

STATE OF OREGON

COUNTY OF CLACKAMAS

PERMIT TO APPROPRIATE THE PUBLIC WATERS

THIS PERMIT IS HEREBY ISSUED TO:

HEYERLY BROTHERS
32899 S DRYLAND RD
MOLALLA, OR 97038

This superseding permit is issued to describe an amendment for additional points of appropriation and change in place of use proposed under Permit Amendment Application T-12460 and approved by Special Order Vol. 107, Page 240, entered NOV 21 2017, and to describe an extension of time for complete application of water approved July 22, 2016, and an assignment to a new permittee approved October 14, 2013. This permit supersedes Permit G-13555.

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

APPLICATION FILE NUMBER: G-14525

SOURCE OF WATER: WELLS 1, 2, 3, AND 4 IN WILLAMETTE RIVER BASIN

PURPOSE OR USE: IRRIGATION OF 280.0 ACRES

MAXIMUM RATE: 2.3 CUBIC FOOT PER SECOND

PERIOD OF USE: MAY 1 THROUGH OCTOBER 30

DATE OF PRIORITY: MAY 20, 1997

POINT OF APPROPRIATION LOCATIONS:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
5 S	1 E	WM	12	NE SE	WELL 1 - 420 FEET SOUTH AND 690 FEET WEST FROM THE E $\frac{1}{4}$ CORNER OF SECTION 12
5 S	1 E	WM	12	NW SE	WELL 2 - 1025 FEET SOUTH AND 2520 FEET WEST FROM THE E $\frac{1}{4}$ CORNER OF SECTION 12
5 S	1 E	WM	12	NW SE	WELL 3 - 275 FEET SOUTH AND 2540 FEET WEST FROM THE E $\frac{1}{4}$ CORNER OF SECTION 12
5 S	2 E	WM	7	NW SW	WELL 4 - 205 FEET SOUTH AND 700 FEET EAST FROM THE E $\frac{1}{4}$ CORNER OF SECTION 12

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 2.5 acre-feet for each acre irrigated during the irrigation season of each year.

THE PLACE OF USE IS LOCATED AS FOLLOWS:

IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
5 S	1 E	WM	12	NE SE	23.7
5 S	1 E	WM	12	NW SE	29.5
5 S	1 E	WM	12	SW SE	36.5
5 S	1 E	WM	12	SE SE	21.3
5 S	1 E	WM	13	NE NE	1.4
5 S	1 E	WM	13	NW NE	21.3
5 S	1 E	WM	13	SW NE	31.9
5 S	1 E	WM	13	SE NE	9.6
5 S	1 E	WM	13	NE SE	35.6
5 S	1 E	WM	13	NW SE	36.6
5 S	1 E	WM	13	SW SE	7.3
5 S	2 E	WM	18	NE SW	0.9
5 S	2 E	WM	18	NW SW	24.4
Total					280.0

Permit Amendment T-12460 Conditions:

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

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

The former place of use shall no longer be irrigated as a part of this transfer.

Water use measurement conditions:

- a. Before water use may begin under this order, the water user shall install a totalizing flow meter, or, with prior approval of the Director, another suitable measuring device, at each point of appropriation.
- b. The water user shall maintain the meters or measuring devices in good working order.
- c. The water user shall allow the Watermaster access to the meters or measuring devices; provided however, where the meters or measuring devices are located within a private structure, the Watermaster shall request access upon reasonable notice.

Extension of Time Conditions:

Checkpoint Condition

The permit holder must submit a completed Progress Report Form to the Department by **October 1, 2020**.

- 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 be 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. The Department shall provide notice of its determination to anyone who submitted comments.

Existing Permit Conditions:

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, register 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.

Groundwater production is allowed only from the Deeper Troutdale groundwater reservoir between approximately 150 feet and 600 feet below land surface.

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 conditions, will not impair or be detrimental to the public interest.

The original permit was issued December 23, 1998. Actual construction of the well was to begin by September 30, 1999 and complete application of water to the use shall be made on or before October 1, 2002. By Extension of Time order dated July 22, 2016, the deadline for complete application of water to use was extended to October 1, 2023. 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 November 21, 2017



Dwight French, Water Right Services Administrator, for
Thomas M. Byler, Director
Oregon Water Resources Department