

STATE OF OREGON

COUNTY OF HARNEY

PERMIT TO APPROPRIATE THE PUBLIC WATERS

THIS PERMIT IS HEREBY ISSUED TO

WILBER & SONS LLC
77 W ADAMS ST
BURNS, OR 97720

This superseding permit is issued to describe an amendment for a change in point of appropriation and additional points of appropriation proposed under Permit Amendment Application T-13868 and approved by Special Order Vol. 125, Page 246, entered June 15, 2022, and to describe an extension of time for complete application of water approved August 9, 2019, and an assignment to a new permittee approved November 30, 2021. This permit supersedes Permit G-16425

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

APPLICATION FILE NUMBER: G-17048

SOURCE OF WATER: THREE WELLS IN MALHEUR LAKE BASIN

PURPOSE OR USE: IRRIGATION USE ON 66.6 ACRES; SUPPLEMENTAL IRRIGATION USE ON 439.3 ACRES

MAXIMUM RATE: 2.0 CUBIC FEET PER SECOND (CFS), BEING NO MORE THAN 0.83 CFS FOR IRRIGATION OF 66.6 ACRES

PERIOD OF USE: MARCH 1 THROUGH OCTOBER 31

DATE OF PRIORITY: MAY 1, 2008

WELL LOCATIONS:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
20 S	35 E	WM	25	NE NE	WELL #1 P - 390 FEET SOUTH AND 50 FEET WEST FROM THE NE CORNER OF SECTION 25
20 S	36 E	WM	30	SE SW	WELL #3 - 1240 FEET NORTH AND 820 FEET WEST FROM THE SOUTH 1/4 CORNER OF SECTION 30
20 S	36 E	WM	31	SW SE	WELL #2 - 1310 FEET NORTH AND 270 FEET EAST FROM THE SOUTH 1/4 CORNER OF SECTION 31

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 PLACE OF USE IS LOCATED AS FOLLO

IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
20 S	35 E	WM	25	SE SE	0.8
20 S	36 E	WM	30	SW SW	5.0
20 S	36 E	WM	30	SW SE	6.0
20 S	36 E	WM	31	NE NW	1.9
21 S	36 E	WM	5	NW NE	1.2
21 S	36 E	WM	5	SW NE	17.0
21 S	36 E	WM	5	NE NW	9.2
21 S	36 E	WM	5	SE NW	20.6
21 S	36 E	WM	5	NE SE	0.1
21 S	36 E	WM	5	NW SE	4.8
Total					66.6

SUPPLEMENTAL IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
20 S	35 E	WM	25	NE NE	40.0
20 S	35 E	WM	25	SW NE	14.8
20 S	35 E	WM	25	SE NE	39.0
20 S	35 E	WM	25	NE SE	14.4
20 S	35 E	WM	25	SE SE	12.8
20 S	36 E	WM	30	SW NW	26.0
20 S	36 E	WM	30	SE NW	1.2
20 S	36 E	WM	30	NE SW	31.1
20 S	36 E	WM	30	NW SW	40.0
20 S	36 E	WM	30	SW SW	32.0
20 S	36 E	WM	30	SE SW	39.8
20 S	36 E	WM	31	NE NW	22.0
20 S	36 E	WM	31	NW NW	21.3
20 S	36 E	WM	31	SW NW	0.1
20 S	36 E	WM	31	SE NW	22.6
20 S	36 E	WM	31	NE SW	0.8
20 S	36 E	WM	31	SW SE	6.0
20 S	36 E	WM	31	SE SE	36.8
20 S	36 E	WM	32	SW SW	12.2
21 S	36 E	WM	5	NE NW	7.0
21 S	36 E	WM	5	NW NW	17.8
21 S	36 E	WM	5	SW NW	0.8
21 S	36 E	WM	6	NE NE	0.8
Total					439.3

Permit Amendment T - 13868 Conditions:

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:

Last Extension Condition:

This may be the last extension of time granted for Permit G-16425. Any future extensions of time request may be denied, unless the permit holder can provide the Department with evidence that diligence is shown during this extension period. In addition, all normal extension standards and rules will be evaluated. ORS 539.010(5); OAR 690-315-0040.

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.

To monitor the effect of water use from the well(s) authorized under this permit, the Department requires the water user to obtain, from a qualified individual (see below), 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 report 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 report seven consecutive annual 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 the user to 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 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 non-use or restricted use shall continue until the 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.

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 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 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 635-415-030 adopted November 13, 1991, shall be followed.

The use may be restricted if the quality of downstream waters decreases 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 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.

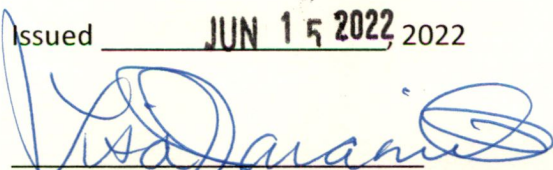
This permit is for the beneficial use of water without waste. The water user is advised that new regulations may require the use of best practical technologies or conservation practices to achieve this end.

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.

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

Completion of construction and complete application of the water to the use shall be made on or before October 1, 2013. By Extension of Time Final Order dated August 9, 2019, the deadline for complete application of water to use was extended to October 1, 2023. If the water is not completely applied before this date, and the permittee wished 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 JUN 15 2022, 2022


Lisa J. Jaramillo, Transfer and Conservation Section manager,
for Thomas M. Byler, Director
Water Resources Department