

STATE OF OREGON

COUNTY OF HARNEY

PERMIT TO APPROPRIATE THE PUBLIC WATERS

THIS DRAFT PERMIT IS HEREBY ISSUED TO

THOMAS M. AND BARBARA JO HOWARD
P.O. BOX 196
DREWSEY, OR 97904

This permit is issued to describe a Split a Permit, approved by Special Order Volume 117, Page 728, entered OCT 15 2020; extensions of time for complete application of water approved July 12, 2013; partial assignments of original permit G-15252 approved on June 12, 2007, April 29, 2014, August 25, 2014, and May 15, 2019; and a Permit Amendment, approved by Special Order Volume 74, Page 307-309 entered on March 3, 2008. This permit, together with Permit G-18386, supersedes original Permit G-15252.

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

APPLICATION FILE NUMBER: G-15675

SOURCE OF WATER: ELEVEN WELLS IN MALHEUR LAKE BASIN

PURPOSE OR USE: IRRIGATION OF 958.5 ACRES

MAXIMUM RATE: 11.98 CUBIC FEET PER SECOND

PERIOD OF USE: MARCH 1 THROUGH OCTOBER 31

DATE OF PRIORITY: JANUARY 3, 2002

WELL LOCATIONS:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
24 S	33 E	WM	25	NE NW	WELL 3 - 1310 FEET SOUTH AND 1310 FEET WEST FROM THE N1/4 CORNER OF SECTION 25
24 S	33 E	WM	25	NE NW	WELL 13bh 1 - LAT: N 43.464272, LON: W 118.603980
24 S	33 E	WM	25	NE NW	WELL 16bh 1 - LAT: N 43.462760, LON: W 118.599802
24 S	33 E	WM	25	NE SW	WELL 6 - 1330 FEET NORTH AND 1310 FEET WEST FROM THE S1/4 CORNER OF SECTION 25
24 S	33 E	WM	26	NE NE	WELL 2 - 1310 FEET SOUTH AND 1310 FEET WEST FROM THE NE CORNER OF SECTION 26
24 S	33 E	WM	26	NE NW	WELL 1 - 1310 FEET SOUTH AND 1330 FEET EAST FROM THE NW CORNER OF SECTION 26
24 S	33 E	WM	26	NE SW	WELL 4 - 1330 FEET NORTH AND 1330 FEET EAST FROM THE SW CORNER OF SECTION 26

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
24 S	33 E	WM	26	NE SE	WELL 5 - 1330 FEET NORTH AND 1310 FEET WEST FROM THE SE CORNER OF SECTION 26
24 S	33 E	WM	35	NE NW	WELL 7 - 1310 FEET SOUTH AND 1330 FEET EAST FROM THE NW CORNER OF SECTION 35
24 S	33 E	WM	36	NE NW	WELL 8 - 1310 FEET SOUTH AND 1310 FEET WEST FROM THE N1/4 CORNER OF SECTION 36
24 S	33 E	WM	36	NE SW	WELL 9 - 1330 FEET NORTH AND 1310 FEET WEST FROM THE S1/4 CORNER OF SECTION 36

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 3.0 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	Tax Lot	Acres
24 S	33 E	WM	25	NE NW	6900	39.9
24 S	33 E	WM	25	NW NW	6900	40.0
24 S	33 E	WM	25	SW NW	6900	39.9
24 S	33 E	WM	25	SE NW	6900	39.9
24 S	33 E	WM	25	NE SW	6900	39.9
24 S	33 E	WM	25	NW SW	6900	39.9
24 S	33 E	WM	25	SW SW	6900	39.9
24 S	33 E	WM	25	SE SW	6900	39.9
24 S	33 E	WM	26	NE NW	7400	40.0
24 S	33 E	WM	26	NW NW	7400	40.0
24 S	33 E	WM	26	SW NW	7400	40.0
24 S	33 E	WM	26	SE NW	7400	40.0
24 S	33 E	WM	26	NE SW	7400	40.0
24 S	33 E	WM	26	NW SW	7400	40.0
24 S	33 E	WM	26	SW SW	7400	40.0
24 S	33 E	WM	26	SE SW	7400	40.0
24 S	33 E	WM	36	NE NW	6900	39.9
24 S	33 E	WM	36	NW NW	6900	39.9
24 S	33 E	WM	36	SW NW	6900	39.9
24 S	33 E	WM	36	SE NW	6900	39.9
24 S	33 E	WM	36	NE SW	6900	39.9
24 S	33 E	WM	36	NW SW	6900	39.9
24 S	33 E	WM	36	SW SW	6900	39.9
24 S	33 E	WM	36	SE SW	6900	39.9
Total						958.5

