

**Oregon Water Resources Department  
Water Rights Division**

Water Rights Application  
Number S-84436

**Proposed Final Order**

*Summary of Recommendation:* The Department recommends that the attached draft permit be issued with conditions.

*Application History*

On May 18, 2000, Greenberry Irrigation District submitted an application to the Department for the following water use permit:

- Amount of Water: 90.2 CUBIC FEET PER SECOND (CFS) FROM WILLAMETTE RIVER AND LONG TOM RIVER, AND 7500.0 ACRE-FEET (AF) FROM WILLAMETTE BASIN PROJECT RESERVOIRS
- Use of Water: PRIMARY IRRIGATION OF 4234.5 ACRES AND SUPPLEMENTAL IRRIGATION OF 2980.4 ACRES
- Source of Water: LONG TOM RIVER, WILLAMETTE RIVER AND WILLAMETTE BASIN PROJECT RESERVOIRS, TRIBUTARIES OF COLUMBIA RIVER
- Area of Proposed Use: BENTON COUNTY WITHIN GREENBERRY IRRIGATION DISTRICT BOUNDARIES

On February 16, 2001, the Department mailed the applicant notice of its Initial Review, determining that "*the use of 90.2 CUBIC FEET PER SECOND FROM WILLAMETTE RIVER AND LONG TOM RIVER for PRIMARY IRRIGATION OF 4234.5 ACRES AND SUPPLEMENTAL IRRIGATION OF 2980.4 ACRES is not allowable. However, the use of 7500.0 ACRE-FEET FROM WILLAMETTE BASIN PROJECT RESERVOIRS for PRIMARY IRRIGATION OF 4234.5 ACRES AND SUPPLEMENTAL IRRIGATION OF 2980.4 ACRES may be allowed from March 1 through October 31 of each year, contingent upon submission of a valid contract with the Bureau of Reclamation to purchase stored water.*" The applicant did not notify the Department to stop processing the application within 14 days of that date.

On February 20, 2001, the Department gave public notice of the application in its weekly notice. The public notice included a request for comments, and information for interested persons about both obtaining future notices and a copy of the Proposed Final Order. No written comments were received within 30 days.

On March 1, 2001, the applicant placed the application on administrative hold.

The applicant amended the application to appropriate only stored water from Willamette Basin Project Reservoirs for primary irrigation use

within designated 10,991.8 acres, not to exceed 6,300.0 acres per irrigation season.

In reviewing applications, the Department may consider any relevant sources of information, including the following:

- recommendations by other state agencies
- any applicable basin program
- any applicable comprehensive plan or zoning ordinance
- the amount of water available
- the rate and duty for the proposed use
- pending senior applications and existing water rights of record
- the Scenic Waterway requirements of ORS 390.835
- applicable statutes, administrative rules, and case law
- any comments received

*Findings of Fact*

The Willamette Basin Program allows IRRIGATION.

Senior water rights exist on WILLAMETTE BASIN PROJECT RESERVOIRS, TRIBUTARIES OF COLUMBIA RIVER.

WILLAMETTE BASIN PROJECT RESERVOIRS, TRIBUTARY OF COLUMBIA RIVER are not within or above a State Scenic Waterway.

Stored water is available for further appropriation from water stored under Permits R-1625 and R-5363.

The Department finds that the amount of water requested, 7,500.0 AF, is an acceptable amount.

In accordance with OAR 690-33-330, an interagency team reviewed this proposed use for potential adverse impacts on sensitive, threatened and endangered fish populations. This team consisted of representatives from the Oregon Departments of Water Resources (WRD), Environmental Quality (DEQ), Fish and Wildlife (ODFW), and Agriculture. WRD and ODFW representatives included both technical and field staff. The interagency team recommended that additional limitations or conditions of use be imposed on this application as follows:

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.

*Conclusions of Law*

Under the provisions of ORS 537.153, the Department must presume that a proposed use will not impair or be detrimental to the public interest if the proposed use is allowed in the applicable basin program established pursuant to ORS 536.300 and 536.340 or given a preference under ORS 536.310(12), if water is available, if the proposed use will not injure other water rights and if the proposed use complies with rules of the Water Resources Commission.

The proposed use requested in this application is allowed in the Willamette Basin Program, or a preference for this use is granted under the provisions of ORS 536.310(12).

