

STATE OF OREGON

COUNTY OF POLK

PERMIT TO APPROPRIATE THE PUBLIC WATERS

THIS PERMIT IS HEREBY ISSUED TO

FERN CREEK VINEYARDS LLC
(C/O) PREMIER PACIFIC VINEYARDS
PO BOX 3989
NAPA, CA 94558

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

APPLICATION FILE NUMBER: S-87121

SOURCE OF WATER: FERN CREEK RESERVOIR (CONSTRUCTED UNDER APPLICATION R-87120) AND UNNAMED STREAM, TRIBUTARIES TO COOPER CREEK

PURPOSE OR USE: IRRIGATION USE ON 383.0 ACRES AND POND MAINTENANCE

MAXIMUM VOLUME/RATE: 100.0 ACRE FEET (AF) CONTINGENT UPON THE APPROVAL OF APPLICATION (R-87120) FOR IRRIGATION AND 3.0 CUBIC FOOT PER SECOND (CFS) BEING NO MORE THAN 1.0 CFS FOR POND MAINTENANCE

PERIOD OF USE:

OCTOBER 1 THROUGH JUNE 30 FOR POND MAINTENANCE FROM AN UNNAMED STREAM

MARCH 1 THROUGH APRIL 30 FOR IRRIGATION FROM AN UNNAMED STREAM

MARCH 1 THROUGH OCTOBER 31 FOR IRRIGATION FROM FERN CREEK RESERVOIR

DATE OF PRIORITY: MARCH 14, 2008

POINTS OF DIVERSION LOCATIONS:

UNNAMED STREAM - NE $\frac{1}{4}$ NW $\frac{1}{4}$, SECTION 21, T8S, R5W, W.M.; 1250 FEET SOUTH AND 1650 FEET EAST FROM NW CORNER, SECTION 21

FERN CREEK RESERVOIR - SE $\frac{1}{4}$ NW $\frac{1}{4}$, SECTION 16, T8S, R5W, W.M.; 2750 FEET NORTH AND 1760 FEET EAST FROM SW CORNER, SECTION 16

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 $\frac{1}{4}$ NW $\frac{1}{4}$ 38.5 ACRES
 SE $\frac{1}{4}$ NW $\frac{1}{4}$ 40.0 ACRES & POND MAINTENANCE
 NE $\frac{1}{4}$ SW $\frac{1}{4}$ 40.0 ACRES & POND MAINTENANCE
 NW $\frac{1}{4}$ SW $\frac{1}{4}$ 35.6 ACRES & POND MAINTENANCE
 SW $\frac{1}{4}$ SW $\frac{1}{4}$ 38.0 ACRES
 SE $\frac{1}{4}$ SW $\frac{1}{4}$ 40.0 ACRES
 SECTION 16

SE $\frac{1}{4}$ NE $\frac{1}{4}$ 23.6 ACRES
 NE $\frac{1}{4}$ SE $\frac{1}{4}$ 27.5 ACRES
 SE $\frac{1}{4}$ SE $\frac{1}{4}$ 30.0 ACRES
 SECTION 17

NE $\frac{1}{4}$ NW $\frac{1}{4}$ 29.8 ACRES
 NW $\frac{1}{4}$ NW $\frac{1}{4}$ 40.0 ACRES
 SECTION 21

TOWNSHIP 8 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 totalizing flow meter at each point of diversion. The permittee shall maintain the meter(s) in good working order. The permittee 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(s); provided however, where any meter is located within a private structure, the watermaster shall request access upon reasonable notice.

Notwithstanding that Oregon Department of Fish and Wildlife has made a determination that fish screens and/or by-pass devices are not necessary at the time of permit issuance, the permittee may be required in the future to install, maintain, and operate fish screening and/or by-pass devices to prevent fish from entering the proposed diversion, and to provide adequate upstream and downstream passage for fish.

The permittee shall not construct, operate or maintain any dam or artificial obstruction to fish passage in the channel of the subject stream without providing a fishway to ensure adequate upstream and downstream passage for fish, unless the permittee has requested and been granted a fish passage waiver by the Oregon Fish and Wildlife Commission. The permittee is hereby directed to contact an Oregon

Department of Fish and Wildlife Fish Passage Coordinator, before beginning construction of any in-channel obstruction.

At the time of certification, the total rate allowed for pond maintenance may be reduced, in accordance with Departmental standards, so as to be commensurate with the certified volume(s) of the reservoir(s).

STANDARD CONDITIONS

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.

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.

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 635-415, shall be followed.

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

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.

Completion of construction and application of the water shall be made within five years of the date of permit issuance. If beneficial use of permitted water has not been made before this date, the permittee may submit an application for extension of time, which may be approved based upon the merit of the application.

Within one year after making beneficial use of water, the permittee shall submit a claim of beneficial use, which includes a map and report, prepared by a Certified Water Rights Examiner.

Issued August 21, 2009

E. Timothy Wall.

for Phillip C. Ward, Director
Water Resources Department