

STATE OF OREGON

COUNTY OF MALHEUR

PERMIT TO APPROPRIATE THE PUBLIC WATERS

THIS PERMIT IS HEREBY ISSUED TO

TRIANGLE XLS  
6497 HWY 44  
STAR, ID 83669

208-286-7343

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

APPLICATION FILE NUMBER: G-16613

SOURCE OF WATER: WELL 1, WELL 2, WELL 3, WELL 4 AND WELL 5, ALL IN  
LOCKET GULCH BASIN

PURPOSE OR USE: INDUSTRIAL USE (COMMERCIAL USE INCLUDING DUST CONTROL ON  
85.0 ACRES IN A STOCKYARD); LIVESTOCK WATERING

MAXIMUM RATE: NOT TO EXCEED 1.89 CUBIC FEET PER SECOND (CFS), BEING 1.78  
CFS FOR INDUSTRIAL USE AND 0.89 CFS FOR LIVESTOCK WATERING

PERIOD OF USE: YEAR ROUND

DATE OF PRIORITY: MARCH 21, 2006

WELL LOCATIONS:

WELL #1: NE  $\frac{1}{4}$  NW  $\frac{1}{4}$ , SECTION 28, T19S, R46E, W.M.;  
SOUTH 85 DEGREES 52 MINUTES WEST, 3386 FEET FROM NE  
CORNER, SECTION 28

WELL #2: NE  $\frac{1}{4}$  NW  $\frac{1}{4}$ , SECTION 28, T19S, R46E, W.M.;  
SOUTH 85 DEGREES 1 MINUTE WEST, 2724 FEET FROM NE  
CORNER, SECTION 28

WELL #3: NW  $\frac{1}{4}$  NE  $\frac{1}{4}$ , SECTION 28, T19S, R46E, W.M.;  
SOUTH 83 DEGREES 31 MINUTES WEST, 2158 FEET FROM NE  
CORNER, SECTION 28

WELL #4: SW  $\frac{1}{4}$  NE  $\frac{1}{4}$ , SECTION 28, T19S, R46E, W.M.;  
SOUTH 38 DEGREES 51 MINUTES WEST, 3186 FEET FROM NE  
CORNER, SECTION 28

WELL #5: SW  $\frac{1}{4}$  NE  $\frac{1}{4}$ , SECTION 28, T19S, R46E, W.M.;  
SOUTH 35 DEGREES 55 MINUTES WEST, 2947 FEET FROM NE  
CORNER, SECTION 28

THE PLACE OF USE IS LOCATED AS FOLLOWS:

NW ¼ NE ¼ 26.0 ACRES INDUSTRIAL AND LIVESTOCK  
SW ¼ NE ¼ 13.0 ACRES INDUSTRIAL AND LIVESTOCK  
NE ¼ NW ¼ 38.0 ACRES INDUSTRIAL AND LIVESTOCK  
SE ¼ NW ¼ 8.0 ACRES INDUSTRIAL AND LIVESTOCK

SECTION 28

TOWNSHIP 19 SOUTH, RANGE 46 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 on each well, as approved by the Director. The permittee shall maintain the meters or measuring devices 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 meters or measuring devices; provided however, where the meters or measuring devices are located within a private structure, the watermaster shall request access upon reasonable notice.

The water user shall develop a plan to monitor and report the impact of water use under this permit on water levels within the aquifer that provides water to the permitted well(s). The plan shall be submitted to the Department within one year of the date the permit is issued and shall be subject to the approval of the Department. At a minimum, the plan shall include a program to periodically measure static water levels within the permitted well(s) or an adequate substitute such as water levels in nearby wells. The plan shall also stipulate a reference water level against which any water-level declines will be compared. If a well listed on this permit (or replacement well) displays a total static water-level decline of 25 or more feet over any period of years, as compared to the reference level, then the water user shall discontinue use of, or reduce the rate or volume of withdrawal from, the well(s). Such action shall be taken until the water level recovers to above the 25-foot decline level or until the Department determines, based on the water user'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.

**STANDARD CONDITIONS**

If the number, location, source, or construction of any well deviates from that proposed in the permit application or required by permit conditions, this permit may not be valid, unless the Department authorizes the change in writing.

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.

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.

Where two or more water users agree among themselves as to the manner of rotation in the use of water and such agreement is placed in writing and filed by such water users with the watermaster, and such rotation system does not infringe upon such prior rights of any water user not a party to such rotation plan, the watermaster shall distribute the water according to such agreement.

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.

Completion of construction and complete application of the water to the use shall be made on or before October 1, 2011. 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 December 14, 2006



Phillip C. Ward, Director *for*  
Water Resources Department