

STATE OF OREGON

COUNTY OF UMATILLA

PERMIT TO APPROPRIATE THE PUBLIC WATERS

THIS PERMIT IS HEREBY ISSUED TO

HUDSON BAY DISTRICT IMPROVEMENT CO.
P O BOX 110
MILTON-FREEWATER, OREGON 97862.

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

APPLICATION FILE NUMBER: S-68629

SOURCE OF WATER: WALLA WALLA RIVER, A TRIBUTARY OF THE COLUMBIA RIVER, WITHIN THE UMATILLA RIVER BASIN

PURPOSE OR USE: PRIMARY IRRIGATION OF 737.1 ACRES AND SUPPLEMENTAL IRRIGATION OF 15 ACRES

MAXIMUM RATE ALLOWED: 16.6 CUBIC FEET PER SECOND (CFS), BEING 16.6 CFS FOR PRIMARY IRRIGATION OF 737.1 ACRES AND 0.56 CFS FOR SUPPLEMENTAL IRRIGATION OF 15.0 ACRES

PERIOD OF USE: NOVEMBER 1 THROUGH MAY 15 AND AS FURTHER LIMITED BELOW

DATE OF PRIORITY: JANUARY 11, 1988

POINT OF DIVERSION LOCATION: NE 1/4 NW 1/4, SECTION 1, SW 1/4 NE 1/4 SECTION 12, T5N, R35E, W.M.; DIV. PT. 1 - 910 FEET SOUTH AND 700 FEET WEST FROM THE NORTH 1/4 CORNER SECTION 1; DIV. PT. 2 - 1030 FEET NORTH AND 900 FEET EAST FROM THE CENTER 1/4 CORNER SECTION 12

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 THREE-EIGHTIETHS of one cubic foot per second (or its equivalent) for each acre irrigated during the irrigation season of each year.

When water is diverted under this permit, the use is further limited to times when there is, at a minimum, the following streamflows in the Tum A Lum branch of the Walla Walla River, between the Little Walla Walla

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Water Resources Department

PERMIT 53662

River diversion and Nursery Bridge Dam and flowing past Nursery Bridge Dam: November- 64 cfs, December through January - 95 cfs, February through May 15- 132 cfs. Nursery Bridge Dam is located just downstream of Nursery Bridge and is downstream of the Little Walla Walla diversion, the East Side Canal and the District's Canal, also described as point of diversion 1 in this permit.

In order for diversion to occur under this permit, the above described streamflows must be met in the Tum A Lum branch of the Walla Walla River, between the Little Walla Walla River diversion and Nursery Bridge Dam and flowing past Nursery Bridge Dam. Said streamflows shall be measured at the gaging station described below. In the event the gage is placed upstream of the Little Walla Walla diversion, the East Side Canal, or the District's Canal, streamflows at Nursery Bridge Dam shall be calculated by subtracting from the streamflow measured at the gage the quantity of water diverted under this permit and/or any senior downstream diversions within this reach (Little Walla Walla diversion to Nursery Bridge Dam). The District 5 Watermaster, based on gage readings and/or streamflow measurements, shall make the determination that the above described streamflows are flowing past Nursery Bridge Dam. Diversion under this permit shall cease when said streamflows are not being met.

The permittee shall install, maintain and cause to be operated, to the satisfaction of the District 5 Watermaster, a permanent recording gaging station. The design and location of the gaging station shall be completed to the satisfaction of the District 5 Watermaster. With respect to design, at a minimum, the gage shall consist of a stage recorder and recording system capable of recording +/- .01 feet of stage over the range of flow, a shelter, and shall have telemetric capabilities or other real time access capabilities. With respect to location, at a minimum, the gaging station shall be in a stream reach with a reasonably definable control that will maintain a pool at the gage at all stages and shall be located such that the gage provides an accurate reading of the control crest depth at all elevations. Maintenance of the measuring device, records work up, and associated rating curve shall substantially comply with the applicable provisions of OAR 690-085-015(4) (methods for measuring open channels). The gaging station and data shall be accessible to the District 5 Watermaster and his/her agent at all times. The permittee is responsible for operating the gaging station only for the November 1 to May 15 period of use. The permittee agrees to allow the Department to use the gaging station outside the November 1 to May 15 period of use in order to collect

streamflow data. However, if the Department operates the gaging station, the costs to operate it including but not limited to electrical power and telephone service during this outside period shall be the sole responsibility of the Department.

The gaging station shall be installed and operating to the satisfaction of the District 5 Watermaster prior to November 1, 2001. If a gaging station that will satisfy this condition cannot be installed for the November 1, 2001 - May 15, 2002 irrigation season, no diversion will be allowed until an alternative plan to measure streamflows is approved by the District 5 Watermaster.

Prior to November 1, 2001, and consistent with seasonal conditions in this permit, water use may occur without installation of the above described gaging station but shall be subject to the above described streamflow conditions and must be in consultation with the District 5 Watermaster. At any time prior to the installation of the gaging station, if the District 5 Watermaster or his/her agent makes streamflow measurements specifically to monitor or implement the above conditions regarding streamflows, the permittee shall reimburse Umatilla County for the actual payroll costs and mileage costs associated with measurements deemed necessary by the District 5 Watermaster.

