

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

In the Matter of Permit Amendment)
T-12512, Marion, Polk, Clackamas)
Counties)
) **FINAL ORDER**
) **APPROVING A CHANGE IN POINT**
) **OF DIVERSION**

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.

Applicant

CITY OF HILLSBORO
KEVIN HANWAY
150 E MAIN ST
HILLSBORO, OR 97123

Findings of Fact

1. On October 21, 2016, THE CITY OF HILLSBORO filed an application to change the point of diversion of 56 cubic feet per second (CFS) under Permit S-45565. The Department assigned the application number T-12512.
2. On August 9, 2016, the Department approved a partial assignment of 56 cfs of the permit to the City of Hillsboro.
3. On May 10, 1983, the Department approved an extension of time to begin and complete construction and for complete application of water to October 1, 1987.
4. On February 2, 1988, the Department approved an extension of time to begin and complete construction and for complete application of water to October 1, 1992.
5. On July 8, 1988, the Department approved an extension of time to complete construction and for complete application of water to October 1, 1992.
6. On February 26, 1993, the Department approved an extension of time to begin and complete construction and for complete application of water to October 1, 1997.

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 July 31, 2015, the Department approved an extension of time for completing construction and for complete application of water to October 1, 2086.
8. Notice of the application for the permit amendment was published in the Department's weekly notice on October 25, 2016, and in the Statesmen Journal newspaper on March 2, and 9, 2017, pursuant to ORS 540.520(5). No comments were filed in response to the notices.
9. Permit Amendment Application T-12512 proposes to move the authorized point of diversion (for 56 cfs only) approximately 51.2 miles downstream from the existing point of diversion to:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
3 S	1 W	WM	23	NW SW	3391 FEET SOUTH AND 495 FEET EAST FROM THE NW CORNER OF SECTION 23

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 currently equipped with an appropriate fish screen.

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-12512 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-12512 is approved.
2. Permit S-55045, in the name of City of Salem and City of Hillsboro, is issued to replace Permit S-45565, and incorporates the amendments approved by this order, and the extensions of time. Permit S-45565, in the name of City of Salem and City of Hillsboro, 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.

4. Water use measurement conditions:
 - A. Before the use of any of the 56.0 cfs of water assigned to the City of Hillsboro may begin:
 - a. the water user shall install a totalizing flow meter, or, with prior approval of the Director, another suitable measuring device, at the new point of diversion.
 - b. The water user shall maintain the meter or measuring device in good working order.
 - c. The water user 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.
 - B. Before the use of any of the 144.0 cfs of water assigned to the City of Salem may begin:
 - a. the water user shall install a totalizing flow meter, or, with prior approval of the Director, another suitable measuring device, at the existing point of diversion.
 - b. The water user shall maintain the meter or measuring device in good working order.
 - c. The water user shall allow the Watermaster access to the meter or measuring devices; provided however, where the meter or measuring device are located within a private structure, the Watermaster shall request access upon reasonable notice.
5. The water user shall operate and maintain an approved fish screen at the new point of diversion. If Oregon Department of Fish and Wildlife (ODFW) determine 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.
6. Water shall be acquired from the same surface water source as the original point of diversion.
7. All other terms and conditions of Permit S-55045 remain the same.

Dated at Salem, Oregon this 5 day of May, 2017.



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

Mailing Date: MAY - 8 2017