

STATE OF OREGON

COUNTY OF POLK

PERMIT TO APPROPRIATE THE PUBLIC WATERS

THIS PERMIT IS HEREBY ISSUED TO

JENKS OLSEN FARMS INC  
8930 SUVER RD  
MONMOUTH, OR 97361

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

APPLICATION FILE NUMBER: S-86189

SOURCE OF WATER: SOAP CREEK AND BERRY CREEK, TRIBUTARIES OF LUCKIAMUTE RIVER

PURPOSE OR USE: IRRIGATION USE ON 692.1 ACRES

MAXIMUM RATE: 8.0 CUBIC FEET PER SECOND

PERIOD OF USE: MARCH 1 THROUGH APRIL 30

DATE OF PRIORITY: MARCH 4, 2005

POINT OF DIVERSION LOCATIONS:

SOAP CREEK DIVERSION - NW  $\frac{1}{4}$  NW  $\frac{1}{4}$ , SECTION 12, T10S, R5W, W.M.; 950 FEET SOUTH & 725 FEET EAST FROM NW CORNER, SECTION 12

BERRY CREEK DIVERSION - NE  $\frac{1}{4}$  SE  $\frac{1}{4}$ , SECTION 5, T10S, R5W, W.M.; 1730 FEET NORTH & 200 FEET WEST FROM SE CORNER, SECTION 3

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:

SW  $\frac{1}{4}$  SW  $\frac{1}{4}$  9.2 ACRES  
SECTION 1

NE  $\frac{1}{4}$  SW  $\frac{1}{4}$  22.2 ACRES  
NW  $\frac{1}{4}$  SW  $\frac{1}{4}$  37.2 ACRES  
SW  $\frac{1}{4}$  SW  $\frac{1}{4}$  40.0 ACRES  
SE  $\frac{1}{4}$  SW  $\frac{1}{4}$  38.9 ACRES  
NE  $\frac{1}{4}$  SE  $\frac{1}{4}$  20.8 ACRES

NW  $\frac{1}{4}$  SE  $\frac{1}{4}$  39.2 ACRES  
 SW  $\frac{1}{4}$  SE  $\frac{1}{4}$  40.0 ACRES  
 SE  $\frac{1}{4}$  SE  $\frac{1}{4}$  39.5 ACRES

## SECTION 2

SE  $\frac{1}{4}$  NE  $\frac{1}{4}$  0.6 ACRE  
 NE  $\frac{1}{4}$  SW  $\frac{1}{4}$  0.1 ACRE  
 SW  $\frac{1}{4}$  SW  $\frac{1}{4}$  3.0 ACRES  
 SE  $\frac{1}{4}$  SW  $\frac{1}{4}$  30.1 ACRES  
 NE  $\frac{1}{4}$  SE  $\frac{1}{4}$  33.1 ACRES  
 NW  $\frac{1}{4}$  SE  $\frac{1}{4}$  12.6 ACRES  
 SW  $\frac{1}{4}$  SE  $\frac{1}{4}$  39.4 ACRES  
 SE  $\frac{1}{4}$  SE  $\frac{1}{4}$  39.6 ACRES

## SECTION 3

NE  $\frac{1}{4}$  NE  $\frac{1}{4}$  26.6 ACRES  
 NW  $\frac{1}{4}$  NE  $\frac{1}{4}$  39.5 ACRES  
 SW  $\frac{1}{4}$  NE  $\frac{1}{4}$  8.5 ACRES  
 NE  $\frac{1}{4}$  NW  $\frac{1}{4}$  33.2 ACRES  
 NW  $\frac{1}{4}$  NW  $\frac{1}{4}$  0.3 ACRE  
 SE  $\frac{1}{4}$  NW  $\frac{1}{4}$  15.6 ACRES

## SECTION 10

NE  $\frac{1}{4}$  NE  $\frac{1}{4}$  29.7 ACRES  
 NW  $\frac{1}{4}$  NE  $\frac{1}{4}$  29.3 ACRES  
 NE  $\frac{1}{4}$  NW  $\frac{1}{4}$  19.0 ACRES  
 NW  $\frac{1}{4}$  NW  $\frac{1}{4}$  18.6 ACRES

## SECTION 11

NE  $\frac{1}{4}$  NW  $\frac{1}{4}$  0.6 ACRE  
 NW  $\frac{1}{4}$  NW  $\frac{1}{4}$  25.7 ACRES

## SECTION 12

TOWNSHIP 10 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 in accordance with ODFW's Fish and Wildlife Habitat Mitigation Policy OAR 635-415. For purposes of mitigation, the ODFW Fish and Wildlife Habitat Mitigation Goals and Standards, OAR Chapter 635, Division 415, Section 030 adopted November 13, 1991 shall be followed.

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.

The permittee shall install, maintain, and operate fish screening and by-pass devices consistent with current Oregon Department of Fish and Wildlife (ODFW) standards. Fish screening is to prevent fish from entering the proposed diversion while by-pass devices provide adequate upstream and downstream passage for fish. The required screen and by-pass devices are to be in place and functional, and approved in writing by ODFW prior to diversion of any water. The permittee may submit evidence in writing that ODFW has determined screens and/or by-pass devices are not necessary.

#### 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.

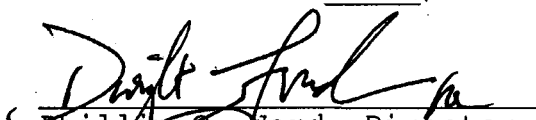
By law, the land use associated with this water use must be in compliance with statewide land-use goals and any local acknowledged land-use plan.

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.

Complete application of the water to the use shall be made on or before October 1, 2010. 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 October 6, 2005

  
Phillip C. Ward, Director  
Water Resources Department