

**Oregon Water Resources Department
Water Rights Division**

Water Rights Application
Number S-86866

Prior to the issuance of a permit, the Department must receive permit recording fees in the amount of \$400.00. Please include your application number on your check made out to the Oregon Water Resources Department.

Proposed Final Order

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

Application History

On May 21, 2007, Kent Madison submitted an application to the Department for the following water use permit:

- Amount of Water: 22.3 CUBIC FEET PER SECOND (CFS)
- Use of Water: SUPPLEMENTAL IRRIGATION OF 8722.63 ACRES
- Source of Water: COLUMBIA RIVER, A TRIBUTARY OF PACIFIC OCEAN
- Area of Proposed Use: UMATILLA COUNTY WITHIN SECTION 1, TOWNSHIP 2 NORTH, RANGE 27 EAST, W.M.; SECTION 5, SECTION 6, SECTION 7, AND SECTION 8, TOWNSHIP 2 NORTH, RANGE 28 EAST, W.M.; SECTION 1, SECTION 2, SECTION 11, SECTION 12, SECTION 13, SECTION 14, SECTION 15, SECTION 23, SECTION 24, SECTION 25, SECTION 26, SECTION 27, SECTION 34, SECTION 35, AND SECTION 36, TOWNSHIP 3 NORTH, RANGE 27 EAST, W.M.; SECTION 6, SECTION 7, SECTION 17, SECTION 18, SECTION 19, SECTION 20, SECTION 30, SECTION 31, AND SECTION 32, TOWNSHIP 3 NORTH, RANGE 28 EAST, W.M.
- Area of Proposed Use: MORROW COUNTY WITHIN SECTION 24 AND SECTION 25, TOWNSHIP 3 NORTH, RANGE 26 EAST, W.M.; SECTION 16, SECTION 17, SECTION 19, SECTION 20, AND SECTION 28, TOWNSHIP 3 NORTH, RANGE 27 EAST, W.M.

On February 15, 2008, the Department mailed the applicant notice of its Initial Review, determining that "...the use of 22.3 CFS from Columbia River, a tributary of Pacific Ocean, for supplemental irrigation use on 8722.63 acres is not allowable, and it appears unlikely that you will be issued a permit." The applicant did not notify the Department to stop processing the application within 14 days of that date.

On February 19, 2008, 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.

The application has been on administrative hold since the Initial Review was issued.

On January 14, 2009, the applicant submitted information which clarified the proposed use and a revised map which reduced the acreage and clarified the location of two points of diversion (POD's 2 and 3) and the conveyance system.

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

On January 14, 2009, the applicant clarified that the intended use is primary irrigation to make up deficiency in rate on only primary acreage authorized under Permit S-51017. The requested acreage was reduced from 8722.63 acres to 7614.6 acres.

The proposed use of water from Columbia River under this application may be used for primary irrigation, which includes raising the soil moisture to field capacity to be utilized by plant growth in the subsequent growing season, to make up deficiency in rate on lands covered under Permit S-51017.

The application proposed a water use rate that is higher than the general basin-wide standard. However 1/40 CFS on the Columbia River, upstream from Fifteen Mile Creek, is allowable. Therefore, the proposed rate of 1/40 cfs per acre, not to exceed 22.3 CFS, is allowable.

The Columbia Basin Program allows irrigation.

Senior water rights exist on Columbia River, a tributary of Pacific Ocean, or on downstream waters.

Columbia River, a tributary of Pacific Ocean, is not within or above a State Scenic Waterway.

An assessment of water availability has been completed utilizing discharge data produced by the U.S. Geological Survey, a copy of which is in the file. The assessment determined that water is available for further appropriation during the full season requested.

The Department finds that the amount of water requested, 22.3 CFS, is an acceptable amount.

In accordance with OAR 690-033-0330, 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.

ODFW recommended that water only be diverted from October 1 through April 14.

