

STATE OF OREGON

COUNTY OF HARNEY

PERMIT TO APPROPRIATE THE PUBLIC WATERS

THIS PERMIT IS HEREBY ISSUED TO

OTLEY BROTHERS INC
40926 S DIAMOND LANE
DIAMOND, OR 97722

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

APPLICATION FILE NUMBER: G-18129

SOURCE OF WATER: WELL BV1; WELL BV2 (HARN 51892/L109045); WELL BV3 (HARN 51895/L109043); WELL BV4 (HARN 51894/L109042); AND WELL BV5 IN DONNER UND BLITZEN RIVER BASIN

PURPOSE OR USE: IRRIGATION OF 426.0 ACRES

MAXIMUM RATE: 5.33 CUBIC FEET PER SECOND

PERIOD OF USE: MARCH 1 THROUGH SEPTEMBER 30

DATE OF PRIORITY: AUGUST 11, 2015

WELL LOCATIONS:

WELL BV1: SE $\frac{1}{4}$ NW $\frac{1}{4}$ SECTION 9, T29S, R31E, W.M.; 1828 FEET SOUTH AND 1429 FEET EAST FROM NW CORNER, SECTION 9

WELL BV2: (HARN 51892/L109045): SE $\frac{1}{4}$ NW $\frac{1}{4}$ SECTION 9, T29S, R31E, W.M.; 1657 FEET SOUTH AND 1608 FEET EAST FROM NW CORNER, SECTION 9

WELL BV3: (HARN 51895/L109043): NW $\frac{1}{4}$ NW $\frac{1}{4}$ SECTION 9, T29S, R31E, W.M.; 805 FEET SOUTH AND 891 FEET EAST FROM NW CORNER, SECTION 9

WELL BV4: (HARN 51894/L109042): SE $\frac{1}{4}$ NW $\frac{1}{4}$ SECTION 9, T29S, R31E, W.M.; 2271 FEET SOUTH AND 2184 FEET EAST FROM NW CORNER, SECTION 9

WELL BV5: NE $\frac{1}{4}$ SE $\frac{1}{4}$ SECTION 9, T29S, R31E, W.M.; 3920 FEET SOUTH AND 4937 FEET EAST FROM NW CORNER, SECTION 9

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:

NE ¼ NE ¼ 26.0 ACRES
 SE ¼ NE ¼ 37.0 ACRES
 NE ¼ SE ¼ 16.0 ACRES
 NW ¼ SE ¼ 9.0 ACRES
 SECTION 8

SW ¼ NE ¼ 21.0 ACRES
 NE ¼ NW ¼ 35.0 ACRES
 NW ¼ NW ¼ 40.0 ACRES
 SW ¼ NW ¼ 40.0 ACRES
 SE ¼ NW ¼ 35.0 ACRES
 NE ¼ SW ¼ 39.0 ACRES
 NW ¼ SW ¼ 26.0 ACRES
 NE ¼ SE ¼ 33.0 ACRES
 NW ¼ SE ¼ 28.0 ACRES
 SW ¼ SE ¼ 3.0 ACRES
 SE ¼ SE ¼ 38.0 ACRES
 SECTION 9

TOWNSHIP 29 SOUTH, RANGE 31 EAST, W.M.

Observation Well Requirement:

Within six (6) months of permit issuance, the permittee shall construct one (1) observation well to penetrate the same aquifer as the production wells, or the permit may be cancelled. This six month deadline shall not be extended. The well shall meet the Department's minimum well construction standards and shall be cased and sealed to the same depth as the production wells. The well shall be constructed at a location approved by the Department for the purpose of instrumentation with continuous water-level monitoring equipment. The landowner or permittee shall provide access to Department staff to install and maintain the monitoring equipment. The well shall not be used for any other purpose. Failure to construct a dedicated observation well within six (6) months of permit issuance shall cause the watermaster to regulate off any future use under the permit.

Dedicated Measuring Tube Condition:

Wells with pumps shall be equipped with a minimum 3/4-inch diameter, unobstructed, dedicated measuring tube pursuant to Figure 200-5 in OAR 690-200. If a pump has been installed prior to the issuance of this permit, and if static water levels and pumping levels can be measured using an electrical tape, then the installation of the measuring tube can be delayed until such time that water levels cannot be measured or the pump is repaired or replaced.

