

COUNTY OF KLAMATH

PERMIT TO APPROPRIATE THE PUBLIC WATERS

THIS PERMIT IS HEREBY ISSUED TO:

WOOD RIVER
DISTRICT IMPROVEMENT CO
PO BOX 503
FORT KLAMATH, OREGON 97626
(541) 381-2235

ROGER NICHOLSON /
AGRI-WATER LLC
PO BOX 458
FORT KLAMATH, OREGON 97626

This superseding permit is issued to describe an amendment for additional point of appropriation (Well 5) proposed under Permit Amendment Application T-11263 and approved by Special Order Vol. 87, Page 53, entered FEBRUARY 9, 2012, and to describe a partial assignment approved August 26, 2005, Permit Amendment T-10641 approved June 25, 2008, and an extension of time for complete application of water approved June 23, 2009. This permit supersedes Permit G-15744.

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

APPLICATION FILE NUMBER: G-15834

SOURCE OF WATER: SIX WELLS IN ANNA CREEK BASIN

PURPOSE OR USE: SUPPLEMENTAL IRRIGATION OF 2310.1 ACRES

MAXIMUM RATE: 28.88 CUBIC FEET PER SECOND

PERIOD OF USE: APRIL 1 THROUGH OCTOBER 1

DATE OF PRIORITY: SEPTEMBER 5, 2002

WELL LOCATIONS:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
33 S	7.5 E	WM	9	SE SE	WELL 1A - 700 FEET NORTH AND 600 FEET WEST FROM THE NE CORNER OF SECTION 16
33 S	7.5 E	WM	16	NW NE	WELL 1 - 270 FEET SOUTH AND 1900 FEET WEST FROM THE NE CORNER OF SECTION 16
33 S	7.5 E	WM	16	SE NW	WELL 2 - 1700 FEET SOUTH AND 2800 FEET WEST FROM THE NE CORNER OF SECTION 16
33 S	7.5 E	WM	16	SE NW	WELL 3 - 2450 FEET SOUTH AND 3760 FEET WEST FROM THE NE CORNER OF SECTION 16
33 S	7.5 E	WM	20	NE NE	WELL 4 - 60 FEET SOUTH AND 670 FEET WEST FROM NE CORNER OF SECTION 20
33 S	7.5 E	WM	19	NW NE	WELL 5 [KLAM 57662] - 20 FEET SOUTH AND 200 FEET EAST FROM THE N¼ CORNER OF SECTION 19

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:

WOOD RIVER DISTRICT IMPROVEMENT CO.									
SUPPLEMENTAL IRRIGATION									
Township	Range	Meridian	Sec	¼ ¼	Lot	Acres			
33	S	7.5	E	W.M.	9	SE SE	13	2.6	
33	S	7.5	E	W.M.	10	SW SW	21	7.5	
33	S	7.5	E	W.M.	10	SW SW		33.0	
33	S	7.5	E	W.M.	10	SE SW		10.1	
33	S	7.5	E	W.M.	15	NE NW	10	22.7	
33	S	7.5	E	W.M.	15	NW NW	11	40.0	
33	S	7.5	E	W.M.	15	SW NW	12	33.8	
33	S	7.5	E	W.M.	15	SE NW	13	1.1	
33	S	7.5	E	W.M.	16	NE NE	5	34.8	
33	S	7.5	E	W.M.	16	NW NE	1	18.5	
33	S	7.5	E	W.M.	16	SW NE	2	48.5	
33	S	7.5	E	W.M.	16	SE NE	6	31.8	
33	S	7.5	E	W.M.	16	SW NW		0.1	
33	S	7.5	E	W.M.	16	SE NW		17.0	
33	S	7.5	E	W.M.	16	NE SW		40.4	
33	S	7.5	E	W.M.	16	NW SW		33.2	
33	S	7.5	E	W.M.	16	SW SW		38.4	
33	S	7.5	E	W.M.	16	SE SW		38.4	
33	S	7.5	E	W.M.	16	NE SE	7	12.0	
33	S	7.5	E	W.M.	16	NE SE	3	20.4	
33	S	7.5	E	W.M.	16	NW SE		40.8	
33	S	7.5	E	W.M.	16	SW SE		37.8	
33	S	7.5	E	W.M.	16	SE SE	4	26.4	
33	S	7.5	E	W.M.	17	NE SE		14.3	
33	S	7.5	E	W.M.	17	SE SE		23.7	
33	S	7.5	E	W.M.	21	NE NE		4.5	
33	S	7.5	E	W.M.	21	NW NE		26.8	
33	S	7.5	E	W.M.	21	NE NW		39.6	
33	S	7.5	E	W.M.	21	NW NW		40.0	
33	S	7.5	E	W.M.	21	SW NW		40.0	
33	S	7.5	E	W.M.	21	SE NW		40.0	
33	S	7.5	E	W.M.	21	NE SW		40.0	
33	S	7.5	E	W.M.	21	NW SW		40.0	

