

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

In the Matter of Permit Amendment	)	SUPERSEDING FINAL ORDER
T-11803, Harney County	)	APPROVING A CHANGE IN POINTS
	)	OF APPROPRIATION AND
	)	ADDITIONAL POINTS OF
	)	APPROPRIATION AND CORRECTING
	)	SCRIVENER'S ERRORS IN A
	)	PREVIOUS ORDER

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

ANDY ROOT
524 HWY 20 N
HINES, OR 97738

Findings of Fact

1. On April 29, 2014, Andy Root filed an application for additional points of appropriation under Permits G-13539 and G-13730. The Department assigned the application number T-11803.
2. On April 22, 2011, the Department approved an extension of time for complete application of water to October 1, 2011, for each permit.
3. On May 28, 2014, the Department approved an extension of time for complete application of water to October 1, 2018, for each permit.
4. Notice of the application for the permit amendment was published in the Department's weekly notice on May 6, 2014, and in the Burns Herald newspaper on November 11 and 18, 2015, pursuant to ORS 540.520(5). No comments were filed in response to the notices.
5. This Order is issued to supersede the Final Order recorded at Special Order Volume 98, Pages 368-371, to correct the scrivener's errors in the section number of Well 3 and in the "measured distances" of Well 19. Corrections appear in **Bold** in Finding of Fact Nos. 8 and 9.

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 July 9, 2015, the Department contacted the applicant's agent by written correspondence (email) to notify them of the deficiencies in the application. The main deficiencies being that clarification was needed regarding the type of change requested, the location of the points of appropriation and proper identification of the wells. The Department requested that the deficiencies be resolved by August 10, 2015.
7. The applicant's agent submitted amended application pages and clarification resolving the deficiencies. As part of the resolution, the agent clarified that for Permit G-13730 the type of change requested is a change in point of appropriation, as all of the well locations are being changed from what is authorized on Permit G-13730.
8. Permit Amendment Application T-11803 proposes to change the authorized points of appropriation in Permit G-13730, as follows:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances	Approximate distance from existing wells in miles	
						Well 8	Well 9
22 S	32.5 E	WM	33	NE NW	WELL 1 (HARN 1879): 25 FOOT SOUTH AND 660 FEET WEST FROM THE N1/4 CORNER OF SECTION 33	0.6	1.5
22 S	32.5 E	WM	33	NE NW	WELL 2 (HARN 1912): 110 FEET SOUTH AND 665 FEET WEST FROM THE N1/4 CORNER OF SECTION 33	0.6	1.5
22 S	32.5 E	WM	33	NW SE	WELL 3 (HARN 50457): 1365 FEET NORTH AND 1365 FEET WEST FROM THE SE CORNER OF SECTION 33	1.2	0.9
22 S	32.5 E	WM	34	NE SW	WELL 4 (HARN 50241): 2710 FEET SOUTH AND 830 FEET WEST FROM THE N1/4 CORNER OF SECTION 34	1.6	0.5
22 S	32.5 E	WM	34	SE NE	WELL 5 (HARN 50668): 5 FEET NORTH AND 830 FEET WEST FROM THE E1/4 CORNER OF SECTION 34	2.1	0.5
22 S	32.5 E	WM	34	NW NE	WELL 6 (HARN 50422): 1320 FEET SOUTH AND 1320 FEET EAST FROM THE N1/4 CORNER OF SECTION 34	2.0	0.7
22 S	32.5 E	WM	33	NW NW	WELL 7 (HARN 50667): 25 FEET SOUTH AND 45 FEET EAST FROM THE NW CORNER OF SECTION 33	0.3	1.8
22 S	32.5 E	WM	32	NE NE	WELL 8 (HARN 50362): 35 FEET SOUTH AND 1245 FEET WEST FROM THE NE CORNER OF SECTION 32	0.01	2.0
22 S	32.5 E	WM	34	SE SE	WELL 9 (HARN 50392): 1055 FEET NORTH AND 130 FEET WEST FROM THE SE CORNER OF SECTION 34	2.2	0.5
22 S	32.5 E	WM	33	SW NE	WELL 10 (HARN 51682): 2605 FEET SOUTH AND 750 FEET EAST FROM THE N1/4 CORNER OF SECTION 33	1.0	1.1
22 S	32.5 E	WM	33	NE NW	WELL 18 (HARN 52018): 5' SOUTH AND 1320 FEET EAST FROM THE NW CORNER OF SECTION 33	0.5	1.6

