

STATE OF OREGON

COUNTY OF KLAMATH

PERMIT TO APPROPRIATE THE PUBLIC WATERS

THIS PERMIT IS HEREBY ISSUED TO

KENNEDY LAND CO. LLC  
WILLIAM D. KENNEDY  
25400 N POE VALLEY ROAD  
KLAMATH FALLS, OREGON 97603

(541) 884-7963

The specific limits and conditions of the use are listed below.

APPLICATION FILE NUMBER: G-15087

SOURCE OF WATER: THREE WELLS IN CABIN CREEK BASIN

PURPOSE OR USE: IRRIGATION OF 678.8 ACRES, SUPPLEMENTAL IRRIGATION OF 218.0 ACRES, AND SUPPLEMENTAL IRRIGATION TO MAKE UP A DEFICIENCY IN RATE FOR 199.2 ACRES

MAXIMUM RATE: NOT TO EXCEED A MAXIMUM CUMULATIVE TOTAL OF 11.94 CUBIC FEET PER SECOND (CFS), BEING 4.4 CFS FROM EACH WELL, FURTHER LIMITED TO 8.48 CFS FOR IRRIGATION, 2.72 CFS FOR SUPPLEMENTAL IRRIGATION, AND 0.74 CFS FOR SUPPLEMENTAL IRRIGATION TO MAKE UP A DEFICIENCY IN RATE

PERIOD OF USE: MARCH 1 THROUGH OCTOBER 31 FOR IRRIGATION AND MARCH 15 THROUGH SEPTEMBER 30 FOR SUPPLEMENTAL IRRIGATION

DATE OF PRIORITY: FEBRUARY 4, 2000

WELL LOCATIONS:

WELL #1: NE 1/4 SE 1/4, SECTION 25, T37S, R9E, W.M.; 2465 FEET NORTH & 120 FEET WEST FROM THE SE CORNER OF SECTION 25

WELL #2: NE 1/4 SE 1/4, SECTION 25, T37S, R9E, W.M.; 2000 FEET NORTH & 120 FEET WEST FROM THE SE CORNER OF SECTION 25

WELL #3: NE 1/4 SE 1/4, SECTION 25, T37S, R9E, W.M.; 1480 FEET NORTH & 120 FEET WEST FROM THE SE CORNER OF SECTION 25

The amount of water used for irrigation under this right, together with the amount secured under any other right existing for the same lands, is limited to a diversion of ONE-EIGHTIETH of one cubic foot per second (or its equivalent) and 3.0 acre-feet for each acre

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irrigated during the irrigation season of each year.

THE PLACE OF USE IS LOCATED AS FOLLOWS:

	<u>PRIMARY</u>	<u>SUPPLEMENTAL</u>	<u>SUPPLEMENTAL FOR DEFICIENCY IN RATE</u>
SE 1/4 NE 1/4	6.0 ACRES		
NE 1/4 SE 1/4	7.0 ACRES		8.0 ACRES
SE 1/4 SE 1/4	4.2 ACRES		2.8 ACRES

## SECTION 36

TOWNSHIP 37 SOUTH, RANGE 9 EAST, W.M.

SW 1/4 SW 1/4	25.0 ACRES	9.0 ACRES	
SE 1/4 SW 1/4	36.0 ACRES	4.0 ACRES	
SW 1/4 SE 1/4	25.0 ACRES	15.0 ACRES	
SE 1/4 SE 1/4	40.0 ACRES		

## SECTION 30

NE 1/4 NE 1/4	40.0 ACRES		
NW 1/4 NE 1/4	2.0 ACRES	38.0 ACRES	
SW 1/4 NE 1/4	31.0 ACRES	9.0 ACRES	
SE 1/4 NE 1/4	40.0 ACRES		
NE 1/4 NW 1/4	2.0 ACRES	38.0 ACRES	
NW 1/4 NW 1/4	29.0 ACRES	2.0 ACRES	
SW 1/4 NW 1/4	5.2 ACRES		34.8 ACRES
SE 1/4 NW 1/4		13.0 ACRES	27.0 ACRES
NE 1/4 SW 1/4	9.0 ACRES	9.0 ACRES	22.0 ACRES
NW 1/4 SW 1/4	1.0 ACRES		39.0 ACRES
SW 1/4 SW 1/4	3.4 ACRES		35.6 ACRES
SE 1/4 SW 1/4	2.0 ACRES	8.0 ACRES	30.0 ACRES
NE 1/4 SE 1/4	22.0 ACRES	18.0 ACRES	
NW 1/4 SE 1/4	25.0 ACRES	15.0 ACRES	
SW 1/4 SE 1/4	11.0 ACRES	29.0 ACRES	
SE 1/4 SE 1/4	39.0 ACRES	1.0 ACRES	

## SECTION 31

TOWNSHIP 37 SOUTH, RANGE 10 EAST, W.M.

NE 1/4 NE 1/4	40.0 ACRES		
NW 1/4 NE 1/4	30.0 ACRES	10.0 ACRES	
SW 1/4 NE 1/4	40.0 ACRES		
SE 1/4 NE 1/4	40.0 ACRES		
NE 1/4 NW 1/4	35.0 ACRES		
NW 1/4 NW 1/4	6.0 ACRES		
SE 1/4 NW 1/4	9.0 ACRES		
NE 1/4 SE 1/4	40.0 ACRES		
NW 1/4 SE 1/4	30.0 ACRES		

SW 1/4 SE 1/4 1.0 ACRES  
 SE 1/4 SE 1/4 3.0 ACRES

## SECTION 6

TOWNSHIP 38 SOUTH, RANGE 10 EAST, W.M.

