

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

In the Matter of Permit Amendment)	FINAL ORDER
T-12367, Lane County)	APPROVING ADDITIONAL POINTS
)	OF APPROPRIATION AND A
)	CHANGE IN PLACE 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 appropriation and/or place of use authorized under an existing water right permit.

Applicant

KING ESTATE WINERY INC.
80854 TERRITORIAL HWY
EUGENE, OR 97405

Findings of Fact

1. On May 3, 2016, KING ESTATE WINERY INC. filed an application for additional points of appropriation and a change in place of use under Permit G-12896. The Department assigned the application number T-12367.
2. On August 9, 2013, the Department approved an extension of time for complete application of water to October 1, 2020.
3. Notice of the application for the permit amendment was published in the Department's weekly notice on May 10, 2016, and in the Register Guard newspaper on June 6 and 13, 2018, pursuant to ORS 540.520(5). No comments were filed in response to the notices.
4. On August 31, 2017 the Department met with the agent for the applicant to discuss potential injury to other water rights based on the groundwater review. The applicant requested the Department perform a well-by-well analysis of all 23 of the original proposed additional points of appropriation on the application.
5. On November 13, 2017 the Department's Groundwater staff completed the well-by-well analysis of all 23 of the original proposed additional points of appropriation on the application. This analysis resulted in the removal of 8 of the original 23 proposed additional points of appropriation, based on the following criteria:
 - a) All additional points of appropriation were assumed to be hydraulically connected to surface water.

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.

- b) Additional points of appropriation within ¼ mile of a perennial, or hydraulically connected, stream reach were considered to result in significant increase in interference with surface water. The finding of “significant” is based on OAR 690-009 rules on PSI.
 - c) Additional points of appropriation within ¼ mile and upstream or up-gradient from an existing surface water or spring-source right were considered to result in increase of interference with existing rights.
 - d) Impacts to existing surface water storage (ponds) that do not appear to have water rights were not considered.
6. On January 22, 2018 the Department received amended application pages and maps from the agent for the applicant removing the 8 wells and satisfying the deficiency.
 7. On January 29, 2018 the Department’s Groundwater staff re-reviewed the application with the amended pages and map and no longer found significant interference with surface water based on the amended pages received from the applicant.
 8. On March 28, 2018 the Department received amended application pages and maps from the applicant, revising the locations of wells 7, 23, 29, 31, and 32.
 9. On May 31, 2018 the Department’s Groundwater staff re-reviewed the application with the amended pages and map.
 10. Permit Amendment Application T-12367 proposes additional point of appropriation with approximate distances from the existing points of appropriation as follows:

Twp	Rng	Mer	Sec	Q-Q	DLC	Measured Distance	Distance from authorized POD in miles
19 S	5 W	WM	35	SE SE	47	WELL 7 – 285 FEET NORTH AND 1240 FEET WEST FROM THE SE CORNER OF SECTION 35	Well 1 – 1.1 Well 2 – 1.0 Well 3 – 0.6 Well 4 – 1.0 Well 5 – 1.0
19 S	5 W	WM	35	SW SE	47	WELL 8 – 460 FEET NORTH AND 1525 FEET WEST FROM THE SE CORNER OF SECTION 35	Well 1 – 1.1 Well 2 – 1.0 Well 3 – 0.6 Well 4 – 1.0 Well 5 – 1.1
20 S	5 W	WM	1	SW NW	38	WELL 23 – 2510 FEET SOUTH AND 910 FEET EAST FROM THE NW CORNER OF SECTION 1	Well 1 – 0.4 Well 2 – 0.3 Well 3 – 0.2 Well 4 – 0.3 Well 5 – 0.5
20 S	5 W	WM	1	SW NW	38	WELL 24 – 1770 FEET SOUTH AND 1135 FEET EAST FROM THE NW CORNER OF SECTION 1	Well 1 – 0.4 Well 2 – 0.3 Well 3 – 0.2 Well 4 – 0.3 Well 5 – 0.5
20 S	5 W	WM	1	NW NW	38	WELL 25 – 1285 FEET SOUTH AND 650 FEET EAST FROM THE NW CORNER OF SECTION 1	Well 1 – 0.5 Well 2 – 0.4 Well 3 – 0.3 Well 4 – 0.4 Well 5 – 0.6

