

STATE OF OREGON

COUNTY OF BAKER

PERMIT TO APPROPRIATE THE PUBLIC WATERS

THIS PERMIT IS HEREBY ISSUED TO

KERNS RAINBOW RANCH INC.
JANICE L. KERNS
45917 QUAIL ROAD
HAINES, OREGON 97833

(541) 856-3449

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

APPLICATION FILE NUMBER: G-14984

SOURCE OF WATER: FOUR WELLS IN WILLOW CREEK BASIN

PURPOSE OR USE: IRRIGATION OF 22.4 ACRES AND SUPPLEMENTAL IRRIGATION OF 572.5 ACRES

MAXIMUM RATE: 7.46 CUBIC FEET PER SECOND (CFS), BEING 0.28 CFS FOR IRRIGATION AND 7.18 CFS FOR SUPPLEMENTAL IRRIGATION

PERIOD OF USE: MARCH 1 THROUGH OCTOBER 31

DATE OF PRIORITY: MAY 13, 1999

POINT OF DIVERSION LOCATION: NE 1/4 NE 1/4, SECTION 12, T8S, R38E, W.M.; SW 1/4 SW 1/4, SECTION 6, NE 1/4 NE 1/4, NE 1/4 NW 1/4, SECTION 7, T8S, R39E, W.M.; WELL 2 - 10 FEET SOUTH AND 450 FEET WEST FROM THE NE CORNER SECTION 12, T8S, R38E, W.M.; WELL 3 - 1120 FEET NORTH AND 50 FEET EAST FROM THE SW CORNER SECTION 6; WELL 4 - 1000 FEET SOUTH AND 1315 FEET WEST FROM THE NE CORNER SECTION 7; WELL 1 - 1300 FEET SOUTH & 30 FEET WEST FROM N1/4 CORNER, SECTION 7, T8S, R39E, W.M.

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 irrigated during the irrigation season of each year.

THE PLACE OF USE IS LOCATED AS FOLLOWS:

	<u>PRIMARY</u>	<u>SUPPLEMENTAL</u>
SW 1/4 NW 1/4		6.7 ACRES
SW 1/4 SW 1/4		0.5 ACRES
SE 1/4 SW 1/4		1.6 ACRES

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SW 1/4 SE 1/4	4.9 ACRES
SE 1/4 SE 1/4	35.0 ACRES

SECTION 1

NE 1/4 NE 1/4	12.0 ACRES
NW 1/4 NE 1/4	5.0 ACRES
NE 1/4 SE 1/4	1.7 ACRES
NW 1/4 SE 1/4	5.0 ACRES
SE 1/4 SE 1/4	10.0 ACRES

SECTION 2

NE 1/4 NE 1/4	11.0 ACRES
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SECTION 11

NE 1/4 NE 1/4	29.9 ACRES
SE 1/4 NE 1/4	17.0 ACRES
NW 1/4 NW 1/4	2.0 ACRES
SE 1/4 NW 1/4	1.0 ACRES
NE 1/4 SW 1/4	31.0 ACRES
NW 1/4 SW 1/4	4.0 ACRES
NW 1/4 SE 1/4	18.0 ACRES
SW 1/4 SE 1/4	5.0 ACRES
	30.0 ACRES

SECTION 12

NW 1/4 NE 1/4	5.0 ACRES	30.0 ACRES
SW 1/4 NE 1/4		25.0 ACRES
SE 1/4 NW 1/4		4.0 ACRES
NE 1/4 SE 1/4		30.0 ACRES
NW 1/4 SE 1/4		4.0 ACRES
SW 1/4 SE 1/4		0.4 ACRES
SE 1/4 SE 1/4		25.0 ACRES

SECTION 13

NE 1/4 NE 1/4	20.0 ACRES
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SECTION 24

TOWNSHIP 8 SOUTH, RANGE 38 EAST, W.M.

SW 1/4 SW 1/4	8.1 ACRES
SE 1/4 SW 1/4	9.0 ACRES

SECTION 6

NE 1/4 NE 1/4	5.0 ACRES
NW 1/4 NW 1/4	3.4 ACRES
	17.6 ACRES

SECTION 7

SW 1/4 NW 1/4	9.0 ACRES	
SE 1/4 NW 1/4		7.0 ACRES
NE 1/4 SW 1/4		7.0 ACRES
NW 1/4 SW 1/4		10.0 ACRES
SW 1/4 SW 1/4		40.0 ACRES
SE 1/4 SW 1/4		35.0 ACRES
NW 1/4 SE 1/4		16.0 ACRES

SECTION 18

NE 1/4 NW 1/4		20.0 ACRES
NW 1/4 NW 1/4		35.0 ACRES

SECTION 19

TOWNSHIP 8 SOUTH, RANGE 39 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.

This right is limited to any deficiency in the available supply of any prior right existing for the same land.

In the event of a request for a change in point of appropriation, an additional point of appropriation or alteration of the appropriation facility associated with this authorized diversion, the quantity of water allowed herein, together with any other right, shall not exceed the capacity of the facility at the time of perfection of this right.

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.

Actual construction of the well shall begin by July 28, 2001. Complete application of the water to the use shall be made on or before October 1, 2004. 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).

This permit is issued to correctly describe the point of appropriation for a well located in the NE 1/4 NE 1/4, Section 12, T8S, R38E, W.M. Permit G-13855, dated November 9, 2000 is superseded by this instrument and is of no further force or effect.

Issued August 21, 2003


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.

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Basin 9
AMH

Water Resources Department
Volume 1 WILLOW CR & MISC
MGMT.CODES 7BG 7BR 7CG 7CR

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District 8