# BEFORE THE WATER RESOURCES DEPARTMENT OF THE STATE OF OREGON

| In the Matter of Permit Amendment | ) |             |
|-----------------------------------|---|-------------|
| T-9901, Lane County, Oregon       | ) | FINAL ORDER |
|                                   | ) |             |

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

Donald Harkins, Country View Estates Water System 91000 Ridgeview Road, Eugene, Oregon 97408.

### Findings of Fact

- 1. Donald Harkins, filed an application to amend the point of appropriation of Well 2 under Permit G-14050. The Department assigned the application number T-9901.
- The permit to be amended is as follows:

Permit:

G-14050, in the name of Country View Estates Water System;

Use:

Quasi-municipal and irrigation;

Priority Date: October 9, 2000;

Quantity:

0.8275 cubic foot per second (cfs), being 0.8275 cfs for quasi-municipal use

and 0.8275 cfs for irrigation;

Rate/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 ONE-

EIGHTIETH of one cubic foot per second per acre or its equivalent for each acre irrigated and shall be further limited to a diversion of not to exceed 2.5 acre-feet for each acre irrigated during the irrigation season of each year.

Acres:

137.2 acres;

Source:

Fifteen wells, in the Daniels Creek 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:

| Tow | Township Range |   | nge | Meridian | Sec                   | 1/4 1/4                 |   | Location  |  |
|-----|----------------|---|-----|----------|-----------------------|-------------------------|---|---|--|
| 16  | S              | 3 | w   | W.M.     | 26                    | sw sw                   |   | Well 738 - North 84°38'19"<br>West 4274.00 feet from the<br>NE Corner of Section 35.  |  |
| 16  | S              | 3 | w   | W.M.     | 26 SW SW              |                         | sw<br>  | Well 726 - North 77°06'42"<br>West 4023.83 feet from the<br>NE Corner of Section 35.  |  |
| 16  | S              | 3 | w   | W.M.     | W.M.   26   SE SW   1 |                         | Well 7686 - North 86°32'47"<br>West 3448.92 feet from the<br>NE Corner of Section 35. |   |  |
| 16  | S              | 3 | w   | W.M.     | 35                    | NW NE                   |   | Well 7691 - South 53°43'40"<br>West 3442.29 feet from the<br>NE Corner of Section 35. |  |
| 16  | S              | 3 | w   | W.M.     | 35                    | sw                      | NE  | Well 2 - South 43°28'12"<br>West 2383.72 feet from the<br>NE Corner of Section 35.    |  |
| 16  | S              | 3 | w   | W.M.     | 35                    | NE                      | NW  | Well 7688 - South 79°56'36"<br>West 3709.64 feet from the<br>NE Corner of Section 35. |  |
| 16  | S              | 3 | w   | W.M.     | 35                    | NW                      | NW  | Well 7689 - South 73°53'25"<br>West 4244.50 feet from the<br>NE Corner of Section 35. |  |
| 16  | S              | 3 | W   | W.M.     | 35                    | NW                      | NW  | Well 7676 - South 85°14'56"<br>West 4655.63 feet from the<br>NE Corner of Section 35. |  |
| 16  | S              | 3 | w   | W.M.     | 35                    | 5 NW NW West 467        |   | Well 7675 - South 86°52'28"<br>West 4677.38 feet from the<br>NE Corner of Section 35. |  |
| 16  | S              | 3 | w   | W.M.     | 26                    | sw sw                   |   | Well 1 - North 72°20'00"<br>West 4570 feet from SE<br>Corner of Section 26.           |  |
| 16  | S              | 3 | w   | W.M.     | 35                    | NW                      | NW NE Well 7685 - South<br>West 2201.21 feet<br>NE Corner of Sect                     |   |  |
| 16  | S              | 3 | W   | W.M.     | 35                    | SE                      | SE NW West 3651.81 feet from NE Corner of Section 3                                   |   |  |
| 16  | S              | 3 | W   | W.M.     | 35                    | SE NW West 3729.33 feet |   | Well 737 - South 62°37'28"<br>West 3729.33 feet from the<br>NE Corner of Section 35.  |  |
| 16  | S              | 3 | W   | W.M.     | 36                    | sw                      | NW  | Well 739 - South 18°57'44"<br>East 1702.34 feet from the<br>NE Corner of Section 35.  |  |
| 16  | S              | 3 | W   | W.M.     | 36                    | sw nw                   |   | Well 7693 - South 16°02'18"<br>East 1851.71 feet from the<br>NE Corner of Section 35. |  |

