

STATE OF OREGON

COUNTY OF UMATILLA

PERMIT TO APPROPRIATE THE PUBLIC WATERS

THIS PERMIT IS HEREBY ISSUED TO

LLOYD AND LOIS PIERCY
33927 RIVERVIEW DR
HERMISTON, OR 97838

ST. HILAIRE BROTHERS HERMISTON FARM LLC
84186 HIGHWAY 37
HERMISTON, OR 97838

This superseding permit is issued to describe an amendment for a change in place of use proposed under Permit Amendment Application T-12751 and approved by Special Order Vol. 112, Page 107, entered DEC 20 2018, and to describe an extension of time for complete application of water approved April 12, 2013 and an assignment to a new permittee approved February 10, 2015. This permit supersedes Permit S-54385.

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

APPLICATION FILE NUMBER: S-86717

DATE OF PRIORITY: NOVEMBER 17, 2006

SOURCE OF WATER: COLUMBIA RIVER, A TRIBUTARY OF THE PACIFIC OCEAN

PURPOSE OR USE: PRIMARY IRRIGATION USE ON 960.0 ACRES AND SUPPLEMENTAL IRRIGATION USE ON 2289.4 ACRES, (*WHICH INCLUDES RAISING THE SOIL MOISTURE TO FIELD CAPACITY TO BE UTILIZED BY PLANT GROWTH IN THE SUBSEQUENT GROWING SEASON)

MAXIMUM RATE: 52.6 CUBIC FEET PER SECOND AS FURTHER LIMITED BELOW

USE	MAXIMUM RATE (CFS)	LIMIT (CFS PER ACRE)	DUTY (ACRE FEET (AF) PER ACRE)	PERIOD OF USE
PRIMARY IRRIGATION*	24.0	1/40	4.5 MAX	MARCH 1 - APRIL 14 AND OCTOBER 1 - OCTOBER 31
PRIMARY IRRIGATION*	24.0	1/40	FURTHER LIMITED TO 1.5	NOVEMBER 1 - FEBRUARY 29
SUPPLEMENTAL IRRIGATION*	28.6	1/80	3.0 MAX	MARCH 1 - APRIL 14 AND OCTOBER 1 - OCTOBER 31
SUPPLEMENTAL IRRIGATION*	28.6	1/80	FURTHER LIMITED TO 1.5	NOVEMBER 1 - FEBRUARY 29

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 an annual total of 4.5 acre-feet per acre for primary irrigation, and 3.0 acre-feet per acre for supplemental irrigation.

POINT OF DIVERSION LOCATION:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
5 N	30 E	WM	8	SW NW	2910 FEET NORTH AND 120 FEET EAST FROM THE SW CORNER OF SECTION 8

THE PLACE OF USE IS LOCATED AS FOLLOWS:

IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
4 N	30 E	WM	29	NE NW	31.0
4 N	30 E	WM	29	NW NW	32.0
4 N	30 E	WM	29	SW NW	40.0
4 N	30 E	WM	29	SE NW	40.0
4 N	30 E	WM	29	NE SW	40.0
4 N	30 E	WM	29	NW SW	40.0
4 N	30 E	WM	29	SW SW	40.0
4 N	30 E	WM	29	SE SW	40.0
4 N	30 E	WM	30	SE NE	8.5
4 N	30 E	WM	30	NE SE	8.5
4 N	30 E	WM	31	NE NE	40.0
4 N	30 E	WM	31	NW NE	40.0
4 N	30 E	WM	31	SW NE	40.0
4 N	30 E	WM	31	SE NE	40.0
4 N	30 E	WM	31	NE SE	40.0
4 N	30 E	WM	31	NW SE	40.0
4 N	30 E	WM	31	SW SE	40.0
4 N	30 E	WM	31	SE SE	40.0
4 N	30 E	WM	32	NE NW	40.0
4 N	30 E	WM	32	NW NW	40.0
4 N	30 E	WM	32	SW NW	40.0
4 N	30 E	WM	32	SE NW	40.0
4 N	30 E	WM	32	NE SW	40.0
4 N	30 E	WM	32	NW SW	40.0
4 N	30 E	WM	32	SW SW	40.0
4 N	30 E	WM	32	SE SW	40.0
Total					960.0

SUPPLEMENTAL IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
3 N	30 E	WM	4	NE NE	18.8
3 N	30 E	WM	4	NW NE	36.4
3 N	30 E	WM	4	SW NE	17.6
3 N	30 E	WM	4	SE NE	33.2
3 N	30 E	WM	4	NE NW	27.6
3 N	30 E	WM	4	NW NW	0.6
3 N	30 E	WM	4	SW NW	0.2

