

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

In the Matter of Permit Amendment)	RECONSIDERATION OF A FINAL
T-9977, Lane County, Oregon)	ORDER AND APPROVAL OF
)	ADDITIONAL POINTS OF
)	APPROPRIATION

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

Lamontai Improvement District
P.O. Box 1257
Cottage Grove, Oregon 97424

Findings of Fact

1. Lamontai Improvement District, filed an application to add additional points of appropriation to Permit G-12040. The Department assigned the application number T-9977.
2. The permit to be amended is as follows:

Permit:	G-12040, in the name of Lamontai Improvement District;
Use:	Domestic use expanded for 100 households
Priority Date:	February 1, 1994; August 28, 1995 for Well 12.
Quantity:	0.811 cubic foot per second (cfs); being further limited to not more than 0.167 cfs from Well 1, 0.089 cfs from Well 2, 0.056 cfs from Well 3, 0.022 cfs each from Wells 4 and 8, 0.027 cfs from Well 5, 0.045 cfs each from Wells 6, 9, 10, and 12, 0.054 cfs from Well 7, 0.089 cfs from Well 11, 0.040 cfs from Well 13, and 0.067 from Well 14.
Source:	14 wells, in the Willamette River Basin.
Date Of Complete Application of Water:	October 1, 2005

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 Points of Appropriation:

Township		Range		Meridian	Sec	¼ ¼		Location
20	S	3	W	W.M.	32	SW	SW	Well 1 – 137.3 feet North and 700.7 feet East from the SW Corner of Section 32.
20	S	3	W	W.M.	31	SE	SE	Well 2 – 80.6 feet North and 311.7 feet West from the SE Corner of Section 31.
21	S	3	W	W.M.	6	NE	NE	Well 3 – 1148.0 feet South and 1267.0 feet West from the NE Corner of Section 6.
20	S	3	W	W.M.	31	SE	SE	Well 4 – 383.0 feet North and 1220.0 feet West from the SW Corner of Section 32.
20	S	3	W	W.M.	32	NW	SW	Well 5 – 1731.0 feet North and 250.0 feet East from the SW Corner of Section 32.
20	S	3	W	W.M.	31	NE	SE	Well 6 – 1386.0 feet North and 620.0 feet West from the SW Corner of Section 32.
20	S	3	W	W.M.	31	SE	SE	Well 7 – 1275.0 feet North and 956.0 feet West from the SW Corner of Section 32.
21	S	3	W	W.M.	5	NW	NW	Well 8 – 963.0 feet South and 1067.0 feet East from the NW Corner of Section 5.
21	S	3	W	W.M.	5	NW	NW	Well 9 – 747.0 feet South and 1236.0 feet East from the NW Corner of Section 5.
21	S	3	W	W.M.	5	NW	NW	Well 10 – 1264.0 feet South and 1070.0 feet East from the NW Corner of Section 5.
21	S	3	W	W.M.	5	NW	NE	Well 11 – 890.0 feet South and 3030.0 feet East from the SW Corner of Section 32.
21	S	3	W	W.M.	5	NE	NW	Well 12 – 970.0 feet South and 2545.0 feet East from the SW Corner of Section 32.
21	S	3	W	W.M.	5	NW	NW	Well 13 – 940.0 feet South and 350.0 feet East from the SW Corner of Section 32.
20	S	3	W	W.M.	32	SW	SW	Well 14 – 305.0 feet North and 334.0 feet East from the SW Corner of Section 32.

Authorized Place of Use:

Township		Range		Meridian	Sec	¼ ¼	
20	S	3	W	W.M.	31	NE	SE
20	S	3	W	W.M.	31	SE	SE
20	S	3	W	W.M.	32	NW	SW
20	S	3	W	W.M.	32	SW	SW
21	S	3	W	W.M.	5	NW	NW
21	S	3	W	W.M.	6	NE	NE

3. Application T-9977 proposes to add two additional points of appropriation to all authorized points of appropriation under the permit:

Township		Range		Meridian	Sec	¼ ¼		Location
20	S	3	W	W.M.	32	SW	SW	Well 15 – 345 feet North and 442 feet East from the SW Corner of Section 32.
20	S	3	W	W.M.	32	SW	NW	Well 16 – 2713 feet North and 309 feet East from the SW Corner of Section 32.

4. Well 16 is an eight-inch well that is located in close proximity to a six-inch well that is also owned by Lamontai Improvement District.
5. Notice of the application for permit amendment was published pursuant to ORS 540.520(5). Comments were filed in response to the notice.
6. On September 29, 2005, the Department issued a final order approving the addition of the two points of appropriation. The order is entered at Special Order Volume 67, Page 222.
7. On November 23 and 28, 2005, the Department received Petitions requesting reconsideration of the final order. The petitions were filed within the 60-day period specified by ORS 183.484(2).
8. On December 19, 2005, the Department agreed to reconsider the order and notified the petitioners and the applicant of the Department's intent to reconsider.
9. On reconsidering the order, the Department determined that the use of water from Well 16 is resulting in injury to three other water rights under which water from the same aquifer is used. However, the use of Well 15 does not result in injury to other water rights.
10. On December 20, 2007, the applicant submitted an affidavit from one of the water right holders consenting to the injury resulting from the addition of Well 16 under the permit and provided a letter to the Department agreeing to the addition of conditions on the use of Well 16 that will prevent injury to the other two water rights.

