

STATE OF OREGON

COUNTY OF HARNEY

PERMIT TO APPROPRIATE THE PUBLIC WATERS

THIS PERMIT IS HEREBY ISSUED TO

CHILDERS HAY RANCH  
30040 WEAVER SPRINGS LANE  
BURNS, OR 97720

This superseding permit is issued to describe an amendment for a change in points of appropriation proposed under Permit Amendment Application T-12464 and approved by Special Order Vol. 108, Page 851, entered JUL 13 2018, to describe an extension of time for complete application of water approved July 25, 2014, and to describe a second extension of time for complete application of water approved February 9, 2018. This permit supersedes Permit G-16377.

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

APPLICATION FILE NUMBER: G-16868

SOURCE OF WATER: SEVENTEEN WELLS IN MALHEUR LAKE BASIN

PURPOSE OR USE: IRRIGATION USE ON 354.0 ACRES

MAXIMUM RATE: 4.4 CUBIC FEET PER SECOND (CFS), BEING NO MORE THAN 1.5 CFS FROM EACH WELL

PERIOD OF USE: MARCH 1 THROUGH OCTOBER 31

DATE OF PRIORITY: MAY 23, 2007

The wells are located as follows:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
25 S	30 E	WM	35	SW SW	WELL 1 - 1300 FEET NORTH AND 1350 FEET WEST FROM THE N1/4 CORNER OF SECTION 2
25 S	30 E	WM	35	NW SE	WELL 2 - 1330 FEET NORTH AND 1280 FEET EAST FROM THE N1/4 CORNER OF SECTION 2

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
26 S	30 E	WM	1	NW SW	WELL 6 - 260 FEET SOUTH AND 40 FEET EAST FROM THE W1/4 CORNER OF SECTION 1
26 S	30 E	WM	1	NW SW	WELL 7 - 1310 FEET SOUTH AND 1310 FEET EAST FROM THE W1/4 CORNER OF SECTION 1
26 S	30 E	WM	1	NW SW	WELL 17 - 300 FEET SOUTH AND 50 FEET EAST FROM THE W1/4 CORNER OF SECTION 1
26 S	30 E	WM	1	SW SE	WELL 14 - 30 FEET NORTH AND 10 FEET EAST FROM THE S1/4 CORNER OF SECTION 1
26 S	30 E	WM	1	SE SE	WELL 8 - 1330 FEET SOUTH AND 1310 FEET WEST FROM THE W1/4 CORNER OF SECTION 1
26 S	30 E	WM	2	NW NE	WELL 4 - 1310 FEET SOUTH AND 1280 FEET EAST FROM THE N1/4 CORNER OF SECTION 2
26 S	30 E	WM	2	SW NE	WELL 5 - 1350 FEET SOUTH AND 1280 FEET EAST FROM THE N1/4 CORNER OF SECTION 2
26 S	30 E	WM	2	SW NW	WELL 3 - 1340 FEET SOUTH AND 1350 FEET WEST FROM THE N1/4 CORNER OF SECTION 2
26 S	30 E	WM	6	SW NE	WELL 16 - 1450 FEET SOUTH AND 1110 FEET EAST FROM THE N1/4 CORNER OF SECTION 6
26 S	31 E	WM	6	NW NE	WELL 10 - 80 FEET SOUTH AND 60 FEET EAST FROM THE N1/4 CORNER OF SECTION 6
26 S	31 E	WM	6	SE NE	WELL 9 - 1330 FEET SOUTH AND 1310 FEET WEST FROM THE NE CORNER OF SECTION 6
26 S	31 E	WM	6	SW NW	WELL 11 - 280 FEET NORTH AND 160 FEET EAST FROM THE W1/4 CORNER OF SECTION 6
26 S	31 E	WM	7	SE NW	WELL 12 - 20 FEET NORTH AND 220 FEET WEST FROM THE C1/4 CORNER OF SECTION 7
26 S	31 E	WM	7	NW SE	WELL 13 - 1740 FEET SOUTH AND 30 FEET EAST FROM THE C1/4 CORNER OF SECTION 7
26 S	31 E	WM	7	SW SE	WELL 15 - 1800 FEET SOUTH AND 30 FEET EAST FROM THE C1/4 CORNER OF SECTION 7

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 Authorized Place of Use:

IRRIGATION						
Twp	Rng	Mer	Sec	Q-Q	GLot	Acres
26 S	31 E	WM	6	SW SW	4	31.4
26 S	31 E	WM	6	SE SW		31.4
26 S	31 E	WM	7	NW NE		31.4
26 S	31 E	WM	7	SW NE		31.4
26 S	31 E	WM	7	SE NE		31.4
26 S	31 E	WM	7	NE NW		31.4
26 S	31 E	WM	7	SE NW		40.0
26 S	31 E	WM	7	NE SE		31.4
26 S	31 E	WM	7	NW SE		31.4
26 S	31 E	WM	7	SW SE		31.4
26 S	31 E	WM	7	SE SE		31.4
TOTAL						354.0

Permit Amendment T-12464 Conditions:

The combined quantity of water diverted at the new points of appropriation, shall not exceed the quantity of water lawfully available at the original points of appropriation.

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 new 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.

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

Original Permit Conditions:

Measurement, recording and reporting conditions:

- A. Before water use may begin under this permit, the permittee shall install a totalizing flow meter or other suitable measuring device as approved by the Director at each point of appropriation. 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.

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 water user shall discontinue use of, 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.

### **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 not be valid, unless the Department authorizes the change in writing.

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 well(s) 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.

If the riparian area is disturbed in the process of developing a point of diversion, 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 Chapter 635, Division 415, Section 030 adopted November 13, 1991 shall be followed.

The use may be restricted if the quality of the source stream or downstream waters decrease to the point that those waters no longer meet existing 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 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.

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.

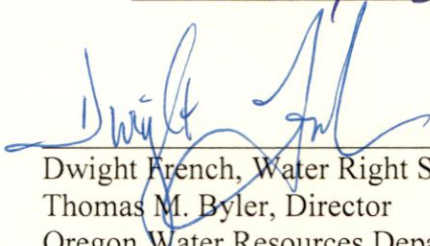
By law, the land use associated with this water use must be in compliance with statewide land-use goals and any local acknowledged land-use plan.

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

The original permit was issued September 11, 2008. Completion of construction and complete application of water to the use was to be made on or before October 1, 2012. By Extension of time Final Order dated July 25, 2014, the deadline for complete application of water was extended to on or before October 1, 2017. By Extension of Time Final Order dated February 9, 2018, the deadline for complete application of water was extended to on or before October 1, 2019.

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 July 13, 2018



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