

Oregon Water Resources Department
Water Rights Division

Water Rights Application
Number G-16796

Final Order

Appeal Rights

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 137-004-0080 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.

This statement of judicial review rights does not create a right to judicial review of this order, if judicial review is otherwise precluded by law. Where no changes have been made to a Proposed Final Order on a water right application and no protests have been filed during the protest period, the Final Order is not subject to judicial review.

Application History

On February 8, 2007, WILLIAM MARKMAN submitted an application to the Department for a water use permit. The Department issued a Proposed Final Order on September 30, 2008. The protest period closed November 14, 2008, and no protest was filed.

The proposed use would not impair or be detrimental to the public interest, but the Department's continuing evaluation reveals that the Proposed Final Order requires modification to correctly describe ground water conditions, a standard condition, and to omit an unnecessary condition.

The Proposed Final Order described the following condition:

Prior to using water from any well listed on this permit, the permittee shall ensure that the well has been assigned an OWRD Well Identification Number (Well ID). A tag showing the Well ID shall be permanently attached to the well. If a well does not have a Well ID, the permittee shall apply for one from the Department, and attach it to the well within 60 days of the date the permit is issued. The Well ID shall be used as a reference in any correspondence regarding the well, including any reports of water use, water level, or pump test data.

The condition as modified in the attached permit is:

Prior to using water from any well listed on this permit, the permittee shall ensure that the well has been assigned an OWRD Well Identification Number (Well ID tag), which shall be permanently attached to the well. The Well ID shall be used as

a reference in any correspondence regarding the well, including any reports of water use, water level, or pump test data.

The Proposed Final Order described the following condition:

If the riparian area is disturbed in the process of developing a point of diversion, the permittee shall be responsible for restoration and enhancement of such riparian area in accordance with ODFW's Fish and Wildlife Habitat Mitigation Policy OAR 635-415. For purposes of mitigation, the ODFW Fish and Wildlife Habitat Mitigation Goals and Standards, OAR Chapter 635, Division 415, Section 030 adopted November 13, 1991 shall be followed.

The condition as modified in the attached permit is:

If the riparian area is disturbed in the process of developing a point of appropriation, the permittee shall be responsible for restoration and enhancement of such riparian area in accordance with ODFW's Fish and Wildlife Habitat Mitigation Policy OAR 635-415. For purposes of mitigation, the ODFW Fish and Wildlife Habitat Mitigation Goals and Standards, OAR Chapter 635, Division 415, Section 030 adopted November 13, 1991 shall be followed.

The Proposed Final Order described the following condition, which has been omitted in the attached permit due to redundancy.

The use of water shall be limited when it interferes with any prior surface or ground water rights.

The conditions included in the attached permit are:

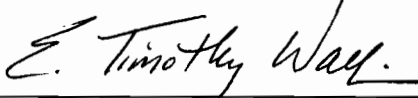
The permittee shall notify the Ground Water Hydrology Section of the Department in Salem or the Watermaster in The Dalles at least five (5) business days prior to beginning construction of each well. The Department may require samples of the materials penetrated during well construction to be collected. When required, the samples shall be collected at ten-foot intervals and at each change in lithology and shall be stored and properly labeled in containers provided by the Department. The Department may collect additional data, such as geophysical or video logs, at any well prior to installation of pumping equipment. The Department shall bear the cost of any such additional data collection.

The wells shall be cased and sealed in such a manner to develop a single basalt aquifer.

Order

Application G-16796 therefore is approved as proposed by the Proposed Final Order, and Permit G-16417 is issued as limited by the conditions proposed by the Proposed Final Order.

DATED December 11, 2008



for Phillip C. Ward, Director
Water Resources Department

This document was prepared by Kerry Kavanagh. If you have any questions about any of the statements contained in this document I am most likely the best person to answer your questions. You can reach me at 503-986-0816.

If you have previously filed a protest and want to know its status, please contact Patricia McCarty at 503-986-0820.

If you have other questions about the Department or any of its programs please contact our Customer Service Group at 503-986-0801.

Address all other correspondence to: Water Rights Section, Oregon Water Resources Department, 725 Summer St NE Ste A, Salem OR 97301-1266, Fax: 503-986-0901.