



# Oregon

Kate Brown, Governor

## Water Resources Department

North Mall Office Building  
725 Summer St NE, Suite A  
Salem, OR 97301  
Phone (503) 986-0900  
Fax (503) 986-0904  
[www.wrd.state.or.us](http://www.wrd.state.or.us)

December 29, 2017

ROCK CREEK CROSSING LLC  
64771 UPPER ROCK CREEK RD.  
ARLINGTON, OR. 97182

Re: Split a Permit Application T-12723

Enclosed please find the Proposed Final Order proposing approval of the application to Split a Permit and Request for Issuance of Replacement Permits. Also enclosed are copies of the draft replacement permits.

Subsequent to the mailing of this Proposed Order, notice of the Order will be published in the Department's weekly notice on 01-02-2018. This public notice will initiate a 45-day protest period. If no protests are filed, the Department will issue a final order and replacement permits consistent with the Proposed Final Order.

Please do not hesitate to contact me at 503-986-0892 or [joan.m.smith@oregon.gov](mailto:joan.m.smith@oregon.gov), if you should have any questions or concerns.

Sincerely,

Joan Smith  
Transfer and Conservation Section

Enclosures

cc w/enc.: Larry M. Toll agent for applicant (*via e-mail*)  
Gary Hiatt, 65320 Upper Rock Creek RD. Arlington, OR 97812 (Permit Holder)  
Ken Thieman, District #21 Watermaster (*via e-mail*)



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

In the Matter of Permit G-13748,	)	PROPOSED FINAL ORDER
Gilliam County	)	APPROVING ASSIGNMENT OF
	)	WATER RIGHT PERMIT AND
	)	ISSUANCE OF REPLACEMENT
	)	WATER RIGHT PERMITS

**Authority**

ORS 537.225 establishes the process in which a water right permit holder may submit a request for full or partial assignment of a water right permit and issuance of replacement permits. OAR Chapter 690, Division 325 establishes the requirements and procedures to be used by the Department to evaluate an application by a landowner of record holding a water right permit for irrigation, nursery, temperature control, stock watering or agricultural water use, to assign all or part of the water right permit and to issue replacement permits to reflect an assignment from the current permit holder to one or more additional permit holders.

**Applicant**

ROCK CREEK CROSSING LLC  
64771 UPPER ROCK CREEK RD.  
ARLINGTON, OR. 97182

**Findings of Fact**

**Background**

1. On July 24, 2017, Rock Creek Crossing LLC filed an application for partial assignment of Water Right Permit G-13748 and requested issuance of replacement permits. The Department assigned the application number T-12723.
2. On May 15, 2009, the Department approved an assignment of the permit to Gary Hiatt.
3. On August 5, 2013, the Department approved a partial assignment of the permit to Rock Creek Crossing, LLC.
4. On January 7, 2005, the Department issued a Final Order approving an additional point of diversion under Transfer T-9572, recorded at Special Order Volume 63, Page 56.
5. Based on the survey coordinates, there is a scrivener's error in the quarter-quarter location of the additional point of diversion. The description of the additional point of diversion as recorded in Special Order Volume 63, Page 56 under Transfer Application T-9572 is described as follows:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
1 S	21 E	WM	24	SE NE	WELL 2: 3200 FEET SOUTH AND 800 FEET WEST FROM THE NE CORNER OF SECTION 24

6. On November 17, 2004, and March 2, 2012, the Department approved extensions of time. On May 26, 2017, the Department approved an extension of time for complete application of water to October 1, 2020.
7. The Applicant identified the following landowner within the authorized place of use, who is not participating in the request for assignment:

Name and Address
Gary Hiatt 65320 Upper Rock Creek Rd. Arlington, OR 97812

8. The Permit to be modified and assigned is as follows:

**Permit:** G-13748 in the name of Steven P. Emerick, as amended by Final Order recorded in Special Order Volume 63, Page 56

**Use:** Irrigation of 187.6 Acres

**Priority Date:** September 25, 1998

**Quantity:** 2.34 Cubic foot Per Second

**Rate/Duty:** The amount of water used for irrigation under this right, together with the amount secured under any other right existing for the same lands, is limited to a diversion of ONE-EIGHTIETH of one cubic foot per second (or its equivalent) and 3.0 acre-feet for each acre irrigated during the irrigation season of each year.

