

STATE OF OREGON

COUNTY OF YAMHILL

PERMIT TO APPROPRIATE THE PUBLIC WATERS

THIS PERMIT IS HEREBY ISSUED TO

BLACK FAMILY VINEYARD LLC  
3580 CARMEL MT RD, STE 460  
SAN DIEGO, CA 92130

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

APPLICATION FILE NUMBER: G-16346

SOURCE OF WATER: WELL 1 IN CHEHALEM CREEK BASIN

PURPOSE OR USE: IRRIGATION OF 20.0 ACRES AND DOMESTIC USE FOR 36 HOUSEHOLDS

MAXIMUM RATE: 0.28 CUBIC FOOT PER SECOND (CFS), BEING 0.25 CFS FOR IRRIGATION AND 0.03 CFS FOR DOMESTIC USE

PERIOD OF USE: MARCH 1 THROUGH OCTOBER 31 FOR IRRIGATION  
YEAR ROUND FOR DOMESTIC

DATE OF PRIORITY: NOVEMBER 23, 2004

WELL LOCATION: NE  $\frac{1}{4}$  NW  $\frac{1}{4}$ , SECTION 25, T3S, R3W, W.M.; 570 FEET SOUTH & 1480 EAST FROM NW CORNER, 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 and 2.5 acre-feet for each acre irrigated during the irrigation season of each year.

THE PLACE OF USE IS LOCATED AS FOLLOWS:

NE  $\frac{1}{4}$  SE  $\frac{1}{4}$  DOMESTIC  
SE  $\frac{1}{4}$  SE  $\frac{1}{4}$  DOMESTIC AND 4.5 ACRES  
SECTION 23

NW  $\frac{1}{4}$  SW  $\frac{1}{4}$  DOMESTIC  
SW  $\frac{1}{4}$  SW  $\frac{1}{4}$  DOMESTIC AND 1.0 ACRE  
SECTION 24

NE  $\frac{1}{4}$  NW  $\frac{1}{4}$  DOMESTIC AND 3.5 ACRES  
NW  $\frac{1}{4}$  NW  $\frac{1}{4}$  DOMESTIC AND 6.0 ACRES  
SECTION 25

NE ¼ NE ¼ DOMESTIC AND 5.0 ACRES  
SECTION 26  
TOWNSHIP 3 SOUTH, RANGE 3 WEST, W.M.

Measurement, recording and reporting conditions:

- A. Before water use may begin under this permit, the permittee shall install a totalizing flow meter at each point of appropriation. The permittee shall maintain the meter in good working order.
  - B. The permittee shall keep a complete record of the amount of water used each month, and shall submit an annual report which includes the recorded water use measurements to the Department by December 1 of each year. 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.
  - C. 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.
  - D. The Director may provide an opportunity for the permittee to submit alternative measuring and reporting procedures for review and approval.
- (1) Use of water from any well, as allowed herein, shall be controlled or shut off if the well displays:
- (a) An average water level decline of three or more feet per year for five consecutive years; or
  - (b) A total water level decline of fifteen or more feet; or
  - (c) A hydraulic interference decline of fifteen or more feet in any neighboring well providing water for senior exempt uses or wells covered by prior rights.
- (2) The permittee/appropriator shall be responsible for complying with each of the following requirements for measuring water levels in the well(s).
- (a) Use of water from a new well shall not begin until an initial static water level in the well has been measured and reported to the Department.
  - (b) In addition to the measurement required in subsection (a) of this section, a water level measurement shall be made each year during the period March 1 through March 31.

- (c) All water level measurements shall be made by a qualified individual. Qualified individuals are certified water rights examiners, registered geologists, registered professional engineers, licensed land surveyors, licensed water well constructor, licensed pump installer, or the permittee/appropriator.
- (d) Any qualified individual measuring a well shall use standard methods of procedure and equipment designed for the purpose of well measurement. The equipment used shall be well suited to the conditions of construction at the well. A list of standard methods of procedure and suitable equipment shall be available from the Department.
- (e) The permittee/appropriator shall report the record of measurement to the Department on a form available from the Department. The record of measurement shall include both measurements and calculations, shall include a certification as to their accuracy signed by the individual making the measurements, and shall be submitted to the Department within 90 days from the date of measurement. The Department shall determine when any of the declines cited in section (1) are evidenced by the well measurement required in section (2).
- (f) Measurements from a suitable alternative well can be substituted for measurements in the production well if an alternative measurement plan is submitted to, and approved by, the Department.

The well shall be continuously cased and continuously sealed to a minimum depth of 290 feet below mean sea level. If it can be shown that an alternative casing and seal depth will prevent commingling of shallow and deep aquifers and prevent interference with the Red Hills Estate and City of Dundee wells listed below, the permittee may contact the Department Hydrogeologist for this permit or the Ground Water/Hydrology Section Manager to request approval for an alternative construction design. The request shall be in writing and shall include a rough well log and a proposed construction design.

Before water is used under this permit, the permittee shall demonstrate, to the satisfaction of the Department, that the well is not likely to interfere with any of the following nearby wells, as currently constructed, which are listed on senior water rights:

- (a) City of Dundee well #3 (YAMH 4549/4538, Certificate 29157)
- (b) City of Dundee well #9 (YAMH 1659/52883, Permit G-12685)
- (c) Red Hills Estates well #1 (YAMH 4548/53743, Permit G-13671)
- (d) Red Hills Estates well #2 (YAMH 121/50706, Permit G-13671)

A down-hole video log shall be made prior to installation of permanent casing and a copy of the log shall be submitted to the Department.

The Department requests that drill cuttings be collected from the well at 10-foot intervals and at changes in formation, that the cuttings be stored in bags with the sample interval noted on each bag, and that the cuttings be submitted to the Department for geologic analysis.

#### **STANDARD CONDITIONS**

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.

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 well(s) 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.

If the riparian area is disturbed in the process of developing a point of diversion, the permittee shall be responsible for restoration and enhancement of such riparian area in accordance with ODFW's Fish and Wildlife Habitat Mitigation Policy OAR 635-415. For purposes of mitigation, the ODFW Fish and Wildlife Habitat Mitigation Goals and Standards, OAR Chapter 635, Division 415, Section 030 adopted November 13, 1991 shall be followed.

The use may be restricted if the quality of the source stream or downstream waters decreases to the point that those waters no longer meet existing state or federal water quality standards due to reduced flows.

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 to the Water Resources Department the results of a pump test meeting the Department's standards for each point of appropriation (well), unless an exemption has been obtained in writing under OAR 690-217. The Director may require water-level or pump-test data every ten years thereafter.

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 application of the water shall be made within five years of the date of permit issuance. If beneficial use of permitted water has not been made before this date, the permittee may submit an application for extension of time, which may be approved based upon the merit of the application.

Within one year after making beneficial use of water, the permittee shall submit a claim of beneficial use, which includes a map and report, prepared by a Certified Water Rights Examiner.

Issued July 13, 2011

E. Timothy Wall for  
Phillip C. Ward, Director  
Water Resources Department