The use of water as proposed in this application is not allowed April 15 through September 30 per OAR 690-033, which sets public interest standards for threatened, endangered or sensitive fish species.

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 Columbia Basin Plan, 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 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 April 13, 2010

E. Timothy Wall.

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 28, 2010**. 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;
- If you are the applicant, the protest fee of \$300 required by ORS 536.050; and
- If you are not the applicant, the protest fee of \$600 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 28, 2010**. 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 \$150. If a hearing is scheduled, an additional fee of \$350 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 Kerry Kavanagh. 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 503-986-0816.

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.

DRAFT

STATE OF OREGON

COUNTIES OF UMATILLA AND MORROW

DRAFT PERMIT TO APPROPRIATE THE PUBLIC WATERS

THIS DRAFT PERMIT IS HEREBY ISSUED TO

KENT MADISON
29299 MADISON RD
ECHO, OR 97826

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

APPLICATION FILE NUMBER: S-86866

DATE OF PRIORITY: MAY 21, 2007

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

PURPOSE OR USE: IRRIGATION OF 7614.6 ACRES TO MAKE UP IN DEFICIENCY IN RATE/VOLUME (*WHICH INCLUDES RAISING THE SOIL MOISTURE TO FIELD CAPACITY TO BE UTILIZED BY PLANT GROWTH IN THE SUBSEQUENT GROWING SEASON)

MAXIMUM RATE: 22.3 CUBIC FEET PER SECOND (CFS) AS FURTHER LIMITED BELOW

USE	LIMIT (CFS PER ACRE)	DUTY (AF PER ACRE)	PERIOD OF USE
IRRIGATION*	1/40	4.5 MAX	MARCH 1 - APRIL 14 AND OCTOBER 1 - NOVEMBER 1
IRRIGATION*	1/40	FURTHER LIMITED TO 1.5	NOVEMBER 2 - FEBRUARY 29

The amount of water secured under this permit, together with the amount secured under any other right existing for the same lands, is limited to a diversion of ONE-FORTIETH of one cubic foot per second and 4.5 acre-feet per each acre irrigated during the period from March 1 through November 1 each year, not to exceed 1.5 acre-feet per acre irrigated during the period from November 2 through the end of February, provided the use of water shall not exceed 4.5 acre-feet for each acre irrigated in any one year.

POINTS OF DIVERSION LOCATIONS:

POD 1 - NE ¼ NW ¼, SECTION 2, T4N, R25E, W.M.; 150 FEET SOUTH AND 2990 FEET WEST FROM NE CORNER, SECTION 2

Application S-86866 Water Resources Department PERMIT DRAFT
 POD 2 - NW ¼ SW ¼, SECTION 13, T5N, R27E, W.M.; 2270 FEET NORTH AND
 940 FEET EAST FROM SW CORNER, SECTION 13

POD 3 - NE ¼ SE ¼, SECTION 10, T5N, R28E, W.M.; 1960 FEET NORTH AND
 350 FEET WEST FROM SE CORNER, SECTION 10

THE PLACE OF USE IS LOCATED AS FOLLOWS:

NW ¼ NW ¼ 4.55 ACRES
 SECTION 1
 TOWNSHIP 2 NORTH, RANGE 27 EAST, W.M.

NE ¼ NE ¼ 31.3 ACRES
 NW ¼ NE ¼ 31.3 ACRES
 SW ¼ NE ¼ 31.2 ACRES
 SE ¼ NE ¼ 31.2 ACRES
 NE ¼ NW ¼ 31.3 ACRES
 NW ¼ NW ¼ 31.3 ACRES
 SW ¼ NW ¼ 31.2 ACRES
 SE ¼ NW ¼ 31.2 ACRES
 NE ¼ SW ¼ 31.3 ACRES
 NW ¼ SW ¼ 31.3 ACRES
 SW ¼ SW ¼ 31.2 ACRES
 SE ¼ SW ¼ 31.2 ACRES
 NE ¼ SE ¼ 31.3 ACRES
 NW ¼ SE ¼ 31.3 ACRES
 SW ¼ SE ¼ 31.2 ACRES
 SE ¼ SE ¼ 31.2 ACRES
 SECTION 5

