

STATE OF OREGON
COUNTY OF WASHINGTON

PERMIT TO APPROPRIATE THE PUBLIC WATERS

THIS PERMIT IS HEREBY ISSUED TO

DECKER FARMS, INC.
12475 SW RIVER RD
HILLSBORO, OREGON 97123

The specific limits for the use are listed below along with conditions of use.

APPLICATION FILE NUMBER: S-71157

SOURCE OF WATER: HEATON CREEK, McFEE CREEK AND TUALATIN RIVER,
TRIBUTARIES OF WILLAMETTE RIVER

PURPOSE OR USE: TEMPERATURE CONTROL ON 227.4 ACRES

PERIOD OF ALLOWED USE: NOVEMBER 1 THROUGH APRIL 30

RATE OF USE: 5.74 CUBIC FEET PER SECOND (CFS), BEING 3.34 CFS FROM THE
TUALATIN RIVER, 1.06 CFS FROM McFEE CREEK, 1.34 CFS FROM HEATON CREEK

DATE OF PRIORITY: JANUARY 30, 1991

POINT OF DIVERSION (POD) LOCATION: SW 1/4 NW 1/4, SECTION 28, T1S, R2W,
W.M.; SW 1/4 NW 1/4, SE 1/4 SW 1/4, SECTION 4, NE 1/4 NW 1/4, SECTION
16, SW 1/4 NE 1/4, SECTION 21, T2S, R2W, W.M.; POD 1: 1075 FEET NORTH
AND 900 FEET EAST FROM THE W 1/4 CORNER OF SECTION 28; POD 2: 440 FEET
NORTH AND 740 FEET EAST FROM THE W 1/4 OF SECTION 4; POD 3: 340 FEET
SOUTH AND 150 FEET WEST FROM THE MOST WESTERLY CORNER OF DLC 41; POD 4:
1400 FEET SOUTH AND 385 FEET EAST FROM THE N 1/4 CORNER OF SECTION 21;
POD 5: 915 FEET SOUTH AND 1650 FEET EAST FROM THE NW CORNER OF SECTION
16

THE PLACE OF USE IS LOCATED AS FOLLOWS:

DIVERSION OF TUALATIN RIVER FOR:

SW 1/4 NE 1/4	2.9 ACRES
NE 1/4 NW 1/4	5.9 ACRES
NW 1/4 NW 1/4	1.8 ACRES
SW 1/4 NW 1/4	6.6 ACRES
SE 1/4 NW 1/4	34.8 ACRES

SECTION 28

TOWNSHIP 1 SOUTH, RANGE 2 WEST, W.M.

SW 1/4 NW 1/4	1.2 ACRES
NW 1/4 SW 1/4	0.1 ACRE

SECTION 3

SW 1/4 NE 1/4	3.5 ACRES
SE 1/4 NE 1/4	20.7 ACRES
NE 1/4 NW 1/4	8.1 ACRES
NW 1/4 NW 1/4	2.4 ACRES
SW 1/4 NW 1/4	7.2 ACRES
SE 1/4 NW 1/4	22.1 ACRES
NE 1/4 SW 1/4	15.2 ACRES
SE 1/4 SW 1/4	7.1 ACRES
NE 1/4 SE 1/4	23.7 ACRES
NW 1/4 SE 1/4	20.5 ACRES
SW 1/4 SE 1/4	6.8 ACRES
SE 1/4 SE 1/4	4.6 ACRES

SECTION 4

DIVERSION OF MCFEE CREEK FOR:

NE 1/4 NW 1/4	13.3 ACRES
NW 1/4 NW 1/4	0.3 ACRE

SECTION 16

DIVERSION OF HEATON CREEK FOR:

SE 1/4 SW 1/4	10.4 ACRES
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SECTION 16

NW 1/4 NE 1/4	4.1 ACRES
NE 1/4 NW 1/4	4.1 ACRES

SECTION 21

TOWNSHIP 2 SOUTH, RANGE 2 WEST, W.M.

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 permittee shall install, maintain, and operate fish screening and by-pass devices as required by the Oregon Department of Fish and Wildlife to prevent fish from entering the proposed diversion. The required screens and by-pass devices are to be in place, functional and approved by an ODFW representative prior to diversion of any water.

A report detailing the amount of water used, the times of application and conditions requiring the use of water for temperature control shall be required annually. These shall be required as an element of proof of appropriation to the satisfaction of the Department prior to issuance of a confirming water right certificate.

The permittee shall not construct, operate or maintain any dam or artificial obstruction to fish passage in the channel of the subject stream.

STANDARD CONDITIONS

The use shall conform to such reasonable rotation system as may be ordered by the proper state officer.

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 allowed herein may be made only at times when sufficient water is available to satisfy all prior rights, including prior rights for maintaining instream flows.

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.

Actual construction work shall begin within one year from permit issuance and shall be completed on or before October 1, 1998. Complete application of the water to the use shall be made on or before October 1, 1999.

B+C date ext to 10-1-04

Issued February 23, 1996



Water Resources Department
for Martha O. Pagel
Director