

STATE OF OREGON

COUNTY OF UMATILLA

PERMIT TO APPROPRIATE THE PUBLIC WATERS

THIS PERMIT IS HEREBY ISSUED TO

DAVIS ORCHARD AND PACKING CO.; TODD DAVIS
84395 WINESAP RD
MILTON FREEWATER, OREGON 97862

(541) 938-4206

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

APPLICATION FILE NUMBER: G-15721

SOURCE OF WATER: A WELL IN WEST LITTLE WALLA WALLA RIVER BASIN

PURPOSE OR USE: SUPPLEMENTAL IRRIGATION AND TEMPERATURE CONTROL OF
182.8 ACRES

MAXIMUM RATE: 5.0 CUBIC FEET PER SECOND, BEING NO MORE THAN 4.57
CFS FOR SUPPLEMENTAL IRRIGATION OF 182.8 ACRES AND NO MORE THAN 5.0
CFS FOR TEMPERATURE CONTROL ON 182.8 ACRES

PERIOD OF USE: MARCH 1 THROUGH OCTOBER 31

DATE OF PRIORITY: MARCH 8, 2002

WELL LOCATION: SE $\frac{1}{4}$ NW $\frac{1}{4}$, SECTION 26, T6N, R35E, W.M.; 875 FEET
NORTH & 340 FEET WEST FROM C1/4 CORNER, SECTION 26

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-FORTIETH of one cubic foot
per second (or its equivalent) and 4.5 acre-feet for each acre
irrigated during the irrigation season of each year.

THE PLACE OF USE IS LOCATED AS FOLLOWS:

NE $\frac{1}{4}$ NW $\frac{1}{4}$ 20.0 ACRES
NW $\frac{1}{4}$ NW $\frac{1}{4}$ 29.0 ACRES
SW $\frac{1}{4}$ NW $\frac{1}{4}$ 38.5 ACRES
SE $\frac{1}{4}$ NW $\frac{1}{4}$ 38.5 ACRES
NE $\frac{1}{4}$ SW $\frac{1}{4}$ 8.8 ACRES
NW $\frac{1}{4}$ SW $\frac{1}{4}$ 11.5 ACRES
SECTION 26

NE ¼ SE ¼ 36.5 ACRES
SECTION 27
TOWNSHIP 6 NORTH, RANGE 35 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.

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

Reference Water Level Determination

Following the first year of water use, the user shall submit one static water level measurement in the month specified above which will establish the reference level against which future annual measurements will be compared. The water user is not required to measure additional water levels after the reference level has been

determined unless required by the Director. 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.

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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:

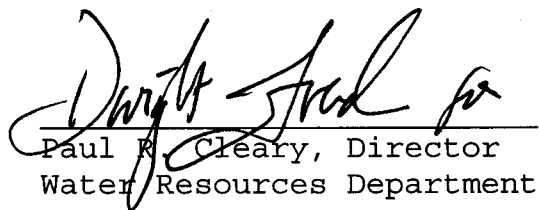
- (A) An average water level decline of three or more feet per year for five consecutive years; or
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Complete application of the water to the use shall be made on or before October 1, 2007. If the water is not completely applied before this date, and 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 November 29, 2002


Paul R. Cleary, Director
Water Resources Department

REAL ESTATE TRANSACTIONS: 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.

CULTURAL RESOURCES PROTECTION LAWS: Permittees involved in ground-disturbing activities should be aware of federal and state cultural resources protection laws. ORS 358.920 prohibits the excavation, injury, destruction or alteration of an archeological site or object, or removal of archeological objects from public and private lands without an archeological permit issued by the State Historic Preservation Office. 16 USC 470, Section 106, National Historic Preservation Act of 1966 requires a federal agency, prior to any undertaking to take into account the effect of the undertaking that is included on or eligible for inclusion in the National Register. For further information, contact the State Historic Preservation Office at 503-378-4168, extension 232.