Water is available for the proposed use.

The proposed use will not injure other water rights.

The proposed use complies with other rules of the Water Resources Commission not otherwise described above.

The proposed use complies with the State Agency Agreement for land use.

For these reasons, the required presumption has been established.

Once the required presumption has been established, under the provisions of ORS 537.153(2) it may be overcome by a preponderance of evidence that either:

- (a) One or more of the criteria for establishing the presumption are not satisfied; or
- (b) The proposed use will impair or be detrimental to the public interest as demonstrated in comments, in a protest . . . or in a finding of the department that shows:
  - (A) The specific public interest under ORS 537.170(8) that would be impaired or detrimentally affected; and
  - (B) Specifically how the identified public interest would be impaired or detrimentally affected.

In this application, all criteria for establishing the presumption have been satisfied, as noted above. The presumption has not been overcome by a preponderance of evidence that the proposed use will impair or be detrimental to the public interest.

The Department therefore concludes that water is available in the amount necessary for the proposed use; the proposed use will not result in

injury to existing water rights; and the proposed use will not impair or be detrimental to the public interest as provided in ORS 537.170.

When issuing permits, ORS 537.211(1) authorizes the Department to include limitations and conditions which have been determined necessary to protect the public interest. The attached draft permit is conditioned accordingly.

Recommendation

The Department recommends that the attached draft permit be issued with conditions.

DATED March 24, 2009



for Phillip C. Ward, Director  
Water Resources Department

*If you have any questions,  
please check the information  
box on the last page for the  
appropriate names and  
phone numbers.*

Protests

Under the provisions of ORS 537.153(7) (for surface water) or ORS 537.621(8) (for ground water), you can protest this Proposed Final Order. Protests must be received in the Water Resources Department no later than **May 8, 2009**. Protests must be in writing, and must include the following:

- Your name, address, and telephone number;
- A description of your interest in the Proposed Final Order, and, if you claim to represent the public interest, a precise statement of the public interest represented;
- A detailed description of how the action proposed in this Proposed Final Order would impair or be detrimental to your interest;
- A detailed description of how the Proposed Final Order is in error or deficient, and how to correct the alleged error or deficiency;
- Any citation of legal authority to support your protest, if known; and

- If you are not the applicant, the protest fee of \$350 required by ORS 536.050 and proof of service of the protest upon the applicant.
- If you are the applicant, a statement of whether or not you are requesting a contested case hearing. If you do not request a hearing, the Department will presume that you do not wish to contest the findings of the Proposed Final Order.
- *If you do not protest this Proposed Final Order and if no substantive changes are made in the Final Order, you will not have an opportunity for judicial review, protest or appeal of the Final Order when it is issued.*

#### Requests for Standing

Under the provisions of ORS 537.153(7) (for surface water) or ORS 537.621(8) (for ground water), persons other than the applicant who support a Proposed Final Order can request standing for purposes of participating in any contested case proceeding on the Proposed Final Order or for judicial review of a Final Order.

Requests for standing must be received in the Water Resources Department no later than **May 8, 2009**. Requests for standing must be in writing, and must include the following:

- The requester's name, mailing address and telephone number;
- If the requester is representing a group, association or other organization, the name, address and telephone number of the represented group;
- A statement that the requester supports the Proposed Final Order as issued;
- A detailed statement of how the requester would be harmed if the Proposed Final Order is modified; and
- A standing fee of \$100.00. If a hearing is scheduled, an additional fee of \$250.00 must be submitted along with a request for intervention.

After the protest period has ended, the Director will either issue a Final Order or schedule a contested case hearing. The contested case hearing will be scheduled only if a protest has been submitted and either:

- upon review of the issues, the director finds that there are significant disputes related to the proposed use of water, or

- the applicant requests a contested case hearing within 30 days after the close of the protest period.

If you do not request a hearing within 30 days after the close of the protest period, or if you withdraw a request for a hearing, notify the Department or the administrative law judge that you will not appear or fail to appear at a scheduled hearing, the Director may issue a Final Order by default. If the Director issues a Final Order by default, the Department designates the relevant portions of its files on this matter, including all materials that you have submitted relating to this matter, as the record for purpose of proving a prima facie case upon default.