11. The change would injure another water right. However, the holder of the water right that will be injured has consented to the injury. The change, as conditioned, will not result in injury to other water rights.
12. The change does not enlarge the permit.
13. Approval of this permit amendment does not grant the permittee permission to trespass on lands not owned by the permittee.
14. The change does not alter all other terms of the permit.

Conclusions of Law

The additional points of appropriation proposed by Permit Amendment Application T-9977 are consistent with the requirements of ORS 537.211.

Now, therefore, it is ORDERED:

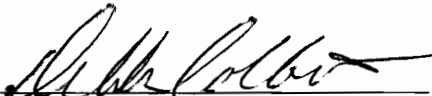
The order approving Transfer Application T-9977 and entered at Special Order Volume 67 Page 222 is withdrawn, modified as described herein and issued with a new Special Order volume and page. The change and subsequent use of water shall be subject to the following conditions:

1. The combined quantity of water diverted at the new points of appropriation (wells), together with that diverted at the old points of appropriation, shall not exceed the maximum rate and duty allowed under Permit G-12040.
2. The priority dates for the proposed additional points of appropriation shall be February 1, 1994 for 0.768 cfs and August 28, 1995 for 0.045 cfs.
3. The use of water from Well 16 shall be subordinate to the legal use of water under rights located at 428 Talemene Drive and 432 Talemene Drive (Crabtree and Wahlstrom) that have been established under ORS 537.545.
4. Beginning during March 2009 and continuing during March of each year thereafter, the permittee shall annually obtain and submit to the Department a water level measurement in either Well 16 or LANE 2843 (Nelson well). Measurements can be made by the permittee, a qualified employee, or a suitable contractor as long as the permittee can demonstrate, to the satisfaction of the Department, that accurate and reliable data are being collected. Measurements shall be made with equipment that is accurate to at least the standards specified in OAR 690-217-0045. Airline measurements shall be verified at least once per year with an electric water-level measuring tape. Each water-level measurement shall be reported as depth-to-water below ground surface to at least the nearest tenth of a foot. The gage pressure and the airline length shall be reported for all airline measurements. Each measurement shall include:
 - a) The owner's well name or number;

- b) The well tag number or the OWRD well log id;
 - c) The date and time of the measurement;
 - d) The method of measurement (airline, electric tape, steel tape, etc.);
 - e) The status of the measurement (static, rising, falling, pumping, etc.);
 - f) The length of time the pump was off, in days, hours, and minutes;
 - g) The status of any adjacent pumping wells (on, off, pumping rate);
 - h) The name of the person making the measurement;
 - i) Any pertinent comments regarding conditions in the well or at the well site that might affect the water level in the well.
5. Beginning on March 1, 2008, subject to the adjustments described in Condition 6, the use of water from Well 16 shall be limited to 300,000 gallons per month.
 6. The maximum allowable quantity of water that may be used each month from Well 16 shall be adjusted annually as follows:
 - a) The maximum allowable quantity of monthly water use from Well 16 shall be increased in increments of 25,000 gallons if the use of water from Well 16 was not regulated for the benefit of other water rights during the prior year and if the March static water level is above 82 feet in Well 16 or 90 feet in LANE 2843 (Nelson well).
 - b) The maximum allowable quantity of monthly water use from Well 16 shall be decreased in increments of 25,000 gallons if the use of water from Well 16 was regulated for the benefit of other water rights during the prior year or if the March static water level is below 92 feet in Well 16 or 100 feet in LANE 2843 (Nelson well).
 - c) Adjustments in the maximum allowable quantity of water will become effective on April 1 of the year and will not be adjusted further until April 1 of the following year.
 - d) The annual adjustments in the maximum quantity of monthly water use from Well 16 shall be discontinued if:
 - i) Static water levels are stable (within the 10-foot range described above) and no regulation of Well 16 has occurred for three consecutive years, or
 - ii) After one final adjustment that results in a change in "direction" of the annual adjustments of the maximum allowable quantity (e.g., if the allowable quantity increased to 325,000 in 2008, to 350,000 in 2009, to 375,000 in 2011, then decreased to 350,000 in 2012 because of a low static water level, then the adjustments would be ended and 350,000 would be allowed under the amended permit).
 7. In addition to complying with existing measurement requirements under Permit G-12040, the permittee shall maintain a totalizing flow meter at Well 16 in good working order.
 8. The permittee shall submit reports of static water levels and water use at other intervals as requested by the watermaster.

9. Water shall be acquired from the same aquifer as the original points of appropriation.
10. All other terms and conditions of Permit G-12040 remain the same.
11. Permit G-12040, in the name of Lamontai Improvement District, is amended as described herein.

Dated at Salem, Oregon this 11 day of January, 2008.


Phillip C. Ward,
Director