

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

In the Matter of Permit Amendment	)	<b>FINAL ORDER</b>
T-10402, Lane County	)	APPROVING AN ADDITIONAL 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**

Springfield Utility Board  
202 South 18<sup>th</sup> Street  
Springfield, Oregon 97477

**Findings of Fact**

1. On June 6, 2007, Springfield Utility Board, filed an application for an additional point of diversion under Permit S-54378. The Department assigned the application number T-10402.
2. The permit to be amended is as follows:

**Permit:** S-54378, in the name of Springfield Utility Board;  
**Use:** Municipal, fish life, and wildlife uses  
**Priority Date:** November 8, 2002  
**Quantity:** 35.9 cubic feet per second (cfs) for municipal use and 4.1 cfs for fish life and wildlife uses  
**Source:** McKenzie River, a tributary of the Willamette River.  
**Date of Complete Application of Water:** January 2, 2027  
**Authorized Points of Diversion:**

Township		Range		Meridian	Sec	¼ ¼		Location
17	S	2	W	W.M.	26	NW	SW	Municipal Use – 250 feet South and 972 feet East from the W¼ Corner of Section 26
17	S	1	W	W.M.	29	SE	SW	Fish and Wildlife Uses – 300 feet North and 2400 feet East from the SW Corner of Section 29

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.

**Authorized Place of Use:**

**Municipal Use**

Within the Service area of the City of Springfield

**Fish Life and Wildlife Uses**

Within the channel of Cedar Creek

3. Application T-10204 proposes an additional point of diversion for fish life and wildlife uses to be located:

A portable pump located on the bank of the McKenzie River between a point located in the SE $\frac{1}{4}$  SW $\frac{1}{4}$ , Section 29, T 17 S, R 1 W, W.M., said point being 300 feet North and 2400 feet East from the SW Corner of Section 29, and a point located in the NW $\frac{1}{4}$  SW $\frac{1}{4}$ , Section 26, T 17 S, R 2 W, W.M., said point being 250 feet South and 972 feet East from the W $\frac{1}{4}$  Corner of Section 26.

4. Notice of the application for the permit amendment was published in the Department's weekly notice on June 12, 2007, and in the Register Guard newspaper on October 14, 21, and 28, 2007, pursuant to ORS 540.520(5). No comments were filed in response to the notices.
5. The Oregon Department of Fish and Wildlife (ODFW) has determined that a fish screening and/or by-pass device is necessary at the additional 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 not currently equipped with an appropriate fish screening and/or by-pass device. This diversion may be eligible for screening cost share funds.
6. The change would not result in injury to other water rights.
7. The change does not enlarge the permit.
8. The change does not alter any other terms of the permit.

**Conclusion of Law**

The additional point of diversion proposed by Permit Amendment Application T-10204 is consistent with the requirements of ORS 537.211.

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

The change and subsequent use of water shall be subject to the following conditions:

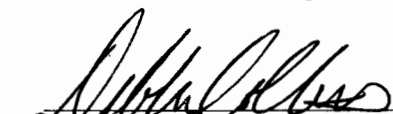
1. The combined quantity of water diverted at the new point of diversion, together with that diverted at the old point of diversion, shall not exceed the quantity of water lawfully available at the original point of diversion.

2. Prior to water use from the proposed additional point of diversion, the permittee shall install a meter or other suitable measuring device as approved by the Director. The permittee shall maintain the meter or measuring device in good working order, and 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.

3. Water shall be acquired from the same surface water source as the original point of diversion.
4. Prior to diverting water, the water user shall install a fish screening and/or by-pass device, as appropriate, at the new point of diversion consistent with the Oregon Department of Fish and Wildlife's (ODFW) design and construction standards. Prior to installation, the water user shall obtain written approval from ODFW that the required screen and/or by-pass device meets ODFW's criteria. Prior to submitting a Claim of Beneficial Use, the water user must obtain written approval from ODFW that the required screening and/or by-pass device was installed to the state's criteria. The water user shall maintain and operate the fish screen and/or by-pass device, as appropriate, at the point of diversion consistent with ODFW's operational and maintenance standards.
5. All other terms and conditions of Permit S-54378 remain the same.
6. Permit S-54378, in the name of Springfield Utility Board is amended as described herein.

Dated at Salem, Oregon this 6 day of November 2007.

  
Phillip C. Ward,  
Director

Mailing Date: NOV 08 2007