*This document was prepared by Joel Plahn. If you have any questions about any of the statements contained in this document I am most likely the best person to answer your questions. You can reach me at 503-986-0815.*

*If you have questions about how to file a protest or a request for standing, please refer to the respective sections in this Proposed Final Order entitled "Protests" and "Requests for Standing". If you have previously filed a protest and want to know its status, please contact Patricia McCarty at 503-986-0820.*

*If you have other questions about the Department or any of its programs please contact our Customer Service Group at 503-986-0801. Address all other correspondence to:*

*Water Rights Section, Oregon Water Resources Department, 725 Summer St NE Ste A, Salem OR 97301-1266, Fax: 503-986-0901.*

DRAFT

This is not a permit.  
STATE OF OREGON

DRAFT

COUNTY OF BENTON

DRAFT PERMIT TO APPROPRIATE THE PUBLIC WATERS

THIS DRAFT PERMIT IS HEREBY ISSUED TO

GREENBERRY IRRIGATION DISTRICT  
30742 VENELL PLACE  
CORVALLIS, OREGON 97333

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

APPLICATION FILE NUMBER: S-84436

SOURCE OF WATER: WILLAMETTE BASIN PROJECT RESERVOIRS, UNDER PERMITS R-1625 AND R-5363

PURPOSE OR USE: IRRIGATION WITHIN DESIGNATED 10,991.8 ACRES, NOT TO EXCEED 6,300.0 ACRES PER IRRIGATION SEASON

MAXIMUM VOLUME: 7,500.0 ACRE FEET PER YEAR

PERIOD OF USE: MARCH 1 THROUGH OCTOBER 31

DATE OF PRIORITY: MAY 18, 2000

POINT OF DIVERSION LOCATION:

SWNW, SECTION 19, T13S, R4W, W.M.; 3146 FEET NORTH AND 1281 FEET EAST FROM SW CORNER, SECTION 19

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 LIMITED TO 6300.0 ACRES WITHIN THE FOLLOWING 10991.8 ACRES:

NE ¼ NE ¼ 7.4 ACRES	NW ¼ SW ¼ 33.0 ACRES
NW ¼ NE ¼ 7.4 ACRES	SECTION 15
SW ¼ NE ¼ 38.0 ACRES	
SE ¼ NE ¼ 35.0 ACRES	SE ¼ NE ¼ 7.0 ACRES
NE ¼ NW ¼ 9.0 ACRES	SECTION 16
NW ¼ NW ¼ 8.0 ACRES	
SW ¼ NW ¼ 36.0 ACRES	NE ¼ NE ¼ 39.0 ACRES
SE ¼ NW ¼ 36.0 ACRES	NW ¼ NE ¼ 28.0 ACRES
NE ¼ SW ¼ 33.0 ACRES	SW ¼ NE ¼ 34.0 ACRES

SE ¼ NE ¼ 38.0 ACRES  
 SE ¼ NW ¼ 15.0 ACRES  
 NE ¼ SW ¼ 40.0 ACRES  
 NW ¼ SW ¼ 38.0 ACRES  
 SW ¼ SW ¼ 37.0 ACRES  
 NE ¼ SE ¼ 40.0 ACRES  
 NW ¼ SE ¼ 38.0 ACRES  
 SW ¼ SE ¼ 2.0 ACRES  
 SECTION 21

NE ¼ NE ¼ 30.0 ACRES  
 NW ¼ NE ¼ 40.0 ACRES  
 SW ¼ NE ¼ 13.0 ACRES  
 SE ¼ NE ¼ 6.0 ACRES  
 NE ¼ NW ¼ 38.0 ACRES  
 NW ¼ NW ¼ 35.0 ACRES  
 SW ¼ NW ¼ 18.0 ACRES  
 SE ¼ NW ¼ 15.0 ACRES  
 NE ¼ SW ¼ 10.0 ACRES  
 NW ¼ SW ¼ 40.0 ACRES  
 SE ¼ SE ¼ 16.0 ACRES  
 SECTION 22

NE ¼ SW ¼ 6.0 ACRES  
 SW ¼ SW ¼ 8.2 ACRES  
 SECTION 23

NW ¼ NW ¼ 5.0 ACRES  
 SW ¼ NW ¼ 15.0 ACRES  
 NE ¼ SW ¼ 5.0 ACRES  
 NW ¼ SW ¼ 39.0 ACRES  
 SW ¼ SW ¼ 44.6 ACRES  
 SE ¼ SW ¼ 17.8 ACRES  
 SECTION 26

