

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

Water Rights Application  
Number G-17634

**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 March 7, 2013, Jim O'Connell and Capri Walla Walla submitted an application to the Department for a water use permit.

The Department issued a Proposed Final Order on July 30, 2013. The Department received a timely protest from Sam Hobson and NF Land LLC on September 13, 2013. The protest indicated that the approval of Application G-17634 may impair NF Land LLC's ability to develop any permit issued for Application G-17604.

On January 17, 2014, the Department notified Jim O'Connell and Capri Walla Walla, and Sam Hobson and NF Land LLC, that the protest did not provide a preponderance of evidence that a specific aspect of the public safety, welfare and health under ORS 537.525 would be impaired or detrimentally affected and specifically how. Therefore, the Department did not find that the public interest presumption afforded a proposed ground water use is overcome. In addition, the Director found that the protest did not raise a significant dispute for which referral for a contested case hearing was necessary.

The Department discovered that the July 30, 2013, Proposed Final Order erroneously allowed a period of use of March 1 through November 30. The period of use is limited to March 1 through October 31.

On March 10, 2014, the applicant amended the application by removing Well 1 (UMAT 57059/L95327), and proposing a new well. The Department has added the following conditions:

The well shall be continuously cased and continuously sealed to a minimum depth of 230 feet.

Well UMAT 57059 (L95327) shall be abandoned at the time the well authorized under this permit is constructed to prevent borehole flow.

Well UMAT 4042 shall either be abandoned or the casing extended to at least 1.0 foot above land surface (finished grade).

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 period of use, and address the March 10, 2014 amendment.

#### Order

Application G-17634 therefore is approved with the above modifications to the Proposed Final Order, and Permit G-17135 is issued as limited by the conditions set forth therein.

**DATED April 3, 2014**



E. Timothy Wallin, Water Rights Program Manager  
for Phillip C. Ward, Director  
Water Resources Department

*This document was prepared by Mary Rohling. 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 503-986-0859.*

*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.*