Extension of Time Conditions:

Groundwater Condition

The use of any water beyond 2.05 cfs under Permit G-15252 is subject to this Groundwater Condition.

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.

Checkpoint Condition

The permit holder must submit a completed Progress Report Form to the Department by **October 1, 2018, and by October 1, at each 5-year interval, being in 2018, 2023, 2028, and 2033.**

- 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 537.260 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 for each report. The Department shall provide notice of its determination to anyone who submitted comments.

Original Permit G-15252 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.

The water user shall develop a plan to monitor and report the impact of water use under this permit on water levels within the aquifer that provides water to the permitted well(s). The plan shall be submitted to the Department within one year of the date the permit is issued and shall be subject to the approval of the Department. At a minimum, the plan shall include a program to periodically measure static water levels within the permitted well(s) or an adequate substitute such as water levels in nearby wells. The plan shall also stipulate a reference water level against which any water-level declines will be compared. If a well listed on this permit (or replacement well) displays a total static water-level decline of 25 or more feet over any period of years, as compared to the reference level, then the water user shall discontinue use of, or reduce the rate or volume of withdrawal from, the well(s). Such action shall be taken until the water level recovers to above the 25-foot decline level or until the Department determines, based on the water user'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.

STANDARD CONDITIONS

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 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.

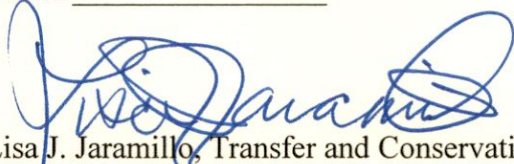
The use of water shall be limited when it interferes with any prior surface or ground water rights.

The Director finds that the proposed use(s) of water described by this permit, as conditioned, will not impair or be detrimental to the public interest.

Complete application was to be made on or before October 1, 2006. By Extension of Time Final Order dated July 12, 2013, the completion of construction and application of the water was extended to on or before October 1, 2037. If the water is not completely applied before this date, and the permittee wishes to continue development under the permit, the permittee must submit an application for extension of time, which may be approved based upon the merit of the application.

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 OCT 15 2020



Lisa J. Jaramillo, Transfer and Conservation Section Manager, for
THOMAS M BYLER, DIRECTOR
Oregon Water Resources Department

REAL ESTATE TRANSACTIONS: Pursuant to ORS 537.330, in any transaction for the conveyance of real estate that includes any portion of the lands described in this permit, the seller of the real estate shall, upon accepting an offer to purchase that real estate, also inform the purchaser in writing whether any permit, transfer approval order, or certificate evidencing the water right is available and that the seller will deliver any permit, transfer approval order or certificate to the purchaser at closing, if the permit, transfer approval order or certificate is available.

CULTURAL RESOURCES PROTECTION LAWS: Permittees involved in ground-disturbing activities should be aware of federal and state cultural resources protection laws. ORS 358.920 prohibits the excavation, injury, destruction or alteration of an archeological site or object, or removal of archeological objects from public and private lands without an archeological permit issued by the State Historic Preservation Office. 16 USC 470, Section 106, National Historic Preservation Act of 1966 requires a federal agency, prior to any undertaking to take into account the effect of the undertaking that is included on or eligible for inclusion in the National Register. For further information, contact the State Historic Preservation Office at 503-378-4168, extension 232.