NE ¼ NE ¼ 20.0 ACRES  
 SE ¼ NE ¼ 11.0 ACRES  
 NE ¼ SE ¼ 10.0 ACRES  
 SE ¼ SE ¼ 40.0 ACRES  
 SECTION 27

NW ¼ NW ¼ 5.0 ACRES  
 NE ¼ SW ¼ 8.0 ACRES  
 NW ¼ SW ¼ 10.0 ACRES  
 SW ¼ SW ¼ 40.0 ACRES  
 SE ¼ SW ¼ 30.0 ACRES  
 SECTION 28

NE ¼ NE ¼ 12.0 ACRES  
 NW ¼ NE ¼ 4.5 ACRES  
 SW ¼ NE ¼ 39.0 ACRES  
 SE ¼ NE ¼ 34.0 ACRES  
 NE ¼ NW ¼ 9.2 ACRES  
 NW ¼ NW ¼ 41.3 ACRES  
 SE ¼ NW ¼ 28.4 ACRES  
 NE ¼ SW ¼ 40.0 ACRES  
 NW ¼ SW ¼ 11.8 ACRES  
 SW ¼ SW ¼ 30.5 ACRES  
 NE ¼ SE ¼ 40.0 ACRES  
 NW ¼ SE ¼ 36.0 ACRES  
 SW ¼ SE ¼ 40.0 ACRES  
 SE ¼ SE ¼ 40.0 ACRES  
 SECTION 29

NE ¼ NW ¼ 24.0 ACRES  
 NW ¼ NW ¼ 10.0 ACRES  
 SW ¼ NW ¼ 40.0 ACRES  
 SE ¼ NW ¼ 24.0 ACRES  
 NE ¼ SE ¼ 40.0 ACRES  
 NW ¼ SE ¼ 26.0 ACRES  
 SW ¼ SE ¼ 14.0 ACRES  
 SE ¼ SE ¼ 28.0 ACRES  
 SECTION 32

NE ¼ NW ¼ 30.0 ACRES  
 NW ¼ NW ¼ 40.0 ACRES  
 SW ¼ NW ¼ 40.0 ACRES  
 SE ¼ NW ¼ 30.0 ACRES  
 NE ¼ SW ¼ 40.0 ACRES  
 NW ¼ SW ¼ 40.0 ACRES  
 SW ¼ SW ¼ 39.5 ACRES  
 SE ¼ SW ¼ 39.5 ACRES  
 NE ¼ SE ¼ 40.0 ACRES  
 NW ¼ SE ¼ 40.0 ACRES  
 SW ¼ SE ¼ 29.8 ACRES  
 SE ¼ SE ¼ 37.3 ACRES  
 SECTION 33

NE ¼ NE ¼ 40.0 ACRES  
 NW ¼ NE ¼ 5.0 ACRES  
 SW ¼ NE ¼ 12.0 ACRES  
 SE ¼ NE ¼ 37.6 ACRES



NE ¼ SW ¼ 40.0 ACRES  
 NE ¼ SW ¼ 39.2 ACRES  
 NW ¼ SW ¼ 35.0 ACRES  
 NW ¼ SW ¼ 40.0 ACRES  
 SW ¼ SW ¼ 39.6 ACRES  
 SW ¼ SW ¼ 27.6 ACRES  
 SE ¼ SW ¼ 33.2 ACRES  
 SE ¼ SW ¼ 39.8 ACRES

SECTION 34

NE ¼ NW ¼ 1.8 ACRES  
 NW ¼ NW ¼ 10.0 ACRES  
 NE ¼ SW ¼ 36.0 ACRES  
 NW ¼ SW ¼ 37.8 ACRES  
 SW ¼ SW ¼ 39.6 ACRES  
 SE ¼ SW ¼ 40.0 ACRES  
 NE ¼ SE ¼ 8.0 ACRES  
 NW ¼ SE ¼ 34.8 ACRES  
 SW ¼ SE ¼ 28.0 ACRES  
 SE ¼ SE ¼ 35.0 ACRES

SECTION 35

TOWNSHIP 12 SOUTH, RANGE 5 WEST, W.M.

