Oregon Water Resources Department Water Right Services Division

Water Right Application G-18608 in the)	
name of AVION WATER CO. INC.)	FINAL ORDER
)	

Summary: Order approving Application G-18608 and issuing Permit G-18198.

Authority

The application was processed in accordance with Oregon Revised Statute (ORS) 537.615 through 537.628, and 390.826, and Oregon Administrative Rule (OAR) Chapter 690, Divisions 5, 8, 9, 33, 300, 310, 400, 410 and the Deschutes Basin 690-505. These statutes and rules can be viewed on the Oregon Water Resources Department's website: http://www.oregon.gov/owrd/pages/law/index.aspx.

The Department's main page is http://www.oregon.gov/OWRD/pages/index.aspx.

This Final Order is issued pursuant to ORS 537.625 and OAR 690-310-0200.

FINDINGS OF FACT

- 1. On February 12, 2018, Avion Water Co. Inc. submitted an application to the Department for a water use permit.
- 2. The Department issued a Proposed Final Order on January 22, 2019. The protest period closed March 8, 2019, and no protest was filed.
- 3. After further review, the Department discovered that Finding of Fact #13 in the Proposed Final Order erroneously identified Whychus Creek as the source with which the proposed use will have the potential for substantial interference. This Finding of Fact shall be corrected as follows:

The proposed use will have the potential for substantial interference with the Deschutes River (OAR 690-009). The Division 9 (Groundwater Interference with Surface Water) review is in the file and can be viewed on the Department's website. ORS 537.621(3)(b); OAR 690-009-0040(4).

NOTICE OF RIGHT TO PETITION FOR RECONSIDERATION OR JUDICIAL REVIEW

This is a Final Order in other than contested case. This order is subject to judicial review under ORS 536.075 and 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 OAR 137-004-0080 you may 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.

HEARING 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. Only the applicant or protestant may appeal this order. (ORS 537.170(7)(b).

- 4. The findings of fact in the Proposed Final Order are incorporated herein, with the aforementioned modification.
- 5. The applicant submitted documentary evidence that the first increment of 24.16 acre-feet of mitigation water has been obtained with in the General Zone of Impact, being 24.16 mitigation credits from mitigation project MP-114. Therefore the Department finds the first increment of mitigation has been provided.

CONCLUSIONS OF LAW

- 1. The conclusions of law in the Proposed Final Order issued January 22, 2019 are incorporated herein, with the above modifications.
- 2. The proposed use, as conditioned, will ensure the preservation of the public welfare, safety and health.

NOTE: When issuing permits, ORS 537.628(1) authorizes the Department to include limitations and conditions which have been determined necessary to protect the public welfare, safety, and health.

<u>ORDER</u>

Application G-18608 is approved and Permit G-18198 is issued.

DATED/ April 18th, 2019

Dwight French

Water Right Services Division Administrator, for

Thomas M. Byler, Director

Oregon Water Resources Department

- If you have any questions about statements contained in this document, please contact Lisa Graham at Elisabeth.A.Graham@oregon.gov or 503-986-0808.
- If you have other questions about the Department or any of its programs, please contact our Water Resources Customer Service Group at 503-986-0900.