

STATE OF OREGON

COUNTY OF POLK

PERMIT TO APPROPRIATE THE PUBLIC WATERS

THIS PERMIT IS HEREBY ISSUED TO

J FRANK SCHMIDT AND SON CO.
PO BOX 189
BORING, OR 97009

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

APPLICATION FILE NUMBER: S-85961

SOURCE OF WATER: LUCKIAMUTE RIVER, A TRIBUTARY OF WILLAMETTE RIVER

PURPOSE OR USE: AGRICULTURE AND IRRIGATION USE ON 574.6 ACRES

MAXIMUM RATE: 4.0 CUBIC FEET PER SECOND (CFS), BEING 3.0 CFS FOR AGRICULTURE AND 1.0 CFS FOR IRRIGATION

PERIOD OF USE: OCTOBER 1 THROUGH JUNE 30 FOR AGRICULTURE AND OCTOBER 1 THROUGH OCTOBER 31 FOR IRRIGATION

DATE OF PRIORITY: MARCH 8, 2004

POINT OF DIVERSION (POD) LOCATIONS:

POD 1: GOVT LOT: 1 (NE $\frac{1}{4}$ NW $\frac{1}{4}$), SECTION 19, T9S, R4W, W.M.; 440 FEET SOUTH & 1670 FEET EAST FROM NW CORNER, SECTION 19

POD 2: GOVT LOT: 5 (SE $\frac{1}{4}$ NE $\frac{1}{4}$), SECTION 19, T9S, R4W, W.M.; 1210 FEET NORTH & 130 FEET WEST FROM E1/4 CORNER, SECTION 19

POD 3: GOVT LOT: 4 (SW $\frac{1}{4}$ SW $\frac{1}{4}$), SECTION 20, T9S, R4W, W.M.; 870 FEET NORTH & 770 FEET EAST FROM SW CORNER, SECTION 20

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 ONE-EIGHTIETH of one cubic foot per second and 2.5 acre-feet for each acre irrigated during the irrigation season of each year.

THE PLACE OF USE IS LOCATED AS FOLLOWS:

NE $\frac{1}{4}$ NE $\frac{1}{4}$ 3.6 ACRES
NW $\frac{1}{4}$ NE $\frac{1}{4}$ 31.5 ACRES
SW $\frac{1}{4}$ NE $\frac{1}{4}$ 40.0 ACRES

SE ¼ NE ¼ 36.9 ACRES
 NE ¼ NW ¼ 21.3 ACRES
 SE ¼ NW ¼ 31.2 ACRES
 NE ¼ SW ¼ 26.6 ACRES
 SE ¼ SW ¼ 19.3 ACRES
 NE ¼ SE ¼ 40.0 ACRES
 NW ¼ SE ¼ 40.0 ACRES
 SW ¼ SE ¼ 40.0 ACRES
 SE ¼ SE ¼ 40.0 ACRES
 SECTION 19

SW ¼ NW ¼ 3.3 ACRES
 NW ¼ SW ¼ 14.4 ACRES
 SW ¼ SW ¼ 17.4 ACRES
 SECTION 20

NW ¼ NW ¼ 10.1 ACRES
 SW ¼ NW ¼ 0.5 ACRE
 SECTION 29

NE ¼ NE ¼ 38.5 ACRES
 NW ¼ NE ¼ 38.3 ACRES
 SW ¼ NE ¼ 31.1 ACRES
 SE ¼ NE ¼ 20.5 ACRES
 NE ¼ NW ¼ 12.8 ACRES
 SE ¼ NW ¼ 7.3 ACRES
 NE ¼ SW ¼ 0.3 ACRE
 NE ¼ SE ¼ 0.6 ACRE
 NW ¼ SE ¼ 9.1 ACRES
 SECTION 30

TOWNSHIP 9 SOUTH, RANGE 4 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 a fish screening device as required by the Oregon Department of Fish and Wildlife to prevent fish from entering the proposed diversion. The required screens are to be in place, functional and approved by an ODFW representative prior to diversion of any water.

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 waters decrease to the point that those waters no longer meet existing state or federal water quality standards due to reduced flows.

STANDARD CONDITIONS

Where two or more water users agree among themselves as to the manner of rotation in the use of water and such agreement is placed in writing and filed by such water users with the watermaster, and such rotation system does not infringe upon such prior rights of any water user not a party to such rotation plan, the watermaster shall distribute the water according to such agreement.

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.

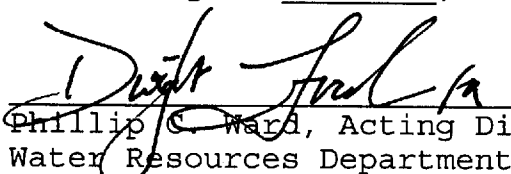
The use of water allowed herein may be made only at times when sufficient water is available to satisfy all prior rights, including prior rights for maintaining instream flows.

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.

Complete application of the water to the use shall be made on or before October 1, 2008. If the water is not completely applied before this date, and the permittee wishes to continue development under the permit, the permittee must submit an application for extension of time, which may be approved based upon the merit of the application.

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 August 26, 2004


Phillip C. Ward, Acting Director
Water Resources Department

ASSIGNMENT OF PERMIT: Pursuant to ORS 537.220, this permit may be assigned to a party other than the permittee named hereon, if the land the permit is associated with changes ownership, or if the permittee is an organization whose name changes as a result of sale or merger. Request for Assignment forms are available from the Oregon Water Resources Department web site at <http://www.wrd.state.or.us/>, or may be requested from the Department at 503-986-0801 or Water Right Application Section, Oregon Water Resources Department, 725 Summer St NE Ste A, Salem OR 97301-1271.

MAILING ADDRESS CHANGES: If the mailing address of the permittee named hereon changes, it is important that the Oregon Water Resources Department be informed of the change. Address changes must be submitted in writing with the permittee's signature to Water Right Application Section, Oregon Water Resources Department, 725 Summer St NE Ste A, Salem OR 97301-1271.

REAL ESTATE TRANSACTIONS: 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.

CULTURAL RESOURCES PROTECTION LAWS: Permittees involved in ground-disturbing activities should be aware of federal and state cultural resources protection laws. ORS 358.920 prohibits the excavation, injury, destruction or alteration of an archeological site or object, or removal of archeological objects from public and private lands without an archeological permit issued by the State Historic Preservation Office. 16 USC 470, Section 106, National Historic Preservation Act of 1966 requires a federal agency, prior to any undertaking to take into account the effect of the undertaking that is included on or eligible for inclusion in the National Register. For further information, contact the State Historic Preservation Office at 503-378-4168, extension 232.

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