Twp	Rng	Mer	Sec	Q-Q	DLC	Measured Distance	Distance from authorized POD in miles
20 S	5 W	WM	2	NE NE	37	WELL 26 – 610 FEET SOUTH AND 25 FEET WEST FROM THE NW CORNER OF SECTION 1	Well 1 – 0.8 Well 2 – 0.7 Well 3 – 0.4 Well 4 – 0.7 Well 5 – 0.9
20 S	5 W	WM	2	NW NE	37	WELL 27 – 320 FEET SOUTH AND 1630 FEET WEST FROM THE NW CORNER OF SECTION 1	Well 1 – 1.0 Well 2 – 0.9 Well 3 – 0.5 Well 4 – 0.9 Well 5 – 0.9
20 S	5 W	WM	2	SW NE	37	WELL 28 – 2330 FEET SOUTH AND 1335 FEET WEST FROM THE NW CORNER OF SECTION 1	Well 1 – 0.7 Well 2 – 0.6 Well 3 – 0.2 Well 4 – 0.6 Well 5 – 0.5
20 S	5 W	WM	2	NE SE	38	WELL 29 – 1910 FEET NORTH AND 960 FEET WEST FROM THE SE CORNER OF SECTION 2	Well 1 – 0.6 Well 2 – 0.4 Well 3 – 0.2 Well 4 – 0.4 Well 5 – 0.4
20 S	5 W	WM	2	SE SE	38	WELL 30 – 780 FEET NORTH AND 105 FEET WEST FROM THE SE CORNER OF SECTION 2	Well 1 – 0.3 Well 2 – 0.2 Well 3 – 0.4 Well 4 – 0.2 Well 5 – 0.1
20 S	5 W	WM	1	SW SW	40	WELL 31 – 70 FEET NORTH AND 665 FEET EAST FROM THE SE CORNER OF SECTION 2	Well 1 – 0.3 Well 2 – 0.2 Well 3 – 0.5 Well 4 – 0.2 Well 5 – 0.2
20 S	5 W	WM	1	SE SW	40	WELL 32 – 325 FEET NORTH AND 1445 FEET EAST FROM THE SE CORNER OF SECTION 2	Well 1 – 0.1 Well 2 – 0.2 Well 3 – 0.5 Well 4 – 0.1 Well 5 – 0.4

2. Permit Amendment Application T-12367 also proposes to change the place of use of the permit to:

IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
19 S	5 W	WM	35	SE SW	4.6
19 S	5 W	WM	35	NE SE	11.8
19 S	5 W	WM	35	NW SE	12.9
19 S	5 W	WM	35	SW SE	36.6
19 S	5 W	WM	35	SE SE	8.5
20 S	5 W	WM	1	NW NW	5.8
20 S	5 W	WM	1	SW NW	2.4
20 S	5 W	WM	1	NW SW	4.4
20 S	5 W	WM	1	SW SW	36.3
20 S	5 W	WM	1	SE SW	17.9
20 S	5 W	WM	2	NE NE	38.2
20 S	5 W	WM	2	NW NE	35.6
20 S	5 W	WM	2	SW NE	11.5

IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
20 S	5 W	WM	2	SE NE	20.0
20 S	5 W	WM	2	NE NW	8.3
20 S	5 W	WM	2	NE SE	38.2
20 S	5 W	WM	2	NW SE	11.9
20 S	5 W	WM	2	SW SE	0.2
20 S	5 W	WM	2	SE SE	24.3
20 S	5 W	WM	11	NE NE	4.3
20 S	5 W	WM	11	SE NE	4.7
20 S	5 W	WM	12	NE NW	15.0
20 S	5 W	WM	12	NW NW	40.0
20 S	5 W	WM	12	SW NW	12.3
20 S	5 W	WM	12	SE NW	6.3
Total					412.0

Permit Amendment Review Criteria

11. The changes would not result in injury to other water rights.
12. The proposed place of use is owned and/or controlled by the permit holder.
13. The changes do not enlarge the permit.
14. The changes do not alter any other terms of the permit.
15. The proposed place of use is contiguous to the authorized place of use.

Conclusions of Law

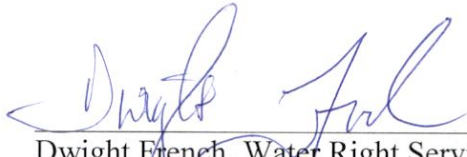
The additional points of appropriation and change in place of use proposed by Permit Amendment Application T-12367 are consistent with the requirements of ORS 537.211.

Now, therefore, it is ORDERED:

1. The additional point of appropriation and change in place of use proposed by Permit Amendment Application T-12367 are approved.
2. Permit G-18081, in the name of King Estate Winery, Inc., is issued to replace Permit G-12896, and incorporates the amendments approved by this order, the extension of time, and the assignment. Permit G-12896, in the name of King Estate Winery, Inc., is no longer of any force or effect.
3. 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.
4. Water use measurement conditions:
 - a. Before water use may begin under this order, the water user shall install a totalizing flowmeter, or, with prior approval of the Director, another suitable measuring device at each new point of appropriation.
 - b. The water user shall maintain the meters or measuring devices in good working order.

- c. The water user shall allow the Watermaster access to the meters or measuring devices; provided however, where the meters or measuring devices are located within a private structure, the Watermaster shall request access upon reasonable notice.
5. Water shall be acquired from the same aquifer as the original points of appropriation.
6. All other terms and conditions of Permit G-18081 remain the same.

Dated at Salem, Oregon this JUN 21, 2018.



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

Mailing Date: JUN 22 2018