

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

In the Matter of Permit G-16156,)	PROPOSED FINAL ORDER
Klamath County)	APPROVING ASSIGNMENT OF A
)	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

MLM PROPERTY, LLC
PO BOX 195
MERRILL, OR 97633

Findings of Fact

Background

1. On January 14, 2020, MLM PROPERTY LLC, filed an application for partial assignment of Water Right Permit G-16156 and requested issuance of replacement permits. The Department assigned the application number T-13375.
2. On February 12, 2018, the Department approved a partial assignment of Permit G-16156 from Daniel Chin to Gregory Drew Heaton, Scott Bedford, MLM Property, LLC, and Wong Potatoes, Inc.
3. On July 26, 2019, the Department approved an extension of time for complete application of water to October 1, 2024.
4. Notice of the application for transfer was published on March 17, 2020, pursuant to OAR 690-325-0080. No comments were filed in response to the notice.
5. The Permit to be modified and assigned is as follows:

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. 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.

Permit: G-16156 in the names of DANIEL CHIN, WONG POTATOES, INC., MLM PROPOERTY, LLC, GREGORY DREW HEATON, SCOTT BEDFORD

Use: SUPPLEMENTAL IRRIGATION USE ON 315.05 ACRES

Priority Date: MARCH 1, 2005

Quantity: MAXIMUM RATE: 3.94 CUBIC FEET PER SECOND (CFS), BEING 3.23 CFS FROM WELL 1 FOR SUPPLEMENTAL IRRIGATION ON 258.4 ACRES AND 0.71 CFS FROM WELL 2 FOR SUPPLEMENTAL IRRIGATION ON 56.65 ACRES

Limit/Duty: The amount of water used for irrigation, 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 and 3.0 acre-feet for each acre irrigated during the irrigation season of each year.

Period of Use: APRIL 1 THROUGH OCTOBER 31

Source: WELL 1 (KLAM 53043) IN DODDS HOLLOW BASIN; WELL 2 (KLAM 10518) IN LOST RIVER BASIN

Authorized Points of Appropriation:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
41 S	10 E	WM	29	SW NW	WELL 2 - 1420 FEET SOUTH AND 20 FEET EAST FROM THE NW CORNER OF SECTION 29
41 S	11 E	WM	7	SW NE	WELL 1 - 1360 FEET SOUTH AND 1860 FEET WEST FROM THE NE CORNER OF SECTION 7

Authorized Place of Use:

SUPPLEMENTAL IRRIGATION						
Twp	Rng	Mer	Sec	Q-Q	GLot	Acres
40 S	10 E	WM	7	NE NW	1	14.55
40 S	10 E	WM	7	NW NW		10.3
40 S	10 E	WM	7	SW NW		10.2
40 S	10 E	WM	7	SE NW		21.6
41 S	11 E	WM	11	SW SW		7.2
41 S	11 E	WM	14	NE NW	3	19.6
41 S	11 E	WM	14	NE NW		14.5
41 S	11 E	WM	14	NW NW		12.2
41 S	11 E	WM	14	NW NW	4	16.8
41 S	11 E	WM	14	SW NW		5.6
41 S	11 E	WM	14	SE NW		5.6
41 S	11 E	WM	15	NE NW	6	13.4
41 S	11 E	WM	15	NW NW	7	13.3
41 S	11 E	WM	15	SW NW	8	37.2
41 S	11 E	WM	15	SE NW	9	37.7
41 S	11 E	WM	15	NE SW		7.9
41 S	11 E	WM	15	NW SW	15	9.9
41 S	11 E	WM	16	NE NE	6	15.2
41 S	11 E	WM	16	NW NE		6.4
41 S	11 E	WM	16	SW NE		1.7
41 S	11 E	WM	16	SE NE	10	32.7
41 S	11 E	WM	16	NE SE		1.5
Total						315.05

6. The Applicants request Permit G-16156 be split and replacement permits be issued as follows:

Permit A: MLM PROPERTY, LLC

Use: SUPPLEMENTAL IRRIGATION USE ON 57.5 ACRES
Priority Date: MARCH 1, 2005
Quantity: MAXIMUM RATE: 0.72 CUBIC FEET PER SECOND (CFS), BEING 0.72 CFS FROM WELL 1 FOR SUPPLEMENTAL IRRIGATION ON 57.5 ACRES AND 0.71 CFS FROM WELL 2 FOR SUPPLEMENTAL IRRIGATION ON 56.65 ACRES
Limit/Duty: The amount of water used for irrigation, 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 and 3.0 acre-feet for each acre irrigated during the irrigation season of each year.
Period of Use: APRIL 1 THROUGH OCTOBER 31
Source: WELL 1 (KLAM 53043) IN DODDS HOLLOW BASIN

Authorized Points of Appropriation:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
41 S	10 E	WM	29	SW NW	WELL 2 - 1420 FEET SOUTH AND 20 FEET EAST FROM THE NW CORNER OF SECTION 29
41 S	11 E	WM	7	SW NE	WELL 1 - 1360 FEET SOUTH AND 1860 FEET WEST FROM THE NE CORNER OF SECTION 7

Authorized Place of Use:

SUPPLEMENTAL IRRIGATION						
Twp	Rng	Mer	Sec	Q-Q	GLot	Acres
41 S	11 E	WM	16	NE NE	1	7.4
41 S	11 E	WM	16	NE NE	6	7.8
41 S	11 E	WM	16	NW NE	2	4.6
41 S	11 E	WM	16	NW NE	9	1.8
41 S	11 E	WM	16	SW NE	9	1.7
41 S	11 E	WM	16	SE NE	10	32.7
41 S	11 E	WM	16	NE SE	11	1.5
					Total	57.5