NE ¼ NE ¼ 9.4 ACRES  
 NW ¼ NE ¼ 6.0 ACRES  
 SW ¼ NE ¼ 13.5 ACRES  
 NE ¼ NW ¼ 18.0 ACRES  
 NW ¼ NW ¼ 35.0 ACRES  
 SW ¼ NW ¼ 40.0 ACRES  
 NE ¼ SW ¼ 40.0 ACRES  
 NW ¼ SW ¼ 39.4 ACRES  
 SW ¼ SW ¼ 40.0 ACRES  
 SE ¼ SW ¼ 40.0 ACRES  
 NE ¼ SE ¼ 2.3 ACRES  
 NW ¼ SE ¼ 32.3 ACRES  
 SW ¼ SE ¼ 22.0 ACRES  
 SE ¼ SE ¼ 2.7 ACRES

SECTION 2

NE ¼ NE ¼ 15.3 ACRES  
 NW ¼ NE ¼ 24.3 ACRES  
 SW ¼ NE ¼ 38.5 ACRES  
 SE ¼ NE ¼ 27.0 ACRES  
 NE ¼ NW ¼ 40.0 ACRES  
 NW ¼ NW ¼ 40.0 ACRES  
 SW ¼ NW ¼ 40.0 ACRES  
 SE ¼ NW ¼ 40.0 ACRES  
 NE ¼ SW ¼ 40.0 ACRES  
 NW ¼ SW ¼ 40.0 ACRES

SW ¼ SW ¼ 40.0 ACRES  
 SE ¼ SW ¼ 40.0 ACRES  
 NE ¼ SE ¼ 39.0 ACRES  
 NW ¼ SE ¼ 38.5 ACRES  
 SW ¼ SE ¼ 38.2 ACRES  
 SE ¼ SE ¼ 37.9 ACRES

SECTION 3

NE ¼ NE ¼ 40.0 ACRES  
 NW ¼ NE ¼ 40.0 ACRES  
 SW ¼ NE ¼ 40.0 ACRES  
 SE ¼ NE ¼ 40.0 ACRES  
 NE ¼ NW ¼ 41.0 ACRES  
 NW ¼ NW ¼ 21.3 ACRES  
 SW ¼ NW ¼ 39.0 ACRES  
 SE ¼ NW ¼ 40.0 ACRES  
 NE ¼ SW ¼ 40.0 ACRES  
 NW ¼ SW ¼ 21.8 ACRES  
 SW ¼ SW ¼ 5.2 ACRES  
 SE ¼ SW ¼ 36.8 ACRES  
 NE ¼ SE ¼ 40.0 ACRES  
 NW ¼ SE ¼ 40.0 ACRES  
 SW ¼ SE ¼ 39.4 ACRES  
 SE ¼ SE ¼ 40.0 ACRES

SECTION 4

NE ¼ NE ¼ 26.2 ACRES  
 SE ¼ NE ¼ 6.0 ACRES  
 SW ¼ SE ¼ 1.2 ACRES  
 SE ¼ SE ¼ 2.5 ACRES

SECTION 5

NE ¼ NE ¼ 15.0 ACRES  
 NW ¼ NE ¼ 38.0 ACRES  
 SW ¼ NE ¼ 24.2 ACRES  
 SE ¼ NE ¼ 9.0 ACRES  
 SW ¼ NW ¼ 5.8 ACRES  
 SE ¼ NW ¼ 16.5 ACRES  
 NE ¼ SW ¼ 40.0 ACRES  
 NW ¼ SW ¼ 11.2 ACRES  
 SW ¼ SW ¼ 10.0 ACRES  
 SE ¼ SW ¼ 30.0 ACRES  
 NE ¼ SE ¼ 28.7 ACRES  
 NW ¼ SE ¼ 40.0 ACRES  
 SW ¼ SE ¼ 28.0 ACRES  
 SE ¼ SE ¼ 14.6 ACRES

SECTION 8

NE ¼ NE ¼ 29.3 ACRES  
 NW ¼ NE ¼ 40.0 ACRES  
 SW ¼ NE ¼ 38.0 ACRES  
 SE ¼ NE ¼ 32.0 ACRES  
 NE ¼ NW ¼ 37.6 ACRES  
 NW ¼ NW ¼ 28.0 ACRES  
 SW ¼ NW ¼ 38.0 ACRES  
 SE ¼ NW ¼ 38.0 ACRES  
 NE ¼ SW ¼ 40.0 ACRES  
 NW ¼ SW ¼ 38.0 ACRES  
 SW ¼ SW ¼ 32.0 ACRES  
 SE ¼ SW ¼ 40.0 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 9

