

**BEFORE THE WATER RESOURCES DEPARTMENT  
OF THE STATE OF OREGON**

In the Matter of Water Right Application        )           ORDER ON RECONSIDERATION  
S-88429 in the name of DAVID                    )  
BERNERT, Clackamas County                     )

**Authority**

Pursuant to OAR 137-004-0080(5), within 60 calendar days after the date of the order, the agency may, on its own initiative, reconsider the final order.

**Findings of Fact**

1. On February 2, 2018 the Department issued a final order approving Water Right Application S-88429 and Permit S-55111.
2. The Department has determined that the final order and Permit S-55111 was issued prior to the end of the comment period and contains errors. The order is reconsidered pursuant to the authority in OAR 137-004-0080(5).
3. Permit S-55111 was issued for “nursery use (irrigation and agriculture)” with a period of use of January 1 through December 31.
4. The source of water is stored water contracted from the Bureau of Reclamation. The contract limits the use to “irrigation” and the period of use to March 1<sup>st</sup> through October 31<sup>st</sup>.
5. Permit S-55123 is issued to correct the above errors.

**APPEAL RIGHTS**

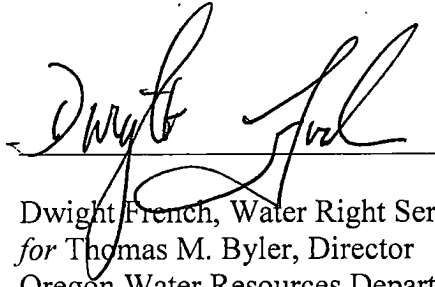
**Appeal to a circuit court:** This is a final order in other than a contested case. Any party affected by a final order in other than a contested case issued by the Water Resources Commission or Water Resources Department may appeal the order to the appropriate circuit court (ORS 536.075). A petition for judicial review must be filed within the 60-day time period specified by ORS 183.484 (2).

**Petition to the Department for Reconsideration of the Final Order:** A person entitled to judicial review of this order may also file a petition for the Department’s reconsideration of the order. The petition for reconsideration must be filed with the Department within 60 calendar days after the date of the order. A copy of the petition must also be delivered or mailed to all other persons and agencies requiring notification under statute or rule (OAR 137-004-0080). The petition must set forth the specific grounds for reconsideration, and may be supported by a written argument. The petition may include a request for a stay of the order if the petition complies with the requirements of OAR 137-003-0090 (2). The Department may grant or deny the petition by summary order. If the Department takes no action, the petition is deemed denied as provided by ORS 183.484 (2). A final order remains in effect during reconsideration until stayed or changed. Following reconsideration, the agency must enter a new order, which may be an order affirming the existing order (OAR 137-004-0080). Reconsideration cannot be granted after the filing of a petition for judicial review, unless permitted by the court (OAR 137-004-0080 (6)).

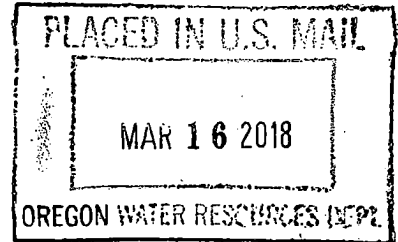
**Now Therefore, it is Ordered:**

Permit S-55111 is cancelled and is of no further force or effect and is replaced with Permit S-55123.

Dated at Salem, Oregon on March 15 2018.



Dwight French, Water Right Services Division Administrator  
for Thomas M. Byler, Director  
Oregon Water Resources Department



This order was produced by Scott Grew. If you have any questions about any of the statements contained in this document, he can be reached at 503-986-0899 or [scott.a.grew@oregon.gov](mailto:scott.a.grew@oregon.gov).

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, Suite A, Salem OR 97301-1266, Fax: 503-986-0901.