

STATE OF OREGON

COUNTY OF MALHEUR

PERMIT TO APPROPRIATE THE PUBLIC WATERS

THIS PERMIT IS HEREBY ISSUED TO

PAUL KESLER  
KESLER FARMS INC.  
3331 GREY BLVD  
NYSSA, OR 97913

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

APPLICATION FILE NUMBER: G-18206

SOURCE OF WATER: SCOTT 1 WELL (MALH 54160/L114803) AND KESSLER H WELL (MALH 54229/L114816) IN SNAKE RIVER BASIN

PURPOSE OR USE: SUPPLEMENTAL IRRIGATION OF 447.0 ACRES

MAXIMUM RATE: 3.56 CUBIC FEET PER SECOND, BEING 1.78 CFS FROM SCOTT 1 WELL (MALH 54160/L114803) AND 1.78 CFS FROM KESSLER H WELL (MALH 54229/L114816)

PERIOD OF USE: MARCH 1 THROUGH OCTOBER 31

DATE OF PRIORITY: MARCH 3, 2016

WELL LOCATIONS:

SCOTT 1 WELL (MALH 54160/L114803): SW ¼ NE ¼, SECTION 14, T19S, R46E, W.M.; 2600 FEET SOUTH AND 3160 FEET EAST FROM NW CORNER, SECTION 14

KESSLER H WELL (MALH 54229/L114816): NW ¼ SW ¼, SECTION 14, T19S, R46E, W.M.; 1380 FEET NORTH AND 300 FEET EAST FROM SW CORNER, SECTION 14

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-SIXTIETH 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 SW ¼ 36.2 ACRES  
SE ¼ SW ¼ 19.4 ACRES  
NW ¼ SE ¼ 37.4 ACRES  
SW ¼ SE ¼ 21.0 ACRES  
SECTION 13

NE ¼ NE ¼ 2.1 ACRES  
 SW ¼ NE ¼ 24.4 ACRES  
 SE ¼ NE ¼ 30.5 ACRES  
 NW ¼ NW ¼ 28.8 ACRES  
 SW ¼ NW ¼ 38.1 ACRES  
 NW ¼ SW ¼ 33.7 ACRES  
 SW ¼ SW ¼ 35.5 ACRES  
 SECTION 14

SE ¼ NE ¼ 11.6 ACRES  
 SE ¼ SW ¼ 16.1 ACRES  
 NE ¼ SE ¼ 32.3 ACRES  
 NW ¼ SE ¼ 11.4 ACRES  
 SW ¼ SE ¼ 32.3 ACRES  
 SE ¼ SE ¼ 36.2 ACRES  
 SECTION 15

TOWNSHIP 19 SOUTH, RANGE 46 EAST, W.M.

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.

Static Water Level Conditions

The Department requires the water user to obtain, from a qualified individual (see below), and report annual static water levels for each well on the permit. The static water level shall be measured in the month of March. Reports shall be submitted to the Department within 30 days of measurement.

The permittee shall report an initial March static water-level measurement once well construction is complete and annual measurements thereafter. Annual measurements are required whether or not the well is used. The first annual measurement will establish a reference level against which future measurements will be compared. However, the Director may establish the reference level based on an analysis of other water-level data. 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 the standards specified in OAR 690-217-0045. The Department requires the individual performing the measurement to:

- 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.

The Department may require the discontinuance of groundwater use, 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 restricted use shall continue until the water level rises above the decline level which triggered the action or 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 causing substantial interference with senior water rights. The water user shall not 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.

#### 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.

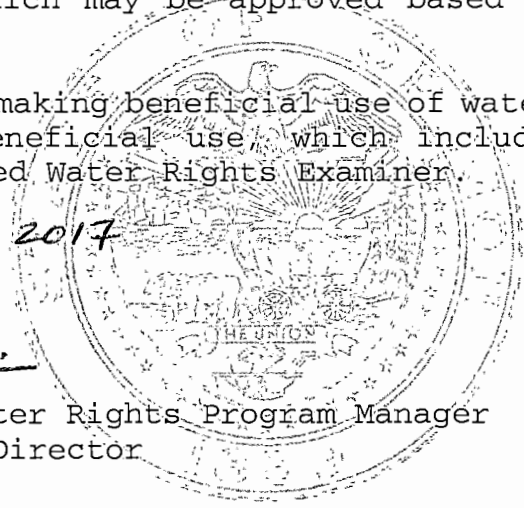
By law, the land use associated with this water use must be in compliance with statewide land-use goals and any local acknowledged land-use plan.

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 *July 20 2017*



*E. Timothy Wallin*

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