Twp	Rng	Mer	Sec	Q-Q	Measured Distances	Approximate distance from existing wells in miles	
						Well 8	Well 9
22 S	32.5 E	WM	32	NW NE	WELL 19 (HARN 52021): 5' SOUTH AND 2640 FEET EAST FROM THE NW CORNER OF SECTION 32	0.1	2.2

9. Permit Amendment Application T-11803 proposes to add four points of appropriation, described as follows, to Permit G-13539:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances	Approximate distance from existing wells in miles							
						Well 1	Well 2	Well 3	Well 4	Well 5	Well 6	Well 7	Well 8
22 S	32.5 E	WM	34	SE SE	WELL 9 (HARN 50392): 1055 FEET NORTH AND 130 FEET WEST FROM THE SE CORNER OF SECTION 34	1.7	1.7	1.2	0.6	0.5	0.6	3.7	2.5
22 S	32.5 E	WM	33	SW NE	WELL 10 (HARN 51682): 2605 FEET SOUTH AND 750 FEET EAST FROM THE N1/4 CORNER OF SECTION 33	0.5	0.5	0.3	0.8	1.2	1.1	2.4	1.2
22 S	32.5 E	WM	33	NE NW	WELL 18 (HARN 52018): 5' SOUTH AND 1320 FEET EAST FROM THE NW CORNER OF SECTION 33	0.2	.2	0.9	1.3	1.6	1.5	1.8	0.7
22 S	32.5 E	WM	32	NW NE	WELL 19 (HARN 52021): 5' SOUTH AND 2640 FEET EAST FROM THE NW CORNER OF SECTION 32	0.8	0.8	1.8	1.9	2.2	2.1	1.2	0.1

Permit Amendment Review Criteria

10. The changes would not result in injury to other water rights.
11. The changes do not enlarge the permits.
12. The changes do not alter any other terms of the permits.

Conclusions of Law

The change in points of appropriation and additional points of appropriation proposed by Permit Amendment Application T-11803 is consistent with the requirements of ORS 537.211.

Now, therefore, it is ORDERED:

1. The Final Order recorded at Special Order Volume 98, Pages 368-371, is withdrawn and of no further force or effect and is superseded by this order.
2. The change in points of appropriation and additional points of appropriation proposed by Permit Amendment Application T-11803 are approved.
3. Permit G-17574, in the name of Andy Root, is issued to replace Permit G-17498, and incorporates the amendments approved by this order and the extensions of time. Permit G-17498, in the name of ANDY ROOT, is no longer of any force or effect.
4. Permit G-17575, in the name of Andy Root, is issued to replace Permit G-17499, and incorporates the amendments approved by this order and the extensions of time. Permit G-17499, in the name of ANDY ROOT, is no longer of any force or effect.
5. The combined quantity of water diverted at the new points of appropriation, together with that diverted at the old points of appropriation, shall not exceed the quantity of water lawfully available at the original points of appropriation.
6. Prior to water use from the proposed points of appropriation, the permittee shall install a totalizing flow meter or other suitable measuring device as approved by the Director at each point of appropriation. The permittee shall maintain the meter or measuring device in good working order, 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 annually or more frequently as may be required by the Director. 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 the meter or measuring device is located within a private structure, the watermaster shall request access upon reasonable notice.

7. Water shall be acquired from the same aquifer as the original points of appropriation.
8. All other terms and conditions of Permit G-17574 and Permit G-17575 remain the same.

Dated at Salem, Oregon this 25 day of February, 2016.



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

Mailing Date: MAR 02 2016