Permit B: DANIEL CHIN, WONG POTATOES, INC., GREGORY DREW HEATON, AND SCOTT BEDFORD

Use: SUPPLEMENTAL IRRIGATION USE ON 257.55 ACRES
Priority Date: MARCH 1, 2005
Quantity: MAXIMUM RATE: 3.22 CUBIC FEET PER SECOND (CFS), BEING 2.51 CFS FROM WELL 1 FOR SUPPLEMENTAL IRRIGATION ON 200.9 ACRES AND 0.71 CFS FROM WELL 2 FOR SUPPLEMENTAL IRRIGATION ON 56.65 ACRES
Limit/Duty: The amount of water used for irrigation, 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 and 3.0 acre-feet for each acre irrigated during the irrigation season of each year.
Period of Use: APRIL 1 THROUGH OCTOBER 31
Source: WELL 1 (KLAM 53043) IN DODDS HOLLOW BASIN; WELL 2 (KLAM 10518) IN LOST RIVER BASIN

Authorized Points of Appropriation:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
41 S	10 E	WM	29	SW NW	WELL 2 - 1420 FEET SOUTH AND 20 FEET EAST FROM THE NW CORNER OF SECTION 29
41 S	11 E	WM	7	SW NE	WELL 1 - 1360 FEET SOUTH AND 1860 FEET WEST FROM THE NE CORNER OF SECTION 7

Authorized Place of Use:

SUPPLEMENTAL IRRIGATION						
Twp	Rng	Mer	Sec	Q-Q	GLot	Acres
40 S	10 E	WM	7	NE NW	1	14.55
40 S	10 E	WM	7	NW NW		10.3
40 S	10 E	WM	7	SW NW		10.2
40 S	10 E	WM	7	SE NW		21.6
41 S	11 E	WM	11	SW SW		7.2
41 S	11 E	WM	14	NE NW	3	19.6
41 S	11 E	WM	14	NE NW		14.5
41 S	11 E	WM	14	NW NW		12.2
41 S	11 E	WM	14	NW NW	4	16.8
41 S	11 E	WM	14	SW NW		5.6
41 S	11 E	WM	14	SE NW		5.6
41 S	11 E	WM	15	NE NW	2	0.6
41 S	11 E	WM	15	NE NW	6	12.8
41 S	11 E	WM	15	NW NW	3	3.9
41 S	11 E	WM	15	NW NW	7	9.4
41 S	11 E	WM	15	SW NW	8	37.2
41 S	11 E	WM	15	SE NW	9	37.7
41 S	11 E	WM	15	NE SW		7.9
41 S	11 E	WM	15	NW SW	15	9.9
					Total	257.55

7. 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 September 1, 2020, 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

8. 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 (cfs)	Twp.	Rng.	Mer	Sec	Q-Q	Tax Lot
Wong Potatoes Inc. 17817 Cheyne Road Klamath Falls, OR 97603	257.55	3.22 CFS	41 S	10 E	WM	7	Multiple	500 and 900
Daniel Chin 17817 Cheyne Road Klamath Falls, OR 97603								800
Gregory Drew Heaton PO Box 210 Merrill, OR 97633			41 S	11 E	WM	11, 14, and 15		400
Scott Bedford 1231 Tulloch Drive Tracy, CA 95377								

- 9. The deeds supplied with the application, match the properties proposed for assignment.
- 10. 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.
- 11. The assignment and issuance of replacement permits would not result in injury to other water right holders.
- 12. The assignment and issuance of replacement permits would not result in enlargement of the permit.
- 13. The assignment and issuance of replacement permits does not alter any other terms of Permit G-16156.

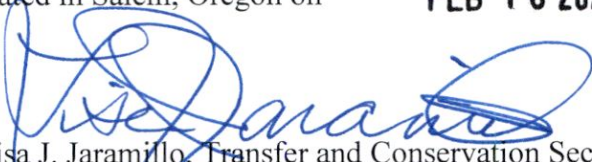
Conclusions of Law

The assignment and issuance of replacement permits proposed by Application T-13375 are consistent with the requirements of ORS 537.225 and OAR Chapter 690, Division 325. If protests are not filed pursuant to OAR 690-325-0100, a final order will be issued approving the assignment and issuance of replacement permits.

If a final order approving the request for assignment and issuance of superseding permits is issued, the order will contain the following conditions:

- 1. The assignment and issuance of replacement permits proposed by Application T-13375 are approved.*
- 2. Permit G-18390, in the name of MLM Property, LLC, and Permit G-18391, in the names of Daniel Chin, Wong Potatoes, Inc., Gregory Drew Heaton, and Scott Bedford are issued to supersede Permit G-16156 (original permit). Permit G-16156 (original permit) is no longer of any force or affect.*
- 3. All other terms and conditions under Permit G-16156 (original permit) are incorporated into Permits G-18390 and G-18391 (superseding permits).*

Dated in Salem, Oregon on **FEB 18 2021**


Lisa J. Jaramillo, Transfer and Conservation Section Manager, for
THOMAS M BYLER, DIRECTOR
Oregon Water Resources Department

This Proposed Final Order was prepared by Arla Davis. If you have questions about the information in this document, you may reach me at 503-986-0806 or arla.l.davis@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.

IMPORTANT: Due to COVID-19, the Department's office is closed to walk-in services. The Department encourages the submission of protests by U.S. mail. Please consider mailing early to ensure the Department receives the protest by the deadline specified above.

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 servicemembers have a right to stay these proceedings under the federal Servicemembers Civil Relief Act. For more information contact the Oregon State Bar at 800-452-8260, the Oregon Military Department at 503-584-3571, or the nearest United States Armed Forces Legal Assistance Office through <http://legalassistance.law.af.mil>. The Oregon Military Department does not have a toll free number.