### **Authorized Place of Use:**

| Town | nship | Ra | nge | Meridian | Sec | 1/4 1/4 |    | Acres |
|------|-------|----|-----|----------|-----|---------|----|-------|
| 16   | S     | 3  | W   | W.M.     | 26  | NW      | SW | 11.7  |
| 16   | S     | 3  | W   | W.M.     | 26  | sw      | SW | 16.9  |
| 16   | S     | 3  | W   | W.M.     | 26  | SE      | sw | 4.6   |
| 16   | S     | 3  | W   | W.M.     | 27  | NE      | SE | 2.9   |
| 16   | S     | 3  | W   | W.M.     | 27  | SE      | SE | 5.8   |
| 16   | S     | 3  | W   | W.M.     | 34  | NE      | NE | 1.8   |
| 16   | S     | 3  | W   | W.M.     | 35  | NE      | NE | 2.5   |
| 16   | S     | 3  | W   | W.M.     | 35  | NW      | NE | 15.5  |
| 16   | S     | 3  | W   | W.M.     | 35  | SW      | NE | 5.7   |
| 16   | S     | 3  | W   | W.M.     | 35  | SE      | NE | 3.0   |
| 16   | S     | 3  | W   | W.M.     | 35  | NE      | NW | 20.5  |
| 16   | S     | 3  | W   | W.M.     | 35  | NW      | NW | 25.3  |
| 16   | S     | 3  | W   | W.M.     | 35  | sw      | NW | 8.0   |
| 16   | S     | 3  | W   | W.M.     | 35  | SE      | NW | 10.0  |
| 16   | S     | 3  | W   | W.M.     | 36  | SW      | NW | 3.0   |

3. Application T-9901 proposes to change the point of appropriation of Well 2 to:

| To | wnship | Range |   | Meridian | Sec | 1/4 1/4 |    | Location  |  |
|----|--------|-------|---|----------|-----|---------|----|---|--|
| 16 | s      | 3     | w | W.M.     | 27  | SE      | SE | North 12°00'00" West 800 feet from SE Corner of Section 26. |  |

- 4. Notice of the application for permit amendment was published pursuant to ORS 540.520(5). No comments were filed in response to the notice.
- 5. Groundwater Section has found that in order to stay within the same source as the authorized points of appropriation, the proposed point of appropriation shall be constructed so as to be continuously cased and sealed from the surface downward to at least five feet within the marine sediments.
- 6. The change, as conditioned, would not result in injury to other water rights.
- 7. The change does not enlarge the permit.
- 8. The change does not alter all other terms of the permit.
- 9. A scrivener's error was found in Permit G-14050's quarter-quarter description of the authorized points of appropriation. The permit describes the SW<sup>1</sup>/<sub>4</sub> SW<sup>1</sup>/<sub>4</sub> of Section 36 as having points of appropriation. The correct quarter-quarter is the SW<sup>1</sup>/<sub>4</sub> NW<sup>1</sup>/<sub>4</sub> of Section 35, T 16 S, R 3 W, W.M..

#### Conclusion of Law

The change in point of appropriation of Well 2 proposed by Permit Amendment Application T-9901 is consistent, as conditioned, 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 appropriation (well) shall not exceed the maximum rate and duty allowed under Permit G-14050.
- 2. A. Prior to water use from the proposed point of appropriation, 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.
  - B. 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 aquifer as the original point of appropriation.
- 4. The proposed point of appropriation shall be constructed so as to be continuously cased and sealed from the surface downward to at least five feet within the marine sediments.
- 5. All other terms and conditions of Permit G-14050 remain the same.
- 6. Permit G-14050, in the name of Country View Estates Water System, Donald Harkins, is amended as described herein.

Dated at Salem, Oregon this 29th day of September 2005.

Phillip C. Ward,

Director