

STATE OF OREGON

COUNTY OF POLK

PERMIT TO APPROPRIATE THE PUBLIC WATERS

THIS PERMIT IS HEREBY ISSUED TO

SCHARF BROTHERS FARMS  
JOHN E. SCHARF  
9950 BETHEL ROAD  
AMITY, OREGON 97101

(503)835-6445

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

APPLICATION FILE NUMBER: S-84166

SOURCE OF WATER: FOUR RESERVOIRS AUTHORIZED UNDER PERMIT R-2038, PERMIT R-8399, AND PERMIT R-12790 (2 RESERVOIRS), TRIBUTARIES OF ASH SWALE

PURPOSE OR USE: IRRIGATION OF 790.7 ACRES

MAXIMUM VOLUME ALLOWED: 129.9 ACRE-FEET (AF) PER YEAR, BEING 2.0 AF - PERMIT R-2038, 4.0 AF - PERMIT R-8399, AND 123.9 AF, BEING 46.7 AF FROM N MCKEE RES AND 77.2 AF FROM S MCKEE RES - PERMIT R-12790

PERIOD OF USE: MARCH 1 THROUGH OCTOBER 31

DATE OF PRIORITY: JUNE 8, 1999

POINT OF DIVERSION LOCATION: NE 1/4 SE 1/4, SECTION 23, T6S, R5W, W.M.; P1- 1230 FEET NORTH & 35 FEET WEST; SE 1/4 SE 1/4, P2- 440 FEET SOUTH & 755 FEET EAST, BOTH FROM NW CORNER W HOWE DLC 65; SECTION 24, T6S, R5W, W.M.; NW 1/4 SE 1/4, P3- 1140 FEET NORTH & 1405 FEET EAST; SW 1/4 NE 1/4, P4- 1570 FEET NORTH & 1755 FEET EAST, BOTH FROM SE CORNER B BUTLER DLC 64; SW 1/4 NW 1/4, SECTION 19, T6S, R 4W, W.M.; P5- 1955 FEET SOUTH & 275 FEET EAST FROM NW CORNER SECTION 19; P6- 1540 FEET SOUTH & 560 FEET EAST FROM NW CORNER SECTION 19

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 NW 1/4 5.3 ACRES

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SW 1/4 NW 1/4 8.5 ACRES  
 NW 1/4 SW 1/4 12.4 ACRES  
 SW 1/4 SW 1/4 16.0 ACRES  
 SE 1/4 SW 1/4 20.3 ACRES

## SECTION 19

NE 1/4 NW 1/4 37.5 ACRES  
 NW 1/4 NW 1/4 38.8 ACRES

## SECTION 30

TOWNSHIP 6 SOUTH, RANGE 4 WEST, W.M.

SW 1/4 NE 1/4 2.0 ACRES  
 SE 1/4 NE 1/4 17.0 ACRES  
 NE 1/4 SE 1/4 34.5 ACRES  
 NW 1/4 SE 1/4 19.0 ACRES  
 SW 1/4 SE 1/4 4.5 ACRES  
 SE 1/4 SE 1/4 31.3 ACRES

## SECTION 23

NE 1/4 NE 1/4 34.8 ACRES  
 NW 1/4 NE 1/4 38.9 ACRES  
 SW 1/4 NE 1/4 6.7 ACRES  
 SE 1/4 NE 1/4 10.7 ACRES  
 NE 1/4 NW 1/4 12.9 ACRES  
 NE 1/4 SW 1/4 29.0 ACRES  
 NW 1/4 SW 1/4 40.0 ACRES  
 SW 1/4 SW 1/4 40.0 ACRES  
 SE 1/4 SW 1/4 24.6 ACRES  
 NE 1/4 SE 1/4 40.0 ACRES  
 NW 1/4 SE 1/4 31.1 ACRES  
 SW 1/4 SE 1/4 40.0 ACRES  
 SE 1/4 SE 1/4 40.0 ACRES

## SECTION 24

NE 1/4 NE 1/4 38.0 ACRES  
 NW 1/4 NE 1/4 38.8 ACRES  
 NE 1/4 NW 1/4 13.4 ACRES  
 NW 1/4 NW 1/4 31.3 ACRES

## SECTION 25

NE 1/4 NE 1/4 26.1 ACRES  
 NW 1/4 NE 1/4 7.3 ACRES

## SECTION 26

TOWNSHIP 6 SOUTH, RANGE 5 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.

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 March 17, 2001. 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 March 17, 2000

  
 Martha O. Pagel, Director  
 Water Resources Department

*NOTE: 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.*

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 Basin 2                      Volume 11A ASH SWALE MISC  
 AMH

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 District 16