

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

In the Matter of the Reconsideration of the)
Final Order on Application R-87930 and) ORDER ON RECONSIDERATION
Permit R-15228)
)
WaterWatch of Oregon, Inc., Petitioner)

A. Findings of Fact

1. On September 14, 2017, the Department issued a Final Order approving Water Right Application R-87930 and issuing Permit R-15228.
2. On November 13, 2017, WaterWatch of Oregon, Inc. filed a Petition for Reconsideration and Request for Stay for Application R-87930 (Permit R-15228), and Application R-87932 (Permit R-15230).
3. The Petition for Reconsideration and Request for Stay of Orders contained the information required by OAR 137-004-0080 and OAR 137-004-0090.
4. On November 22, 2017, the applicant, Sunny Valley Sand and Gravel, Inc., submitted a written response to the petition and request for stay.
5. On December 13, 2017, the Department issued an Order on Petition for Reconsideration and Request for Stay, denying the request for a stay of the order and granting reconsideration of the order.
6. The record for R-87930 contains two documents which amend and modify the application. The first, submitted on February 5, 2014, by Skookum Water Associates, Inc. (Skookum) on behalf of the applicant, provides additional details on the intended reservoir construction. It states that “the reservoirs will be excavated about 5 feet into the subsurface and have a 5-foot-tall berm on the downslope side as [indicated on included drawings].” “Information collected from site subsurface explorations by others indicates the bottom portion of each reservoir may be excavated several feet into the uppermost groundwater unit. The amount each reservoir will extend into groundwater will depend on the local ground surface elevation and the season; however each reservoir will have a clay or synthetic liner to limit seepage from the reservoir as further discussed in this letter and to limit groundwater infiltration into the reservoirs.”

“The proposed designs provide that each reservoir will have a permanent clay or synthetic liner to limit seepage losses to the subsurface. The liner is critical because without it, the diverted water would drain into the shallow aquifer and be lost from use whenever the reservoir level is higher than the groundwater surface. Conversely, the liner will limit groundwater from infiltrating into the reservoirs when the groundwater surface is higher than the bottom of the reservoir, thereby protecting against capturing groundwater likely to be in hydraulic connection with surface water.” (*See*, Letter from Skookum, “Addition Reservoir Construction Details, February 5, 2014.”)

The second, submitted on October 14, 2015 by Shannon and Wilson, Inc. (S&W) on behalf of the applicant, also provides additional detail on the intended reservoir construction. This document specifies different reservoir construction detail and rationale. In contrast to the Skookum document, the S&W document does not mention a “permanent clay or synthetic liner” but rather asserts “[p]reventing groundwater infiltration into the reservoir is assured during the winter months by impounded water creating a downward hydraulic gradient during the wet winter/spring season. When the reservoirs are empty, the subgrade remains above fluctuating groundwater levels, preventing infiltration” and “[t]he reservoir floor (subgrade) will include a densely compacted 2-foot layer of select fine-grained soil.” (See, Letter from Shannon and Wilson, Inc., “Conceptual Design Guidance Storage Reservoirs 2 and 4”)

7. Permit R-15228 contains the following condition: “Reservoir shall be constructed to have a minimum bottom elevation above the water table seasonal high.”
8. Water is available from Grave Creek only January 1 through March 31. If the reservoir was constructed in such a manner that groundwater infiltrated into the reservoir during the period April 1 through December 31, the volume of water in Grave Creek would be diminished in those months.
9. To ensure that groundwater does not infiltrate into the reservoir the Department finds that it is necessary that the reservoir be lined to prevent the intrusion of groundwater at all times.
10. The reservoir permit will contain the following conditions:

“The permit holder shall install a liner in the reservoir sufficient to prevent the intrusion of groundwater at all times. The liner shall be in place prior to the diversion of water from Grave Creek and storage of water in the reservoir. The liner shall be maintained to prevent the intrusion of groundwater at all times.”

“Prior to the use of water from the reservoir the permit holder must demonstrate to the satisfaction of the watermaster that the liner is effective in preventing the intrusion of groundwater.”
11. Condition A, of the Measurement Devices and Recording/Reporting of Annual Water Use Conditions will be modified to read:
 - a. “Before water use may begin under this permit, the permittee shall install a totalizing flow meter within 50 feet of the point of diversion. The permittee shall maintain the device in good working order.”

B. Conclusions of Law

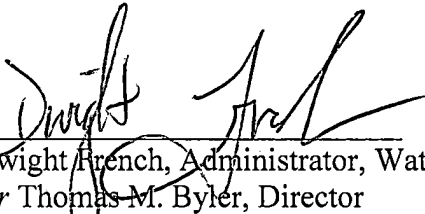
1. As conditioned, water is available for the proposed use in the time period requested, January 1 through March 31.
2. As conditioned the proposed use will not injure existing water rights, or pose a significant detrimental impact to existing fishery resources.

ORDER

Now, therefore, it is ORDERED:

The Final Order approving Application R-87930 is affirmed with the modifications herein, permit R-15228 is of no further force or effect, and superseded by permit R-15320 issued as modified with the additional conditions herein.

Dated at Salem, Oregon on March 22, 2018.


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

Mailing date: **MAR 27 2018**