

STATE OF OREGON

COUNTY OF CLACKAMAS

PERMIT TO APPROPRIATE THE PUBLIC WATERS

THIS PERMIT IS HEREBY ISSUED TO

FRANKLIN MERRILL FARMS LLC
JAMES CUTLER
300 N. POINT RD.
LAKE OSWEGO, OREGON 97034

PHONE: (503) 598-2604

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

APPLICATION FILE NUMBER: S-84039

SOURCE OF WATER: WILLAMETTE BASIN PROJECTS, CONSTRUCTED UNDER PERMITS R-1625 AND R-5363, TRIBUTARY TO THE WILLAMETTE RIVER

PURPOSE OR USE: IRRIGATION OF 48.0 ACRES

MAXIMUM RATE/VOLUME ALLOWED: 120.0 ACRE-FEET PER YEAR

PERIOD OF USE: MARCH 1 THROUGH OCTOBER 31, OR AS FURTHER LIMITED BY CONTRACT

DATE OF PRIORITY: JANUARY 12, 1999

POINT OF DIVERSION LOCATION: NE 1/4 SE 1/4, SECTION 29, T3S, R1W, W.M.; 3170 FEET SOUTH AND 830 FEET WEST FROM NE CORNER, SECTION 29

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:

SW 1/4 NW 1/4 6.0 ACRES
SECTION 28
NE 1/4 NE 1/4 9.0 ACRES
SE 1/4 NE 1/4 29.0 ACRES
NE 1/4 SE 1/4 4.0 ACRES
SECTION 29

TOWNSHIP 3 SOUTH, RANGE 1 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-W1254, 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.

If the riparian area is disturbed in the process of developing a point of diversion, the permittee shall be responsible for restoration and enhancement of such riparian area.

The use may be restricted if the quality of the source stream or downstream water decrease to the point that those waters no longer meet state or federal water quality standards due to reduced flows.

The permittee shall install, maintain, and operate fish screening to prevent fish from entering the proposed diversion. The permittee shall also install a fishway at the obstruction that will provide adequate upstream and downstream passage for fish. The permittee may submit evidence that the Oregon Department of Fish and Wildlife (ODFW) has determined screens and/or fishways are not necessary. The required screens and fishways are to be in place, functional, and approved by ODFW before 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 November 26, 1999. Complete application of the water to the use shall be made on or before October 1, 2004. 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 January 27, 2000



Martha G. Pagel, Director
Water Resources Department

Application S-84039 Water Resources Department
Basin 02 Volume 26 WILLAMETTE R & TRIBS
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PERMIT 53642
District 16