WOOD RIVER DISTRICT IMPROVEMENT CO.									
SUPPLEMENTAL IRRIGATION									
Township		Range		Meridian	Sec	¼ ¼		Lot	Acres
33	S	7.5	E	W.M.	21	SW	SW		40.0
33	S	7.5	E	W.M.	21	SE	SW		40.0
33	S	7.5	E	W.M.	29	NE	NE		40.0
33	S	7.5	E	W.M.	29	SE	NE		40.0
33	S	7.5	E	W.M.	29	SW	SW		40.0
33	S	7.5	E	W.M.	29	SE	SW		40.0
33	S	7.5	E	W.M.	29	NE	SE		40.0
33	S	7.5	E	W.M.	29	SW	SE		40.0
33	S	7.5	E	W.M.	29	SE	SE		40.0
33	S	7.5	E	W.M.	30	NE	SE		40.0
33	S	7.5	E	W.M.	32	NW	NE		38.9
33	S	7.5	E	W.M.	32	NE	NW		40.0
33	S	7.5	E	W.M.	32	NW	NW		40.0
33	S	7.5	E	W.M.	32	SW	NW		39.1
33	S	7.5	E	W.M.	32	SE	NW		37.8
33	S	7.5	E	W.M.	32	NW	SW		28.4
33	S	7.5	E	W.M.	32	SW	SW		29.1

ROGER NICHOLSON / AGRI-WATER LLC									
SUPPLEMENTAL IRRIGATION									
Township		Range		Meridian	Sec	¼ ¼		Lot	Acres
33	S	7.5	E	W.M.	20	NE	NE		40.0
33	S	7.5	E	W.M.	20	NW	NE		40.0
33	S	7.5	E	W.M.	20	SW	NE		40.0
33	S	7.5	E	W.M.	20	SE	NE		40.0
33	S	7.5	E	W.M.	20	SW	SW		39.3
33	S	7.5	E	W.M.	20	SE	SW		39.3
33	S	7.5	E	W.M.	20	NE	SE		40.0
33	S	7.5	E	W.M.	20	NW	SE		40.0
33	S	7.5	E	W.M.	20	SW	SE		40.0
33	S	7.5	E	W.M.	20	SE	SE		40.0
33	S	7.5	E	W.M.	29	NW	NE		40.0
33	S	7.5	E	W.M.	29	SW	NE		40.0
33	S	7.5	E	W.M.	29	NE	NW		40.0
33	S	7.5	E	W.M.	29	NW	NW		40.0
33	S	7.5	E	W.M.	29	SW	NW		40.0

ROGER NICHOLSON / AGRI-WATER LLC									
SUPPLEMENTAL IRRIGATION									
Township		Range		Meridian	Sec	¼ ¼		Lot	Acres
33	S	7.5	E	W.M.	29	SE	NW		40.0
33	S	7.5	E	W.M.	29	NE	SW		40.0
33	S	7.5	E	W.M.	29	NW	SW		40.0
33	S	7.5	E	W.M.	29	NW	SE		40.0

The combined quantity of water diverted at the new point of appropriation, together with that diverted at the old points of appropriation, shall not exceed the quantity of water lawfully available at the original points of appropriation.

Water shall be acquired from the same aquifer as the original points of appropriation.

Checkpoint Condition

The permit holder must submit a completed Progress Report Form to the Department by **October 1, 2013**.

- A. At each checkpoint, the permit holder shall submit and the Department shall review evidence of the permit holder's diligence towards completion of the project and compliance with terms and conditions of the permit and extension. If, after this review, the Department determines the permit holder has not been diligent in developing and perfecting the water use permit, or complied with all terms and conditions, the Department shall modify or further condition the permit or extension to ensure future compliance, or begin cancellation proceedings on the undeveloped portion of the permit pursuant to ORS 537.260 or 537.410, or require submission of a final proof survey pursuant to ORS 537.250;
- B. The Department shall provide notice of receipt of progress reports in its weekly notice and shall allow a 30 day comment period for each report. The Department shall provide notice of its determination to anyone who submitted comments.

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.

Use of water under authority of this permit may be regulated if analysis of data available after the permit is issued discloses that the appropriation will measurably reduce the surface water flows necessary to maintain the free-flowing character of a scenic waterway in quantities necessary for recreation, fish and wildlife in effect as of the priority date of the right or as those quantities may be subsequently reduced.

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.

The well(s) shall be continuously cased and continuously sealed to a minimum depth of 400 feet below land surface. However, if during well construction, it becomes apparent that the well(s) can be constructed to eliminate hydraulic connection with surface water in a manner other than specified in the permit, the permittee can contact a Department Hydrogeologist or the Ground Water/Hydrology Section Manager to request a modification of the permit condition. The permittee shall submit, in writing, a rough well log and a proposed construction design for approval by the Department. The new depth of casing and seal will be incorporated into the permit file and any certificate issued for application G-15834.

STANDARD CONDITIONS

If the number, location, or construction of any well deviates from that proposed in the permit application or permit conditions, the conclusions of the Proposed Final Order and Final Order under which this permit was granted may be revised, conditions may be appropriately revised, or this permit may not be valid.

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.

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.

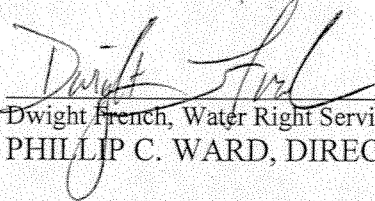
The use of water shall be limited when it interferes with any prior surface or ground water rights.

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.

Complete application of the water to the use shall be made on or before October 1, 2018. 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 February 9, 2012



Dwight French, Water Right Services Administrator, for
PHILLIP C. WARD, DIRECTOR

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.