

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

In the Matter of Permit G-13426,	)	PROPOSED FINAL ORDER
Crook 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

STEVEN PETE SCHELL
7401 SE PATRIOT LANE
PRINEVILLE, OR 97754

Applicant

WAYNE O. AND BARBARA M. BENNETT
7376 SE PATRIOT LANE
PRINEVILLE, OR 97754

Findings of Fact

Background

1. On December 26, 2017, Steven Pete Schell and Wayne and Barbara Bennett filed an application for partial assignment of Water Right Permit G-13426 and requested issuance of replacement permits. The Department assigned the application number T-12804.
2. On April 3, 2013, the Department approved an assignment of Permit G-13426 from Merile Glass to Pete Schell, Larry De Man, and Joshua Smith and Chelsea Thornton.
3. On September 5, 2014, the Department approved an extension of time for complete application of water to October 1, 2018.
4. On December 14, 2017, the Department approved an assignment of Permit G-13426 from Pete Schell, Larry De Man, and Joshua Smith and Chelsea Thornton to Pete Schell, Wayne and Barbara Bennett and Larry De Man.
5. On January 11, 2018, the Department contacted the applicant's agent to notify him of the deficiencies in the application.
6. On February 23, 2018, Larry DeMan, the landowner not participating in the application, requested that both wells be left on his portion of the water right permit.

Pursuant to OAR 690-325-0100, any person may file a protest or standing statement within 45 days after the date of publication of notice of this Proposed Final Order.

7. The Applicant identified the following landowner within the authorized place of use, who is not participating in the request for assignment:

Name	Address
Larry DeMan	2325 NW 36 th Street Redmond, Oregon 97756

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

Permit: G-13426 in the name of Pete Schell, Wayne & Barbara Bennett, Larry De Man
Use: IRRIGATION of 19.0 ACRES
Priority Date: AUGUST 11, 1997
Quantity: A CUMULATIVE TOTAL OF 0.238 CUBIC FOOT PER SECOND (CFS), BEING 0.223 CFS FROM WELL 1 AND 0.223 CFS FROM WELL 2
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: TWO WELLS IN DRY CREEK BASIN

Authorized Points of Appropriation:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
16 S	16 E	WM	12	SW SE	WELL 1 - 600 FEET NORTH AND 2160 FEET WEST FROM THE SE CORNER OF SECTION 12
16 S	16 E	WM	12	SW SE	WELL 2 - 110 FEET NORTH AND 1760 FEET WEST FROM THE SE CORNER OF SECTION 12

Authorized Place of Use:

Twp	Rng	Mer	Sec	Q-Q	Acres
16 S	16 E	WM	12	SW SE	19.0

9. The Applicants request Permit G-13426 be split and replacement permits be issued as follows:

Permit A: Steven Pete Schell

Use: IRRIGATION of 4.7 ACRES
Priority Date: AUGUST 11, 1997
Quantity: 0.059 CUBIC FOOT PER SECOND (CFS), provided the total quantity diverted in combination with any other right perfected for Well 1 under Permit G-13426 shall not exceed 0.223 cfs
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: ONE WELL IN DRY CREEK BASIN

Authorized Points of Appropriation:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
16 S	16 E	WM	12	SW SE	WELL 1 - 600 FEET NORTH AND 2160 FEET WEST FROM THE SE CORNER OF SECTION 12
16 S	16 E	WM	12	SW SE	WELL 2 - 110 FEET NORTH AND 1760 FEET WEST FROM THE SE CORNER OF SECTION 12

Authorized Place of Use:

Twp	Rng	Mer	Sec	Q-Q	Acres
16 S	16 E	WM	12	SW SE	4.7

Permit B: Wayne O. Bennett and Barbara M. Bennett

Use: IRRIGATION of 4.8 ACRES

Priority Date: AUGUST 11, 1997

Quantity: A CUMULATIVE TOTAL OF 0.06 CUBIC FOOT PER SECOND (CFS), BEING 0.056 CFS FROM WELL 1 AND 0.056 CFS FROM WELL 2, provided further the total quantity diverted in combination with any other right perfected under Permit G-13426 shall not exceed 0.223 cfs for Well 1 and 0.223 cfs for Well 2

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: TWO WELLS IN DRY CREEK BASIN

Authorized Points of Appropriation:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
16 S	16 E	WM	12	SW SE	WELL 1 - 600 FEET NORTH AND 2160 FEET WEST FROM THE SE CORNER OF SECTION 12
16 S	16 E	WM	12	SW SE	WELL 2 - 110 FEET NORTH AND 1760 FEET WEST FROM THE SE CORNER OF SECTION 12

Authorized Place of Use:

Twp	Rng	Mer	Sec	Q-Q	Acres
16 S	16 E	WM	12	SW SE	4.8

Permit C: Larry De Man

Use: IRRIGATION of 9.5 ACRES

Priority Date: AUGUST 11, 1997

Quantity: 0.119 CUBIC FOOT PER SECOND (CFS), provided the total quantity diverted in combination with any other right perfected for Well 2 under Permit G-13426 shall not exceed 0.223cfs

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: TWO WELLS IN DRY CREEK BASIN

Authorized Points of Appropriation:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
16 S	16 E	WM	12	SW SE	WELL 1 - 600 FEET NORTH AND 2160 FEET WEST FROM THE SE CORNER OF SECTION 12
16 S	16 E	WM	12	SW SE	WELL 2 - 110 FEET NORTH AND 1760 FEET WEST FROM THE SE CORNER OF SECTION 12

Authorized Place of Use:

Twp	Rng	Mer	Sec	Q-Q	Acres
16 S	16 E	WM	12	SW SE	9.5

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 March 13, 2018, 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	Mer	Sec	Q-Q	Tax Lot
Steven Pete Schell 7401 SE Patriot Lane Prineville, OR 97754	4.7	0.059	16 S	16 E	WM	12	SW SE	601
Wayne O. & Barbara M. Bennett 7376 SE Patriot Lane Prineville, OR 97754	4.8	0.060	16 S	16 E	WM	12	SW SE	603
Larry De Man 2325 NW 36 th Street Redmond, OR 97756	9.5	0.119	16 S	16 E	WM	12	SW SE	602

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

12. The deeds supplied with the application, match the properties proposed for assignment.
OAR 690-325-0070(1)(b).

13. The applicants 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-13426.

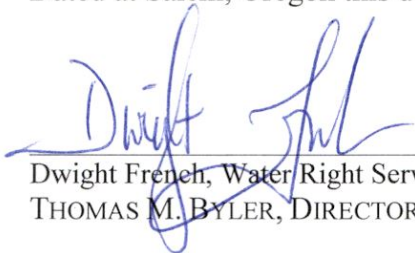
Conclusions of Law

The assignment and issuance of replacement permits proposed by Application T-12804 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-12804 are approved and incorporates all previous assignments and extensions of time.*
2. *Permit G-13426, names of Pete Schell, Larry De Man, and Joshua Smith and Chelsea Thornton, is cancelled. Permit X-XXXXX, in the name of Steven Pete Schell, and Permit X-XXXXX in the names of Wayne O. Bennett and Barbara M. Bennett, and Permit X-XXXXX, in the name of Larry De Man, are issued to supersede Permit G-13426.*
3. *All other terms and conditions under Permit G-13426 are incorporated into Permits X-XXXXX, X-XXXXX and X-XXXXX (new permits).*

Dated at Salem, Oregon this day APR 25 2018.



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

Mailing Date: APR 26 2018

This Proposed Final Order was prepared by Sarah Henderson. If you should have any questions, please do not hesitate to contact me at 503-986-0890 or sarah.a.henderson@oregon.gov.

Protest Rights:

A record landowner, an applicant, an assignee, an affected water right permit holder, or other interested person may protest the Proposed Final Order. Pursuant to OAR 690-325-0100, protests must: 1) provide a detailed explanation of why the proposed order does not conform with the criteria under ORS 537.225, and a description of the changes to the order that are necessary to correct the nonconformity; and 2) raise all reasonably ascertainable issues at the time the protest is filed. The issues must directly pertain to whether the replacement water right permits are authorized under and in conformance with ORS 537.225. In addition, protests must be accompanied by the appropriate protest fees. Protests must be received by the Department no later than 45 days after the notice is published in the Department's weekly notice. If no protests are filed, the Department will issue a final order consistent with the Proposed Final Order.

The Proposed Final Order may be viewed free of charge online at:

<http://apps.wrd.state.or.us/apps/wr/wrinfo/>. Persons interested in receiving a copy of a Proposed Final Order must pay a statutorily-required fee of \$30. Any person paying \$30 to receive a PFO by mail will also receive a copy of the Final Order when it is issued.

Notice Regarding Service members: Active duty service members have a right to stay proceedings under the federal Servicemembers Civil Relief Act. 50 U.S.C. App. §§501-597b. You may contact the Oregon State Bar or the Oregon Military Department for more information. The toll-free telephone number for the Oregon State Bar is: 1 (800) 452-8260. The toll-free telephone number of the Oregon Military Department is: 1 (800) 452-7500. The Internet address for the United States Armed Forces Legal Assistance Legal Services Locator website is: <http://legalassistance.law.af.mil>