Once the above described gaging station is operational, when water is being diverted under this permit, the permittee shall be responsible for monitoring streamflows to comply with the above conditions: 1) during the November 1 through May 15 period, at those times when streamflows are over 300 cfs, the permittee shall monitor and record gaged streamflows once a month; and during the November 1 through May 15 period, at those times when streamflows are under 300 cfs, the permittee shall monitor and record gaged streamflows daily. Streamflow monitoring may be conducted through remote access of the gaging station. A copy of the permittee's monitoring record shall be submitted to the District 5 Watermaster by October 1 of each year.

Measurement, recording and reporting conditions:

- A. Before water use may begin under this permit, at the point of diversion used, 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.

Within six months after approval of the permittee's water right re-mapping petition under ORS 541.329 or by January 1, 2001, which ever occurs first, for lands described as primary irrigation in this permit, the permittee shall, except for underlying water rights of record transferred under ORS 541.329, collect and submit to the Water Resources Department the necessary paperwork to diminish or cancel all underlying primary water rights of record. In the event the permittee fails to meet this condition on all or some of the lands described in this permit, said portions of the permit shall revert from primary irrigation to supplemental irrigation without additional process or further notice from the Department.

For lands described as primary irrigation under this permit, this permit shall be designated as the principle water supply for the authorized use. Underlying water rights of record, except those being transferred under 541.329, shall be considered supplemental water rights. This permit, as the primary water right shall be used first when it is available. To the extent that the primary right designated by this permit is deficient in supply, either with respect to season or quantity, the underlying supplemental water right, if available, may be used to make up said deficiency.

THE PLACE OF USE IS LOCATED AS FOLLOWS:

	<u>PRIMARY</u>	<u>SUPPLEMENTAL</u>	<u>OWNER</u>
NW 1/4 NE 1/4	0.25 ACRES		Robert F. Goebel
	SECTION 2		
SW 1/4 NW 1/4	22.6 ACRES		Fuji Orchards
	SECTION 3		
	TOWNSHIP 5 NORTH, RANGE 35 EAST, W.M.		

NE 1/4 SW 1/4	9.5 ACRES	Leland Hellberg
SE 1/4 SW 1/4	40.0 ACRES	Leland Hellberg
NE 1/4 SE 1/4	38.0 ACRES	Leland Hellberg
NW 1/4 SE 1/4	34.0 ACRES	Leland Hellberg
SW 1/4 SE 1/4	26.0 ACRES	Leland Hellberg
SE 1/4 SE 1/4	34.0 ACRES	Leland Hellberg

SECTION 14

SW 1/4 NW 1/4	39.5 ACRES	White Estate
SE 1/4 NW 1/4	4.25 ACRES	White Estate

SECTION 17

SE 1/4 NE 1/4	5.3 ACRES	Williams Dairy
NE 1/4 SE 1/4	15.7 ACRES	Williams Dairy

SECTION 22

NE 1/4 NE 1/4	15.0 ACRES	Williams Dairy
NW 1/4 SW 1/4	33.5 ACRES	Williams Dairy

SECTION 23

NE 1/4 NW 1/4	28.2 ACRES	Williams Dairy
SW 1/4 NW 1/4	33.6 ACRES	Williams Dairy
SE 1/4 NW 1/4	26.0 ACRES	Williams Dairy
NE 1/4 SW 1/4	3.5 ACRES	Williams Dairy
NW 1/4 SW 1/4	36.8 ACRES	Williams Dairy
SW 1/4 SW 1/4	37.0 ACRES	Williams Dairy
SE 1/4 SW 1/4	20.0 ACRES	Williams Dairy
SW 1/4 SE 1/4	20.0 ACRES	Williams Dairy

SECTION 26

NW 1/4 NE 1/4	40.0 ACRES	Williams Dairy
NE 1/4 NW 1/4	39.0 ACRES	Williams Dairy
NW 1/4 NW 1/4	16.6 ACRES	Williams Dairy

SECTION 35

TOWNSHIP 6 NORTH, RANGE 34 EAST, W.M.

SW 1/4 SE 1/4	20.0 ACRES	Joe Chvatal Jr.
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SECTION 18

NW 1/4 NE 1/4	15.0 ACRES	Brent Palmer
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SECTION 20

NW 1/4 NE 1/4	38.8 ACRES	Ernest Silva
SW 1/4 NE 1/4	10.0 ACRES	Schichtel's Nursery
NE 1/4 NW 1/4	20.0 ACRES	Marvin Long
NW 1/4 SE 1/4	30.0 ACRES	Schichtel's Nursery

SECTION 30

TOWNSHIP 6 NORTH, RANGE 35 EAST, W.M.

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(s).

For lands identified as under supplemental irrigation, this right is limited to any deficiency in the available supply of any prior right existing for the same land.

In the event of a request for a change in point of appropriation, an additional point of appropriation or alteration of the appropriation facility associated with this authorized diversion, the quantity of water allowed herein, together with any other right, shall not exceed the capacity of the facility at the time of perfection of this right.

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.

