

STATE OF OREGON

COUNTY OF CLACKAMAS

PERMIT TO APPROPRIATE THE PUBLIC WATERS

THIS PERMIT IS HEREBY ISSUED TO:

ELSINORE DEVELOPMENT GROUP LLC  
9955 SW POTANO ST  
TUALATIN, OR 92062

This superseding permit is issued to describe an amendment for additional points of appropriation under Permit Amendment Application T-12490 and approved by Special Order Vol. 107, Page 766, entered March 5, 2018, and to describe an extension of time for complete application of water approved December 19, 2014. This permit supersedes Permit G-15973.

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

APPLICATION FILE NUMBER: G-16347

SOURCES OF WATER: WELL 1, WELL 2, WELL 3, KURTH WELL 1, AND KURTH WELL 2 IN WILLAMETTE RIVER BASIN

PURPOSE OR USE: IRRIGATION AND AGRICULTURE USE

MAXIMUM RATE: 0.55 CUBIC FOOT PER SECOND (CFS), BEING FUTHER LIMITED TO 0.35 CFS FOR IRRIGATION

PERIOD OF USE: YEAR ROUND FOR AGRICULTURE USE AND APRIL 1 THROUGH SEPTEMBER 30 OF EACH YEAR FOR IRRIGATION

DATE OF PRIORITY: NOVEMBER 24, 2004

WELL LOCATIONS:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
3 S	1 W	WM	28	SW SW	WELL 1 – 30 FEET NORTH AND 1200 FEET EAST FROM THE SW CORNER OF SECTION 28
3 S	1 W	WM	28	SW SW	WELL 2 – 300 FEET NORTH AND 1200 FEET EAST FROM THE SW CORNER OF SECTION 28
3 S	1 W	WM	28	SW SW	WELL 3 – 30 FEET NORTH AND 920 FEET EAST FROM THE SW CORNER OF SECTION 28
3 S	1 W	WM	28	SW SE	KURTH WELL 1 – 665 FEET NORTH AND 1770 FEET WEST FROM THE SE CORNER OF SECTION 28
3 S	1 W	WM	28	SW SE	KURTH WELL 2 – 685 FEET NORTH AND 1600 FEET WEST FROM THE SE CORNER OF SECTION 28



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

THE PLACE OF USE IS LOCATED AS FOLLOWS:

IRRIGATION AND AGRICULTURAL USE					
Twp	Rng	Mer	Sec	Q-Q	Acres
3 S	1 W	WM	28	NW SW	2.3
3 S	1 W	WM	28	SW SW	25.4
Total					27.7

**Permit Amendment T-12490 Conditions:**

1. The combined quantity of water diverted at the new points of appropriation (Kurth Wells 1 and 2), together with that diverted at the old points of appropriation (Wells 1, 2 and 3), shall not exceed the quantity of water lawfully available at the original points of appropriation (Wells 1, 2 and 3).

**Extension of Time Conditions:**

1. Checkpoint Condition

The permit holder must submit a completed Progress Report Form to the Department by October 1, 2018 and 2023.

- 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 537.206 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.

**Original Permit Conditions:**

Measurement, recording and reporting conditions:

- A. Before water use may begin under this permit, the permittee shall install and maintain a properly functioning totalizing flow. The permittee shall maintain the meter 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.

Ground water production shall occur only from the alluvial ground water reservoir.

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 Departments within 30 days of measurement.

Measurement 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.

### **STANDARD CONDITIONS**

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.

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 wells shall be constructed in accordance with the General Standards of the Construction and Maintenance of Water Wells in Oregon. The works constructed shall include an air line and pressure gauge adequate to determine water level elevation in the wells at all times.

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.

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.

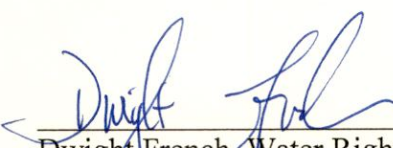
By law, the land use associated with this water use must be in compliance with statewide land-use goals and any local acknowledged land-use plan.

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

The original permit was issued October 13, 2005. Complete application of water to the use was to be made on or before October 1, 2010. By Extension of Time Final order dated December 19, 2014, the deadline for complete application of water was extended to October 30, 2025.

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 MAR 05 2018

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