## Measurement, recording and reporting conditions:

- A. Before water use may begin under this permit, the permittee shall install a meter or other suitable measuring device as approved by the Director. The permittee shall maintain the meter or measuring device in good working order, shall keep a complete record of the amount of water used each month and shall submit a report which includes the recorded water use measurements to the Department annually or more frequently as may be required by the Director. Further, the Director may require the permittee to report general water use information, including the place and nature of use of water under the permit.
- B. The permittee shall allow the watermaster access to the meter or measuring device; provided however, where the meter or measuring device is located within a private structure, the watermaster shall request access upon reasonable notice.

If substantial interference with a senior water right occurs due to withdrawal of water from any well listed on this permit, then use of water from the well(s) shall be discontinued or reduced and/or the schedule of withdrawal shall be regulated until or unless the Department approves or implements an alternative administrative action to mitigate the interference. The Department encourages junior and senior appropriators to jointly develop plans to mitigate interferences.

To monitor the effect of water use from the well(s) authorized under this permit, the Department requires the water user to make and report annual static water level measurements. The static water level shall be measured in the month of March. Reports shall be submitted to the Department within 30 days of measurement.

Measurements must be made according to the following schedule:

**Before Use of Water Takes Place**Initial and Annual Measurements

The Department requires the permittee to submit an initial water level measurement in the month specified above once well construction is complete and annually thereafter until use of water begins; and

**After Use of Water has Begun****Seven Consecutive Annual Measurements**

Following the first year of water use, the user shall submit seven consecutive annual reports of static water level measurements. The first of these seven annual measurements will establish the reference level against which future annual measurements will be compared. Based on an analysis of the data collected, the Director may require that the user obtain and report additional annual static water level measurements beyond the seven year minimum reporting period. The additional measurements may be required in a different month. If the measurement requirement is stopped, the Director may restart it at any time.

All measurements shall be made by a certified water rights examiner, registered professional geologist, registered professional engineer, licensed well constructor or pump installer licensed by the Construction Contractors Board and be submitted to the Department on forms provided by the Department. The Department requires the individual performing the measurement to:

- (A) Identify each well with its associated measurement; and
- (B) Measure and report water levels to the nearest tenth of a foot as depth-to-water below ground surface; and
- (C) Specify the method used to obtain each well measurement; and
- (D) Certify the accuracy of all measurements and calculations submitted to the Department.

The water user shall discontinue use of, or reduce the rate or volume of withdrawal from, the well(s) if annual water level measurements reveal any of the following events:

- (A) An average water level decline of three or more feet per year for five consecutive years; or
- (B) A water level decline of 15 or more feet in fewer than five consecutive years; or
- (C) A water level decline of 25 or more feet; or
- (D) Hydraulic interference leading to a decline of 25 or more feet in any neighboring well with senior priority.

The period of non or restricted use shall continue until the annual water level rises above the decline level which triggered the action or until the Department determines, based on the permittee's and/or the Department's data and analysis, that no action is necessary because the aquifer in question can sustain the observed declines without adversely impacting the resource or senior water rights. The water user shall in no instance allow excessive decline, as defined in Commission rules, to occur within the aquifer as a result of use under this permit. If more than one well is involved, the water user may

submit an alternative measurement and reporting plan for review and approval by the Department.

#### STANDARD CONDITIONS

The wells shall be constructed in accordance with the General Standards for the Construction and Maintenance of Water Wells in Oregon. The works shall be equipped with a usable access port, and may also include an air line and pressure gauge adequate to determine water level elevation in the well at all times.

The use shall conform to such reasonable rotation system as may be ordered by the proper state officer.

Prior to receiving a certificate of water right, the permit holder shall submit the results of a pump test meeting the department's standards, to the Water Resources Department. The Director may require water level or pump test results every ten years thereafter.

Failure to comply with any of the provisions of this permit may result in action including, but not limited to, restrictions on the use, civil penalties, or cancellation of the permit.

This permit is for the beneficial use of water without waste. The water user is advised that new regulations may require the use of best practical technologies or conservation practices to achieve this end.

By law, the land use associated with this water use must be in compliance with statewide land-use goals and any local acknowledged land-use plan.

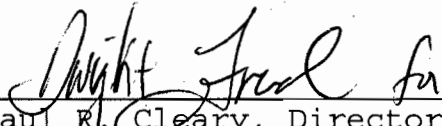
The use of water shall be limited when it interferes with any prior surface or ground water rights.

The Director finds that the proposed use(s) of water described by this permit, as conditioned, will not impair or be detrimental to the public interest.

Complete application of the water to the use shall be made on or before October 1, 2006. If the water is not completely applied before this date, and the permittee wishes to continue development under the permit, the permittee must submit an application for extension of time, which may be approved based upon the merit of the application.

Within one year after complete application of water to the proposed use, the permittee shall submit a claim of beneficial use, which includes a map and report, prepared by a Certified Water Rights Examiner (CWRE).

Issued April 16<sup>th</sup>, 2002

  
Paul R. Cleary, Director  
Water Resources Department

NOTE: Pursuant to ORS 537.330, in any transaction for the conveyance of real estate that includes any portion of the lands described in this permit, the seller of the real estate shall, upon accepting an offer to purchase that real estate, also inform the purchaser in writing whether any permit, transfer approval order, or certificate evidencing the water right is available and that the seller will deliver any permit, transfer approval order or certificate to the purchaser at closing, if the permit, transfer approval order or certificate is available.