NE ¼ NE ¼ 37.8 ACRES  
 NW ¼ NE ¼ 34.2 ACRES  
 SW ¼ NE ¼ 23.1 ACRES  
 SE ¼ NE ¼ 35.2 ACRES  
 NE ¼ NW ¼ 40.0 ACRES  
 NW ¼ NW ¼ 40.0 ACRES  
 SW ¼ NW ¼ 35.5 ACRES  
 SE ¼ NW ¼ 30.9 ACRES  
 NE ¼ SW ¼ 37.0 ACRES  
 NW ¼ SW ¼ 40.0 ACRES  
 SW ¼ SW ¼ 40.0 ACRES  
 SE ¼ SW ¼ 35.6 ACRES  
 NE ¼ SE ¼ 37.8 ACRES  
 NW ¼ SE ¼ 32.7 ACRES  
 SW ¼ SE ¼ 40.0 ACRES  
 SE ¼ SE ¼ 34.0 ACRES  
 SECTION 10

NE ¼ NE ¼ 39.0 ACRES  
 NW ¼ NE ¼ 31.2 ACRES  
 SW ¼ NE ¼ 30.0 ACRES  
 SE ¼ NE ¼ 30.0 ACRES  
 NE ¼ NW ¼ 40.0 ACRES  
 NW ¼ NW ¼ 40.0 ACRES  
 SW ¼ NW ¼ 40.0 ACRES  
 SE ¼ NW ¼ 40.0 ACRES  
 NE ¼ SW ¼ 38.0 ACRES  
 NW ¼ SW ¼ 40.0 ACRES  
 SW ¼ SW ¼ 40.0 ACRES  
 SE ¼ SW ¼ 40.0 ACRES  
 NE ¼ SE ¼ 14.0 ACRES

NW ¼ SE ¼ 17.4 ACRES  
 SW ¼ SE ¼ 12.0 ACRES  
 SE ¼ SE ¼ 10.0 ACRES  
 SECTION 11

NW ¼ NW ¼ 30.0 ACRES  
 SW ¼ NW ¼ 30.0 ACRES  
 SECTION 12

NW ¼ NW ¼ 27.0 ACRES  
 SW ¼ NW ¼ 25.6 ACRES  
 NW ¼ SW ¼ 42.2 ACRES  
 SW ¼ SW ¼ 16.7 ACRES  
 SECTION 13

NE ¼ NW ¼ 25.6 ACRES  
 NE ¼ NW ¼ 39.4 ACRES  
 NW ¼ NW ¼ 38.0 ACRES  
 NW ¼ NW ¼ 33.8 ACRES  
 SW ¼ NW ¼ 40.0 ACRES  
 SW ¼ NW ¼ 37.2 ACRES  
 SE ¼ NW ¼ 32.2 ACRES  
 SE ¼ NW ¼ 15.6 ACRES  
 NE ¼ SW ¼ 27.2 ACRES  
 NW ¼ SW ¼ 38.4 ACRES  
 SW ¼ SW ¼ 36.8 ACRES  
 SE ¼ SW ¼ 37.9 ACRES  
 NE ¼ SE ¼ 22.9 ACRES  
 NW ¼ SE ¼ 39.1 ACRES  
 SW ¼ SE ¼ 40.2 ACRES  
 SE ¼ SE ¼ 20.7 ACRES  
 SECTION 14

NE ¼ NE ¼ 38.0 ACRES  
 NW ¼ NE ¼ 40.0 ACRES  
 SW ¼ NE ¼ 38.0 ACRES  
 SE ¼ NE ¼ 36.9 ACRES  
 NE ¼ NW ¼ 38.0 ACRES  
 NW ¼ NW ¼ 40.0 ACRES  
 SW ¼ NW ¼ 40.0 ACRES  
 SE ¼ NW ¼ 10.5 ACRES  
 NE ¼ SW ¼ 38.0 ACRES  
 NW ¼ SW ¼ 40.0 ACRES  
 SW ¼ SW ¼ 40.0 ACRES  
 SE ¼ SW ¼ 37.7 ACRES  
 NE ¼ SE ¼ 37.6 ACRES  
 NW ¼ SE ¼ 40.0 ACRES  
 SW ¼ SE ¼ 39.0 ACRES  
 SE ¼ SE ¼ 38.9 ACRES