Drawdown Condition and Static Water Level Conditions:

All groundwater pumping authorized by this permit shall be prohibited if March groundwater levels indicate 18 feet or more of decline has occurred, as measured in the observation well or any authorized irrigation well, when compared to the first March measurement.

Subsequent groundwater pumping may occur with Department approval during the year(s) a subsequent March groundwater level measurement indicates the groundwater level at the observation well has recovered to less than 18 feet of decline when compared to the first March measurement.

The Department requires the water user to obtain, from a qualified individual (see below), the annual static groundwater level measured in any authorized irrigation well. Reports shall be submitted to the Department within 30 days of measurement.

The permittee shall report an initial March static groundwater-level measurement from any authorized irrigation well once well construction is complete and annual measurements thereafter. Annual measurements are required whether or not the well is used. The Director may require the user to obtain and report additional water levels each year if more data are needed to evaluate the aquifer system.

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. Measurements shall be submitted on forms provided by, or specified by, the Department. Measurements shall be made with equipment that is accurate to at least 0.1 foot. Airlines are not acceptable methods of measurement. The Department requires the individual performing the measurement to accomplish the following:

- A. Associate each measurement with an owner's well name or number and a Department well log ID; and
- B. Report water levels to at least the nearest tenth of a foot as depth-to-water below ground surface; and
- C. Specify the method of measurement; and
- D. Certify the accuracy of all measurements and calculations reported to the Department.

Groundwater Study Findings and Potential for Future Prohibition of Use:

Water use under this permit, or certificate if one is later issued, is prohibited if, based on the Department's Harney Basin Groundwater Study, the Department cannot make a finding that the groundwater use is within the capacity of the resource, is not over appropriated, or will not cause injury to senior water users. The permit holder may provide offset water in the manner described in OAR 690-512-0020(4) within three years of the final report being issued. The Department shall make the findings described in this subsection for each permit issued under Section 6 within one year of completing the Harney Basin Groundwater Study. The Department's findings described in this condition shall include site-specific substantial evidence.

Setback Requirement and Potential Regulation Condition:

Any well authorized under this permit shall be located more than 1,320 feet from any existing senior exempt, permitted, or certificated well(s) not owned by the permit holder. Any well authorized on this permit, when located between 1,320 feet and 2,640 feet of any senior exempt, permitted, or certificated well not owned by the permit holder, shall immediately cease pumping groundwater if Department staff determine 10 feet or more of measured groundwater level interference related to the authorized well use has occurred in a senior exempt, permitted, or certificated well.

Measurement devices, and recording/reporting of annual water use 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 device in good working order.
- B. The permittee shall allow the watermaster access to the device; provided however, where any device is located within a private structure, the watermaster shall request access upon reasonable notice.
- C. The permittee shall keep a complete record of the volume of water diverted each month, and shall submit a report which includes 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.
- D. The Director may provide an opportunity for the permittee to submit alternative measuring and reporting procedures for review and approval.

Well Identification Tag Condition

Prior to using water from any well listed on this permit, the permittee shall ensure that the well has been assigned an OWRD Well Identification Number (Well ID tag), which shall be permanently attached to the well. The Well ID shall be used as a reference in any correspondence regarding the well, including any reports of water use, water level, or pump test data.

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 be subject to cancellation, unless the Department authorizes the change in writing.

If substantial interference with surface water or 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 and maintained in accordance with the General Standards for the Construction and Maintenance of Water Supply Wells in Oregon. The works shall be equipped with a usable access port 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 appropriation, 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 635-415, shall be followed.

The use may be restricted if the quality of downstream waters decreases to the point that those waters no longer meet 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.

Construction of the well shall be made within five years of the date of permit issuance. The deadline to begin construction may not be extended. This permit is subject to cancellation proceedings if the begin construction deadline is missed.

Complete 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

AUGUST 30 2016

E. Timothy Wallin

E. Timothy Wallin, Water Rights Program Manager
for Thomas M. Byler, Director