# BEFORE THE WATER RESOURCES DEPARTMENT OF THE STATE OF OREGON

In the Matter of Permit Amendment	)	FINAL ORDER
T-11155, Washington County	)	APPROVING A CHANGE IN POINT 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.

## Applicant

JOINT WATER COMMISSION (HILLSBORO, FOREST GROVE, BEAVERTON, AND TUALATIN VALLEY WATER DISTRICT) ATTN KEVIN HANWAY 150 E MAIN STREET HILLSBORO OR 97123

## **Findings of Fact**

# Background

- 1. On November 17, 2010, JOINT WATER COMMISSION (HILLSBORO, FOREST GROVE, BEAVERTON, AND TUALATIN VALLEY WATER DISTRICT) filed an application to change the point of diversion under Permit S-50879. The Department assigned the application number T-11155.
- 2. On May 31, 1991, the Department approved an extension of time for complete application of water to October 1, 1995.
- 3. On October 18, 1995, the Department approved an extension of time for complete application of water to October 1, 2000.
- 4. On September 9, 2010, the Department approved an extension of time for complete application of water to October 1, 2071.

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.

- 5. On September 14, 2010, the Department approved a Water Management and Conservation Plan submitted by the Joint Water Commission. The approval order was entered at Volume 81, Page 871.
- 6. On November 18, 2010, the Department approved an assignment of the permit to the Joint Water Commission (Hillsboro, Forest Grove, Beaverton, Tualatin Valley Water District).
- 7. Permit Amendment Application T-11155 proposes to move the authorized point of diversion approximately 7.5 stream miles downstream from the existing point of diversion to a point on the Tualatin River located:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
I S	3 W	WM	8	SW SW	SPRINGHILL INTAKE - 500 FEET NORTH AND 410 FEET EAST FROM THE SW CORNER OF SECTION 8

- 8. Notice of the application for the permit amendment was published in the Department's weekly notice on November 23, 2010, and in the Oregonian newspaper on January 22 and 29, and February 5, 2011, pursuant to ORS 540.520(5). No comments were filed in response to the notices.
- 9. The Oregon Department of Fish and Wildlife (ODFW) has determined that a fish screening and/or by-pass device is necessary at the new point of diversion to prevent fish from entering the diversion and/or safely transport fish back to the body of water from which the fish were diverted and that the diversion is currently equipped with an appropriate fish screening and/or by-pass device.
- 10. The Oregon Department of Fish and Wildlife (ODFW) has determined that any increase of the pumping facility capacity will result in the need to upgrade the fish screens to be consistent with fish screen criteria in place at the time of the increase in capacity.

### 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 change in point of diversion proposed by Permit Amendment Application T-11155 is consistent with the requirements of ORS 537.211.

## Now, therefore, it is ORDERED:

- 1. The change in point of diversion proposed by Permit Amendment Application T-11155 is approved.
- 2. Permit S-54737, in the name of JOINT WATER COMMISSION (HILLSBORO, FOREST GROVE, BEAVERTON, AND TUALATIN VALLEY WATER DISTRICT) is issued to replace Permit S-50879, and incorporates the amendments approved by this order, the extension of time, the Water Management and Conservation Plan, and assignment. Permit S-50879, in the name of JOINT WATER COMMISSION (HILLSBORO, FOREST GROVE, BEAVERTON, AND TUALATIN VALLEY WATER DISTRICT), is no longer of any force or effect.
- 3. The quantity of water diverted at the new point of diversion shall not exceed the quantity of water lawfully available at the original point of diversion on Scoggins Creek.
- 4. The water user shall maintain and operate the existing measurement device and shall make such improvements as may be required by the Department.
- 5. The water user shall maintain and operate a fish screening and/or by-pass device, as appropriate, at the point of diversion. Any increase of the pumping facility capacity will result in the need to upgrade the fish screens to be consistent with fish screen criteria in place at the time of the increase in capacity. The water user shall operate, inspect and maintain the existing intake system (checking seals, integrity of screens, etc.) as needed to function as designed, but not less frequently than annually.
- 6. Water shall be acquired from the same surface water source (Scoggins Creek) as the original point of diversion.
- 7. All other terms and conditions of Permit S-54737, the final order approving the extension of time, and the final order approving the Water Management and Conservation Plan remain the same.

Dated at Salem, Oregon this  $\frac{15}{2}$  day of December, 2011.

Dwight French, Water Right Services Administrator, for

PHILLIP C. WARD, DIRECTOR

Mailing Date: DEC 19 2011