## SECTION 15

NE  $\frac{1}{4}$  NE  $\frac{1}{4}$  40.0 ACRES  
 NW  $\frac{1}{4}$  NE  $\frac{1}{4}$  40.0 ACRES  
 SW  $\frac{1}{4}$  NE  $\frac{1}{4}$  40.0 ACRES  
 SE  $\frac{1}{4}$  NE  $\frac{1}{4}$  40.0 ACRES  
 NE  $\frac{1}{4}$  NW  $\frac{1}{4}$  40.0 ACRES  
 NW  $\frac{1}{4}$  NW  $\frac{1}{4}$  31.0 ACRES  
 SW  $\frac{1}{4}$  NW  $\frac{1}{4}$  36.0 ACRES  
 SE  $\frac{1}{4}$  NW  $\frac{1}{4}$  39.0 ACRES  
 NE  $\frac{1}{4}$  SW  $\frac{1}{4}$  40.0 ACRES  
 NW  $\frac{1}{4}$  SW  $\frac{1}{4}$  35.0 ACRES  
 SW  $\frac{1}{4}$  SW  $\frac{1}{4}$  11.4 ACRES  
 SE  $\frac{1}{4}$  SW  $\frac{1}{4}$  40.0 ACRES  
 NE  $\frac{1}{4}$  SE  $\frac{1}{4}$  40.0 ACRES  
 NW  $\frac{1}{4}$  SE  $\frac{1}{4}$  40.0 ACRES  
 SW  $\frac{1}{4}$  SE  $\frac{1}{4}$  40.0 ACRES  
 SE  $\frac{1}{4}$  SE  $\frac{1}{4}$  40.0 ACRES

## SECTION 16

NW  $\frac{1}{4}$  NE  $\frac{1}{4}$  20.0 ACRES  
 SW  $\frac{1}{4}$  NE  $\frac{1}{4}$  28.0 ACRES  
 SE  $\frac{1}{4}$  NE  $\frac{1}{4}$  39.0 ACRES  
 SE  $\frac{1}{4}$  SW  $\frac{1}{4}$  10.0 ACRES  
 NE  $\frac{1}{4}$  SE  $\frac{1}{4}$  14.0 ACRES  
 NW  $\frac{1}{4}$  SE  $\frac{1}{4}$  13.0 ACRES  
 SW  $\frac{1}{4}$  SE  $\frac{1}{4}$  10.0 ACRES  
 SE  $\frac{1}{4}$  SE  $\frac{1}{4}$  10.0 ACRES

## SECTION 17

NW  $\frac{1}{4}$  NE  $\frac{1}{4}$  18.0 ACRES  
 NE  $\frac{1}{4}$  NW  $\frac{1}{4}$  7.0 ACRES

## SECTION 20

NW  $\frac{1}{4}$  NE  $\frac{1}{4}$  30.0 ACRES  
 SW  $\frac{1}{4}$  NE  $\frac{1}{4}$  37.0 ACRES  
 SE  $\frac{1}{4}$  NE  $\frac{1}{4}$  35.0 ACRES  
 NE  $\frac{1}{4}$  NW  $\frac{1}{4}$  40.0 ACRES  
 NW  $\frac{1}{4}$  NW  $\frac{1}{4}$  18.0 ACRES  
 SW  $\frac{1}{4}$  NW  $\frac{1}{4}$  4.6 ACRES  
 SE  $\frac{1}{4}$  NW  $\frac{1}{4}$  13.0 ACRES  
 NE  $\frac{1}{4}$  SE  $\frac{1}{4}$  18.0 ACRES  
 NW  $\frac{1}{4}$  SE  $\frac{1}{4}$  18.0 ACRES

