

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

Water Rights Application
Number S-87758

Superseding 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.

Application History

On September 27, 2011, James L and Donna Abernathy submitted an application to the Department for a water use permit. The Department issued a Proposed Final Order on January 29, 2013. The protest period closed March 15, 2013, and no protest was filed.

On May 10, 2013, the Department issued a Final Order concluding that the proposed use would not impair or be detrimental to the public interest and issued Permit S-54815.

Subsequent to the Final Order, the Department reconsidered the measurement, reporting, and recording conditions.

Findings of Fact

The Department reconsidered the Final Order within the 60-day period specified in OAR 137-004-0080.

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 the measurement, recording, and reporting conditions.

The May 10, 2013 Final Order and Permit S-54815 are superseded by this Superseding Final Order and Permit S-54822 are of no further force or effect.

The measurement, recording, and reporting conditions as modified in the attached permit is as follows:

Measurement, recording and reporting conditions:

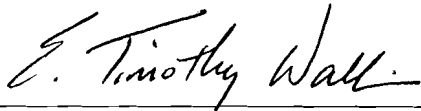
- A. Before water use may begin under this permit, the permittee shall install a totalizing flow meter at each point of diversion. The permittee shall maintain the meter in good working order.
- B. The permittee shall allow the watermaster access to the meter; provided however, where any meter is located within a private structure, the watermaster shall request access upon reasonable notice.
- C. The permittee shall install a lockable control valve with adjustable flow rate on the supply line between the point of diversion and before any use of water from the delivery system.
- D. The Director may require the permittee to keep and maintain a record of the amount (volume) of water diverted, and may require the permittee to report water use on a periodic schedule as established by the Director. In addition, the Director may require the permittee to report general water-use information, the periods of water use and the place and nature of use of water under the permit.
- E. The Director may provide an opportunity for the permittee to submit alternative measuring and reporting procedures for review and approval.

Order

This Order and Permit S-54822 supersede the May 10, 2013 Final Order for Application S-87758 and Permit S-54815, which are of no further force or effect.

Application S-87758 therefore is approved with the above modifications to the Proposed Final Order, and Permit S-54822 is issued as limited by the conditions set forth therein.

DATED July 9, 2013



E. Timothy Wallin, Water Rights Program Manager
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.