

**Oregon Water Resources Department  
Water Rights Services Division**

Water Rights Application  
Number G-17448

**Final Order**

*Hearing and Appeal Rights*

Under the provisions of ORS 537.170 and ORS 537.622, the applicant may request a contested case hearing by submitting the information required for a protest under ORS 537.153(6) or ORS 537.621(7) to the Department within 14 days after the date of mailing of this order as shown below. If a contested case hearing is requested, the Department must schedule one. In the contested case hearing, however, only those issues based on the modifications to the Proposed Final Order may be addressed.

ORS 536.075 allows for additional appeal rights for other than contested case. 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 January 12, 2011, Mike Kelley submitted an application to the Department for a water use permit. The Department issued a Proposed Final Order on May 17, 2011. The protest period closed July 1, 2011, 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 (PFO) requires modification to include consideration of the City of Umatilla's municipal wells under OAR 690-507-0070(3)(d)(D).

The well (UMAT 6141) requested under this application is located within a five-mile radius of the City of Hermiston's municipal wells, the City of Stanfield's municipal wells, and the City of Umatilla's municipal wells. Under OAR 690-507-0070(3)(d)(D), ground water use from the basalt reservoir within a five-mile

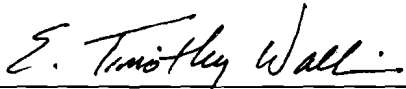
radius around any municipal well of the cities of Hermiston, Stanfield, and Umatilla could be limited to only municipal uses, group domestic uses, or statutorily exempt ground water uses if the City has an approved water management and conservation plan in effect. Other uses may be permitted if it is documented that a barrier to ground water movement separates a proposed well from municipal wells and there will be no interference with municipal wells. The PFO did not address that well UMAT 6141 is within a five-mile radius of the City of Umatilla's municipal wells.

On June 6, 2011, the Department completed a second Public Interest Review of well UMAT 6141 and has determined that there is a documented barrier to ground water movement and there will be no interference between Well UMAT 6141 and the municipal wells of Umatilla; therefore OAR 690-507-0070(3)(d)(D) will not affect this application.

#### Order

Application G-17448 therefore is approved with the above modifications to the Proposed Final Order, and Permit G-16859 is issued as limited by the conditions set forth therein.

**DATED July 21, 2011**



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 questions about how to file a protest or a request for standing, please refer to the section in this Final Order entitled "Hearing and Appeal Rights". 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.*