**Period of Use:** March 1 through October 31

**Source:** Wells in the Rock Creek Basin

**Authorized Points of Appropriation:**

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
1 S	21 E	WM	14	SE SE	WELL 1: 810 FEET NORTH AND 54 FEET WEST FROM THE SE CORNER OF SECTION 14
1 S	21 E	WM	24	NE SE	WELL 2: 3200 FEET SOUTH AND 800 FEET WEST FROM THE NE CORNER OF SECTION 24

**Authorized Place of Use:**

IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
1 S	21 E	WM	13	SW SW	5.0
1 S	21 E	WM	14	SW NE	5.6
1 S	21 E	WM	14	NE SE	7.2
1 S	21 E	WM	14	NW SE	14.0
1 S	21 E	WM	14	SW SE	4.0
1 S	21 E	WM	14	SE SE	24.4
1 S	21 E	WM	23	NE NE	5.0
1 S	21 E	WM	24	NW NE	3.0
1 S	21 E	WM	24	SW NE	20.9
1 S	21 E	WM	24	SE NE	9.5
1 S	21 E	WM	24	NE NW	19.0
1 S	21 E	WM	24	NW NW	16.0
1 S	21 E	WM	24	SE NW	14.0

IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
1 S	21 E	WM	24	NE SE	29.0
1 S	21 E	WM	24	NW SE	8.0
1 S	21 E	WM	24	SE SE	3.0
Total:					187.6

9. The Applicants request Permit G-13748 be split and replacement permits be issued as follows:

**Permit A:**

**Permit:** G-13748 in the name of Rock Creek Crossing LLC  
**Use:** Irrigation of 56.0 Acres  
**Priority Date:** September 25, 1998  
**Quantity:** 0.70 Cubic foot Per Second  
**Rate/Duty:** The amount of water used for irrigation under this right, together with the amount secured under any other right existing for the same lands, is limited to a diversion of ONE-EIGHTIETH of one cubic foot per second (or its equivalent) and 3.0 acre-feet for each acre irrigated during the irrigation season of each year.  
**Period of Use:** March 1 through October 31  
**Source:** Well 2 in the Rock Creek Basin

**Authorized Point of Appropriation:**

Well ID	Twp	Rng	Mer	Sec	Q-Q	Measured Distances
GIL 50652	1 S	21 E	WM	24	NE SE	WELL 2- 3200 FEET SOUTH AND 800 FEET WEST FROM THE NE CORNER OF SECTION 24

**Authorized Place of Use:**

IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
1 S	21 E	WM	24	SW NE	6.5
1 S	21 E	WM	24	SE NE	9.5
1 S	21 E	WM	24	NE SE	29.0
1 S	21 E	WM	24	NW SE	8.0
1 S	21 E	WM	24	SE SE	3.0
Total:					56.0

**Permit B:**

**Permit:** G-13748 in the name of Gary Hiatt  
**Use:** Irrigation of 131.6 Acres  
**Priority Date:** September 25, 1998  
**Quantity:** 1.64 Cubic foot Per Second  
**Rate/Duty:** The amount of water used for irrigation under this right, together with the amount secured under any other right existing for the same lands, is limited to a diversion of ONE-EIGHTIETH of one cubic foot per second (or its equivalent) and 3.0 acre-feet for each acre irrigated during the irrigation season of each year.

