIR E, RESERVOIR F, RESERVOIR G, and RESERVOIR H).

5. Under Permit S-55250, the combined quantity of water diverted at the new additional point of diversion (POD #5), together with that diverted at the old point of diversion (RESERVOIR E), shall not exceed the quantity of water lawfully available at the original points of diversion (RESERVOIR E).
6. The Oregon Department of Fish and Wildlife (ODFW) 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.
7. 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.
8. Under Permit S-55249, water shall be acquired from the same surface water source as the original points of diversion (RESERVOIR E, RESERVOIR F, RESERVOIR G, and RESERVOIR H).
9. Under Permit S-55250, water shall be acquired from the same surface water source as the original point of diversion (RESERVOIR E).
10. The former place of use shall no longer be irrigated as part of Permit S-55249.
11. The former place of use shall no longer be irrigated as part of Permit S-55250.
12. All other terms and conditions of Permit S-55249 and S-55250 remain the same.

Dated in Salem, Oregon on APR 11 2022

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

Mailing Date: **APR 12 2022**