

STATE OF OREGON

COUNTY OF BAKER

PERMIT TO APPROPRIATE THE PUBLIC WATERS

THIS PERMIT IS HEREBY ISSUED TO

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

(541) 856-3449

**This superseding permit is issued to describe an amendment for a change in points of appropriation proposed under Permit Amendment Application T-8262 and approved by Special Order Vol. 91, Page 172, entered Aug 12, 2013, Permit Amendment T-7975 approved May 20, 1998, and to describe an extension of time for complete application of water approved September 6, 2007. This permit supersedes Permit G-13157.**

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

APPLICATION FILE NUMBER: G-13794

SOURCE OF WATER: TWELVE WELLS IN WILLOW CREEK AND PINE CREEK BASIN

PURPOSE OR USE: SUPPLEMENTAL IRRIGATION OF 581.0 ACRES, BEING 421.0 ACRES FROM ORIGINAL WELL NO. 1 AND 160.0 ACRES FROM ORIGINAL WELL NO. 2

MAXIMUM RATE OF ALLOWED USE: 4.50 CUBIC FEET PER SECOND (CFS) TOTAL, BEING 2.50 CFS FROM EACH ORIGINAL WELL NO. 1 AND 2.0 CFS FROM ORIGINAL WELL NO. 2

PERIOD OF USE: WHEN NECESSARY FOR BENEFICIAL USE

DATE OF PRIORITY: AUGUST 23, 1994

## POINTS OF DIVERSION LOCATION:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances	Well Log No.
8 S	39 E	WM	7	NE NW	BOYS PLACE NO. 1 - 960 FEET SOUTH AND 2160 FEET EAST FROM THE NW CORNER OF SECTION 7	BAKE 1897
8 S	39 E	WM	18	SE NW	BANK PLACE NO. 2 - 1400 FEET SOUTH AND 50 FEET WEST FROM THE N $\frac{1}{4}$ CORNER OF SECTION 18	n/a
8 S	38 E	WM	12	NE NE	WELL NO. 1 (HOME PLACE NO. 3) - 10 FEET SOUTH AND 450 FEET WEST FROM THE NE CORNER OF SECTION 12	BAKE 50701
8 S	39 E	WM	28	NW NW	WELL NO. 2 (COMPANY FARM NO. 4) - 660 FEET SOUTH AND 165 FEET EAST FROM THE NW CORNER OF SECTION 28	BAKE 50624
8 S	38 E	WM	12	NW SE	WELL NO. 2 (SACKOS PLACE NO. 5) - 10 FEET SOUTH AND 330 FEET EAST FROM THE C $\frac{1}{4}$ CORNER OF SECTION 12	n/a
8 S	39 E	WM	6	SW SW	WELL NO. 3 (BOYS PLACE NO. 2) - 1120 FEET NORTH AND 50 FEET EAST FROM THE SW CORNER OF SECTION 6	BAKE 50955
8 S	39 E	WM	7	NE NE	WELL NO. 4 (WARD 40 NO. 7) - 1000 FEET SOUTH AND 1315 FEET WEST FROM THE NE CORNER OF SECTION 7	n/a
8 S	39 E	WM	7	NE NE	WELL NO. 8 (WARD 40 NO. 2) - 1310 FEET SOUTH AND 1310 FEET WEST FROM THE NE CORNER OF SECTION 7	n/a
8 S	38 E	WM	1	SE NW	WELL NO. 10 - 1531 FEET SOUTH AND 2340 FEET EAST FROM THE NW CORNER OF SECTION 1	n/a
8 S	38 E	WM	1	SE SE	WELL NO. 11 - 1210 FEET NORTH AND 868 FEET WEST FROM THE SE CORNER OF SECTION 1	n/a
8 S	39 E	WM	7	NE NE	WELL NO. 12 - 265 FEET SOUTH AND 1158 FEET WEST FROM THE NE CORNER OF SECTION 7	n/a
8 S	39 E	WM	18	SE NW	WELL NO. 13 - 1709 FEET SOUTH AND 2037 FEET WEST FROM THE NW CORNER OF SECTION 18	n/a

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:

SUPPLEMENTAL IRRIGATION					
ORIGINAL WELL NO. 1					
Twp	Rng	Mer	Sec	Q-Q	Acres
8 S	38 E	WM	1	SW NW	32.0
8 S	38 E	WM	1	SE NW	38.0
8 S	38 E	WM	1	NE SW	40.0
8 S	38 E	WM	1	NW SW	40.0
8 S	38 E	WM	1	SW SW	39.0
8 S	38 E	WM	1	SE SW	24.0
8 S	38 E	WM	1	SW SE	8.0
8 S	38 E	WM	2	SW NE	24.0
8 S	38 E	WM	2	SE NE	40.0
8 S	38 E	WM	2	NE SE	36.0
8 S	38 E	WM	2	NW SE	19.0
8 S	38 E	WM	2	SE SE	7.0
8 S	38 E	WM	12	NE NE	10.0
8 S	38 E	WM	12	NW NE	8.0
8 S	38 E	WM	12	NE NW	40.0
8 S	38 E	WM	12	NW NW	16.0

SUPPLEMENTAL IRRIGATION					
ORIGINAL WELL NO. 2					
Twp	Rng	Mer	Sec	Q-Q	Acres
8 S	39 E	WM	28	NE NW	40.0
8 S	39 E	WM	28	NW NW	40.0
8 S	39 E	WM	28	SW NW	40.0
8 S	39 E	WM	28	SE NW	40.0

The quantity of water diverted at the following wells: Boys Place No. 1, Bank Place No. 2, Well No. 1 (Home Place No. 3), Well No. 2 (Company Farm No. 4), Well No. 2 (Sackos Place No. 5), Well No. 3 (Boys Place No. 2), Well No. 4 (Ward 40 No. 7), Well No. 8 (Ward 40 No. 2), Well No. 10, Well No. 11, Well No. 12, and Well No. 13; shall not exceed the quantity of water lawfully available at original wells:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
8 S	38 E	WM	1	SW SE	WELL NO. 1 – 83 FEET NORTH AND 83 FEET EAST FROM THE E 1/16 CORNER OF SECTION 1
8 S	39 E	WM	28	NW NW	WELL NO. 2 – 660 FEET SOUTH AND 165 FEET EAST FROM THE NW CORNER OF SECTION 28

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, 2015**.

- 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.

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.

**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 within one year from permit issuance. Complete application of water to the use shall be made on or before October 1, 2017.

Issued August 12, 2013

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