

STATE OF OREGON

COUNTY OF HARNEY

PERMIT TO APPROPRIATE THE PUBLIC WATERS

THIS PERMIT IS HEREBY ISSUED TO

RATTLESNAKE CREEK LAND AND CATTLE CO., LLC.  
PO BOX 946  
BURNS, OR 97720

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

APPLICATION FILE NUMBER: G-16460

SOURCE OF WATER: WELL 1 AND WELL 2 IN HARNEY LAKE BASIN

PURPOSE OR USE: IRRIGATION USE ON 393.6 ACRES

MAXIMUM RATE: 4.92 CUBIC FEET PER SECOND (CFS), BEING 3.79 CFS FROM  
WELL 1 AND 1.13 CFS FROM WELL 2

PERIOD OF USE: MARCH 1 THROUGH OCTOBER 31

DATE OF PRIORITY: MAY 16, 2005

WELL LOCATIONS:

WELL 1 (HARN 51146) - SW  $\frac{1}{4}$  SE  $\frac{1}{4}$ , SECTION 33, T25S, R30E, W.M.; 4133  
FEET SOUTH & 26 FEET EAST FROM N1/4 CORNER, SECTION 33

WELL 2 (HARN 51233) - SE  $\frac{1}{4}$  SW  $\frac{1}{4}$ , SECTION 34, T25S, R30E, W.M.; 1769  
FEET SOUTH & 121 FEET WEST FROM C1/4 CORNER, SECTION 34

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 and  
3.0 acre-feet for each acre irrigated during the irrigation season of  
each year.

THE PLACE OF USE IS LOCATED AS FOLLOWS:

SW  $\frac{1}{4}$  NE  $\frac{1}{4}$  27.7 ACRES  
SE  $\frac{1}{4}$  NE  $\frac{1}{4}$  32.9 ACRES  
NE  $\frac{1}{4}$  SE  $\frac{1}{4}$  39.4 ACRES  
NW  $\frac{1}{4}$  SE  $\frac{1}{4}$  35.3 ACRES  
SW  $\frac{1}{4}$  SE  $\frac{1}{4}$  24.3 ACRES  
SE  $\frac{1}{4}$  SE  $\frac{1}{4}$  29.9 ACRES  
SECTION 33

THE PLACE OF USE IS LOCATED AS FOLLOWS (CONTINUED):

NE ¼ NW ¼ 30.8 ACRES  
 NW ¼ NW ¼ 23.5 ACRES  
 SW ¼ NW ¼ 17.5 ACRES  
 SE ¼ NW ¼ 20.8 ACRES  
 NW ¼ SW ¼ 4.5 ACRES  
 SW ¼ SW ¼ 0.4 ACRE

SECTION 34

TOWNSHIP 25 SOUTH, RANGE 30 EAST, W.M.

GOVT LOT 4 (NW ¼ NW ¼) 5.7 ACRES  
 SECTION 3

GOVT LOT 1 (NE ¼ NE ¼) 39.9 ACRES  
 GOVT LOT 2 (NW ¼ NE ¼) 38.4 ACRES  
 SW ¼ NE ¼ 9.3 ACRES  
 SE ¼ NE ¼ 13.3 ACRES

SECTION 4

TOWNSHIP 26 SOUTH, RANGE 30 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 at each point of appropriation. 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 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**

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 any of the following events occur:

- A. Annual water level measurements reveal an average water level decline of three or more feet per year for five consecutive years; or
- B. Annual water level measurements reveal a water level decline of 15 or more feet in fewer than five consecutive years; or
- C. Annual water level measurements reveal a water level decline of 25 or more feet; or
- D. Hydraulic interference leads 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 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.

The wells shall produce ground water only from the basalt and volcanic sediments ground water reservoir.

#### 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 April 5, 2007

*E. Timothy Wall* for

Phillip C. Ward, Director  
Water Resources Department