**Period of Use:** March 1 through October 31  
**Source:** Well 1 in the Rock Creek Basin

**Authorized Points of Appropriation:**

Well ID	Twp	Rng	Mer	Sec	Q-Q	Measured Distances
GIL 17	1 S	21 E	WM	14	SE SE	WELL 1- 810 FEET NORTH AND 54 FEET WEST FROM THE SE CORNER OF SECTION 14

**Authorized Place of Use:**

IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
1 S	21 E	WM	13	SW SW	5.00
1 S	21 E	WM	14	SW NE	5.60
1 S	21 E	WM	14	NE SE	7.20
1 S	21 E	WM	14	NW SE	14.00
1 S	21 E	WM	14	SW SE	4.00
1 S	21 E	WM	14	SE SE	24.40
1 S	21 E	WM	23	NE NE	5.00
1 S	21 E	WM	24	NW NE	3.00
1 S	21 E	WM	24	SW NE	14.40
1 S	21 E	WM	24	NE NW	19.00
1 S	21 E	WM	24	NW NW	16.00
1 S	21 E	WM	24	SE NW	14.00
Total:					131.60

10. Notice of the application for the assignment of the water right permit and request for issuance of replacement water right permits was published in the Department’s weekly notice on November 21, 2017, pursuant to ORS 537.325(3)(e) and OAR 690-325-0080. No comments were filed in response to the notice. In addition, the Department provided copies of the draft Proposed Final Order, draft replacement permits, the application, map, and existing water right permit to each owner of land upon which the water right permit is appurtenant.

***Split a Permit Review Criteria***

11. The Department has verified the mailing address of each owner of the authorized place of use identified on the map contained in the application as follows:

Name and Address	Acres	Proportionate Rate	Twp	Rng	Sec	Q-Q	Acres	Tax Lot
Rock Creek Crossing, LLC 64771 Upper Rock Creek Rd. Arlington, OR 97182	56.0	0.70	1 S	21 E	24	SW NE	6.5	2801
						SE NE	9.5	
						NE SE	29.0	
						NW SE	8.0	
						SE SE	3.0	

Name and Address	Acres	Proportionate Rate	Twp	Rng	Sec	Q-Q	Acres	Tax Lot
Gary Hiatt 65320 Upper Rock Creek Rd. Arlington, OR. 97812	131.6	1.64	1 S	21 E	13	SW SW	5.0	2900
					14	SW NE	5.6	
					14	NE SE	7.2	
						NW SE	14.0	
						SW SE	4.0	
					23	SE SE	24.4	
						NE NE	5.0	
					24	NW NE	3.0	
						SW NE	14.4	
						NE NW	19.0	
						NW NW	16.0	

OAR 690-325-0070(1)(a).

12. The deed supplied with the application, matches the property proposed for assignment. OAR 690-325-0070(1)(b).
13. The applicant affirmed the most recent water use under the permit has been exercised within the relevant terms and conditions of the water right permit. OAR 690-325-0070(1)(c).
14. The assignment and issuance of replacement permits, as outlined in Finding of Fact #9 above, would not result in injury to other water right holders. OAR 690-325-0070(1)(d).
15. The assignment and issuance of replacement permits, as outlined in Finding of Fact #9 above, would not result in enlargement of the permit. OAR 690-325-0070(1)(d).
16. The assignment and issuance of replacement permits does not alter any other terms of Permit # G-13748.

### Conclusions of Law

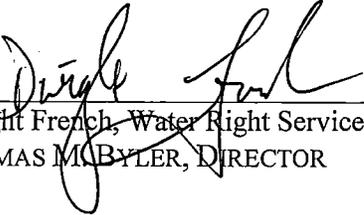
The assignment and issuance of replacement permits proposed by Application T-12174 are consistent with the requirements of ORS 537.225 and OAR Chapter 690, Division 325. If no protests are filed, an Order will be issued which will include the following:

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

1. *The assignment and issuance of replacement permits proposed by Application T-12723 are approved.*
2. *Permit G-13748, name of Steven P. Emerick, is cancelled. Permit G-17927, in the name of Rock Creek Crossing LLC, and Permit G-17926 in the name of Gary Hiatt, are issued to supersede Permit G-13748.*

3. *All other terms and conditions under Permit G-13748 are incorporated into Permits G-17926 and G-17927.*

Dated at Salem, Oregon this 29 day of December, 2017.

  
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Dwight French, Water Right Services Administrator, for  
THOMAS M. BYLER, DIRECTOR

Mailing Date: JAN 05 2017