## SECTION 21

NE  $\frac{1}{4}$  NE  $\frac{1}{4}$  10.5 ACRES  
 NW  $\frac{1}{4}$  NE  $\frac{1}{4}$  33.0 ACRES  
 SW  $\frac{1}{4}$  NE  $\frac{1}{4}$  33.2 ACRES  
 SE  $\frac{1}{4}$  NE  $\frac{1}{4}$  2.3 ACRES  
 NE  $\frac{1}{4}$  NW  $\frac{1}{4}$  33.1 ACRES  
 NW  $\frac{1}{4}$  NW  $\frac{1}{4}$  36.4 ACRES  
 SW  $\frac{1}{4}$  NW  $\frac{1}{4}$  39.0 ACRES  
 SE  $\frac{1}{4}$  NW  $\frac{1}{4}$  37.5 ACRES

## SECTION 22

NE  $\frac{1}{4}$  NE  $\frac{1}{4}$  36.3 ACRES  
 NW  $\frac{1}{4}$  NE  $\frac{1}{4}$  40.0 ACRES  
 SW  $\frac{1}{4}$  NE  $\frac{1}{4}$  40.0 ACRES  
 SE  $\frac{1}{4}$  NE  $\frac{1}{4}$  30.7 ACRES  
 NE  $\frac{1}{4}$  NW  $\frac{1}{4}$  20.0 ACRES  
 NW  $\frac{1}{4}$  NW  $\frac{1}{4}$  15.0 ACRES  
 SW  $\frac{1}{4}$  NW  $\frac{1}{4}$  23.0 ACRES  
 SE  $\frac{1}{4}$  NW  $\frac{1}{4}$  31.8 ACRES  
 NE  $\frac{1}{4}$  SW  $\frac{1}{4}$  8.0 ACRES  
 NW  $\frac{1}{4}$  SW  $\frac{1}{4}$  19.8 ACRES  
 SW  $\frac{1}{4}$  SW  $\frac{1}{4}$  8.3 ACRES  
 NE  $\frac{1}{4}$  SE  $\frac{1}{4}$  20.0 ACRES  
 NW  $\frac{1}{4}$  SE  $\frac{1}{4}$  9.2 ACRES

## SECTION 23

NW  $\frac{1}{4}$  NW  $\frac{1}{4}$  28.8 ACRES  
 SW  $\frac{1}{4}$  NW  $\frac{1}{4}$  20.5 ACRES  
 NW  $\frac{1}{4}$  SW  $\frac{1}{4}$  18.4 ACRES

## SECTION 24

TOWNSHIP 13 SOUTH, RANGE 5 WEST, W.M.

1. 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.
2. 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.
3. There is a base map for this permit that covers 10991.8 acres. Each year, no later than April 30 or prior to appropriation of water, whichever comes first, the permittee shall submit a map to the Department that demarcates the place of use under this water right and the place of use of underlying primary water rights. The place of use shall be within the 10991.8 acres shown on the base map, and shall not exceed 7373.0 acres annually.

The annual map shall also show the place of use for irrigation water rights within Greenberry Irrigation District that are Greenberry Irrigation District water rights as well as non-Greenberry

Irrigation District water rights.

4. The use of water under this right is subject to the terms and conditions of Contract No. 089E101624, or a satisfactory replacement, between the Bureau of Reclamation and the applicant, a copy of which is on file in the records of the Water Resources Department.
5. 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

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 \_\_\_\_\_, 2009

DRAFT - THIS IS **NOT** A PERMIT

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for Phillip C. Ward, Director  
Water Resources Department

# Mailing List for PFO Copies

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Application #S-84436

PFO Date March 24, 2009

**Original mailed to applicant:**

GREENBERRY IRRIGATION DISTRICT, 30742 VENELL PLACE, CORVALLIS, OREGON 97333

Copies sent to:

1. WRD - File # S-84436
2. Water Availability: Ken Stahr

Copies Mailed

By: \_\_\_\_\_  
(SUPPORT STAFF)

on: \_\_\_\_\_  
(DATE)

PFO and Map Sheet Copies sent to:

3. WRD - Watermaster # 2
4. Regional Manager:
5. ODFW District Biologist: Steve Mamoyac
6. DEQ: · Jared Rubin
7. DOA: Jim Johnson

Copies sent to Other Interested Persons (CWRE, Agent, Well Driller, Commenter, etc.)

Walt Trimmer CWRE

"\$10 LETTER" sent to Interested Persons who have not protested or paid for copies

CASEWORKER : plahnjm