SUPPLEMENTAL IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
3 N	30 E	WM	4	SE NW	7.2
3 N	30 E	WM	5	NE NE	35.4
3 N	30 E	WM	5	NW NE	28.0
3 N	30 E	WM	5	SW NE	29.6
3 N	30 E	WM	5	SE NE	27.2
4 N	30 E	WM	27	NE NW	30.4
4 N	30 E	WM	27	NW NW	35.4
4 N	30 E	WM	27	SW NW	36.6
4 N	30 E	WM	27	SE NW	33.2
4 N	30 E	WM	27	NE SW	32.0
4 N	30 E	WM	27	NW SW	35.4
4 N	30 E	WM	27	SW SW	39.9
4 N	30 E	WM	27	SE SW	28.8
4 N	30 E	WM	28	NE NE	39.2
4 N	30 E	WM	28	NW NE	39.6
4 N	30 E	WM	28	SW NE	36.4
4 N	30 E	WM	28	SE NE	34.0
4 N	30 E	WM	28	NE NW	34.4
4 N	30 E	WM	28	NW NW	31.6
4 N	30 E	WM	28	SW NW	32.2
4 N	30 E	WM	28	SE NW	30.8
4 N	30 E	WM	28	NE SW	40.0
4 N	30 E	WM	28	NW SW	31.6
4 N	30 E	WM	28	SW SW	30.9
4 N	30 E	WM	28	SE SW	40.0
4 N	30 E	WM	28	NE SE	40.0
4 N	30 E	WM	28	NW SE	38.0
4 N	30 E	WM	28	SW SE	32.4
4 N	30 E	WM	28	SE SE	39.8
4 N	30 E	WM	29	NE NE	38.4
4 N	30 E	WM	29	NW NE	31.1
4 N	30 E	WM	29	SW NE	32.0
4 N	30 E	WM	29	SE NE	33.0
4 N	30 E	WM	29	NE SE	32.0
4 N	30 E	WM	29	NW SE	30.4
4 N	30 E	WM	29	SW SE	31.4
4 N	30 E	WM	29	SE SE	42.2
4 N	30 E	WM	32	NE NE	31.4
4 N	30 E	WM	32	NW NE	15.2
4 N	30 E	WM	32	SW NE	38.8
4 N	30 E	WM	32	SE NE	35.0
4 N	30 E	WM	32	NE SE	36.0
4 N	30 E	WM	32	NW SE	35.2
4 N	30 E	WM	32	SW SE	10.5

SUPPLEMENTAL IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
4 N	30 E	WM	32	SE SE	16.0
4 N	30 E	WM	33	NE NE	37.2
4 N	30 E	WM	33	NW NE	38.8
4 N	30 E	WM	33	SW NE	40.0
4 N	30 E	WM	33	SE NE	34.4
4 N	30 E	WM	33	NE NW	38.1
4 N	30 E	WM	33	NW NW	39.4
4 N	30 E	WM	33	SW NW	38.5
4 N	30 E	WM	33	SE NW	39.1
4 N	30 E	WM	33	NE SW	24.1
4 N	30 E	WM	33	NW SW	40.0
4 N	30 E	WM	33	SW SW	24.4
4 N	30 E	WM	33	SE SW	17.4
4 N	30 E	WM	33	NE SE	18.8
4 N	30 E	WM	33	NW SE	39.0
4 N	30 E	WM	33	SW SE	13.2
4 N	30 E	WM	33	SE SE	22.4
4 N	30 E	WM	34	NE NW	38.6
4 N	30 E	WM	34	NW NW	38.5
4 N	30 E	WM	34	SW NW	37.0
4 N	30 E	WM	34	SE NW	34.0
4 N	30 E	WM	34	NE SW	12.8
4 N	30 E	WM	34	NW SW	27.9
4 N	30 E	WM	34	SW SW	2.8
Total					2289.4

T-12751 Permit Amendment Conditions:

Water use measurement conditions:

- Before water use may begin** under this order, the water user shall install a totalizing flow meter, or, with prior approval of the Director, another suitable measuring device, at each point of diversion (new and existing).
- The water user shall maintain the meter or measuring device in good working order.
- The water user 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 former place of use shall no longer be irrigated as part of this permit.

Extension of Time Conditions:

Checkpoint Condition

The permit holder must submit a completed Progress Report Form to the Department by **October 1, 2017, and October 1, 2022.**

- (a) At each checkpoint, the permit holder shall submit and the Department shall review evidence of the permit holder's diligence towards completion of the project and compliance with terms and conditions of the permit and extension. If, after this review, the Department determines the permit holder has not been diligent in developing and perfecting the water use permit, or complied with all terms and conditions, the Department shall modify or further condition the permit or extension to ensure future compliance, or begin cancellation proceedings on the undeveloped portion of the permit pursuant to ORS 537.260 or 537.410, or require submission of a final proof survey pursuant to ORS 537.250;
- (b) The Department shall provide notice of receipt of progress reports in its weekly notice and shall allow a 30 day comment period for each report. The Department shall provide notice of its determination to anyone who submitted comments.

Original Permit Conditions:

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 use allowed herein may be made when water can be put to beneficial use by irrigation, either for immediate crop growth or for forecast requirements to raise the soil moisture to field capacity to be utilized by plant growth in the subsequent growing season.

The use of water for out-of-season irrigation allowed herein shall not establish priority of right against future appropriations for beneficial uses or storage for such beneficial uses, other than those for irrigation during the allowed period of out-of-season use.

The supplemental use allowed herein may, in the interest of conserving ground water supplies, be exercised at times even when water is available in the ground water supply provided the total quantity diverted from all sources of supply does not exceed the limitation allowed herein.

Should this permit be used as the base right for an aquifer storage and recovery project, the limited period of use stipulated herein shall not apply to water withdrawn from storage.

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.

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.

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.

Completion of construction and complete application of the water to the use was to be made on or before October 1, 2011. By Extension of Time Final Order issued April 12, 2013, the completion of construction and application of water was extended to on or before October 1, 2023. 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 DEC 20 2018



Dwight French, Water Right Services Division Administrator, for
Thomas M. Byler, Director
Oregon Water Resources Department