

STATE OF OREGON

COUNTY OF JACKSON

PERMIT TO APPROPRIATE THE PUBLIC WATERS

THIS PERMIT IS HEREBY ISSUED TO

FLY BY NIGHT FARM INC.

SANDRA L. KING

9400 HWY 238

JACKSONVILLE, OREGON 97530

PHONE: (541) 899-9027

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

APPLICATION FILE NUMBER: S-83990

SOURCE OF WATER: APPLGATE RESERVOIR, CONSTRUCTED UNDER PERMIT R-7810 AND R-7829, TRIBUTARY TO THE APPLGATE RIVER

PURPOSE OR USE: IRRIGATION OF 40.0 ACRES

MAXIMUM RATE ALLOWED: 50.0 ACRE-FEET OF STORED WATER ONLY

PERIOD OF USE: APRIL 1 THROUGH OCTOBER 31, OR AS FURTHER LIMITED BY CONTRACT WITH BUREAU OF RECLAMATION

DATE OF PRIORITY: OCTOBER 16, 1998

POINT OF DIVERSION LOCATION: SW 1/4 NW 1/4, SECTION 28, T38S, R3W, W.M.; 1800 FEET SOUTH AND 280 FEET EAST FROM NW CORNER, 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 2.5 acre-feet for each acre irrigated during the irrigation season of each year.

THE PLACE OF USE IS LOCATED AS FOLLOWS:

NW 1/4 SW 1/4 9.0 ACRES

SW 1/4 SW 1/4 28.0 ACRES

SECTION 21

NW 1/4 NW 1/4 3.0 ACRES

SECTION 28

TOWNSHIP 38 SOUTH, RANGE 3 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.
- 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.
- C. The Director may require the permittee to keep and maintain a record of the amount (volume) of water used and may require the permittee to report water use on a periodic schedule as established by the Director. In addition, the Director may require the permittee to report general water use information, the periods of water use and the place and nature of use of water under the permit. The Director may provide an opportunity for the permittee to submit alternative reporting procedures for review and approval.

The use of water under this right is subject to the terms and conditions of contract No. 9-07-10-W1231, or a satisfactory replacement, between the Bureau of Reclamation and the applicant, a copy of which is on file in the records of the Water Resources Department.

The permittee shall not construct, operate or maintain any dam or artificial obstruction to fish passage in the channel of the subject stream without providing a fishway to ensure adequate upstream and downstream passage for fish. The applicant is hereby directed to contact an Oregon Department of Fish and Wildlife Fish Passage Coordinator, Portland, Oregon, before beginning construction of any in-channel obstruction.

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.

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.

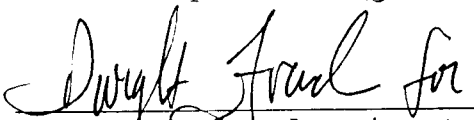
By law, the land use associated with this water use must be in compliance with statewide land-use goals and any local acknowledged land-use plan.

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 by August 13, 2000. Complete application of the water to the use shall be made on or before October 1, 2003. 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 September 13, 1999


Martha O. Pagel, Director
Water Resources Department

Application S-83990
Basin 15
RWK

Water Resources Department
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PERMIT 53611
District 13