NE ¼ NE ¼ 31.3 ACRES
 NW ¼ NE ¼ 31.3 ACRES
 SW ¼ NE ¼ 31.2 ACRES
 SE ¼ NE ¼ 31.2 ACRES
 NE ¼ NW ¼ 35.5 ACRES
 NW ¼ NW ¼ 35.5 ACRES
 SW ¼ NW ¼ 25.7 ACRES
 SE ¼ NW ¼ 25.7 ACRES
 SECTION 6

NE ¼ NE ¼ 24.4 ACRES
 SE ¼ NE ¼ 0.2 ACRE
 SECTION 7

NE ¼ NE ¼ 31.3 ACRES
 NW ¼ NE ¼ 31.3 ACRES
 SW ¼ NE ¼ 31.2 ACRES
 SE ¼ NE ¼ 31.2 ACRES
 SECTION 8

TOWNSHIP 2 NORTH, RANGE 28 EAST, W.M.

THE PLACE OF USE IS LOCATED AS FOLLOWS (CONTINUED) :

NE $\frac{1}{4}$ NE $\frac{1}{4}$ 31.25 ACRES
 NW $\frac{1}{4}$ NE $\frac{1}{4}$ 31.25 ACRES
 SW $\frac{1}{4}$ NE $\frac{1}{4}$ 31.25 ACRES
 SE $\frac{1}{4}$ NE $\frac{1}{4}$ 31.25 ACRES
 NE $\frac{1}{4}$ NW $\frac{1}{4}$ 31.25 ACRES
 NW $\frac{1}{4}$ NW $\frac{1}{4}$ 31.25 ACRES
 SW $\frac{1}{4}$ NW $\frac{1}{4}$ 31.25 ACRES
 SE $\frac{1}{4}$ NW $\frac{1}{4}$ 31.25 ACRES
 NE $\frac{1}{4}$ SW $\frac{1}{4}$ 0.6 ACRE
 NW $\frac{1}{4}$ SW $\frac{1}{4}$ 0.6 ACRE
 SW $\frac{1}{4}$ SW $\frac{1}{4}$ 31.7 ACRES
 SE $\frac{1}{4}$ SW $\frac{1}{4}$ 32.8 ACRES
 SECTION 24

NE $\frac{1}{4}$ NW $\frac{1}{4}$ 26.0 ACRES
 NW $\frac{1}{4}$ NW $\frac{1}{4}$ 25.0 ACRES
 SW $\frac{1}{4}$ NW $\frac{1}{4}$ 32.3 ACRES
 SE $\frac{1}{4}$ NW $\frac{1}{4}$ 33.4 ACRES
 NE $\frac{1}{4}$ SW $\frac{1}{4}$ 23.9 ACRES
 NW $\frac{1}{4}$ SW $\frac{1}{4}$ 23.0 ACRES
 SECTION 25

TOWNSHIP 3 NORTH, RANGE 26 EAST, W.M.

NE $\frac{1}{4}$ NE $\frac{1}{4}$ 2.19 ACRES
 SW $\frac{1}{4}$ NE $\frac{1}{4}$ 18.48 ACRES
 SE $\frac{1}{4}$ NE $\frac{1}{4}$ 16.7 ACRES
 SE $\frac{1}{4}$ NW $\frac{1}{4}$ 0.07 ACRE
 NE $\frac{1}{4}$ SW $\frac{1}{4}$ 26.88 ACRES
 NW $\frac{1}{4}$ SW $\frac{1}{4}$ 22.13 ACRES
 SW $\frac{1}{4}$ SW $\frac{1}{4}$ 33.77 ACRES
 SE $\frac{1}{4}$ SW $\frac{1}{4}$ 36.99 ACRES
 NE $\frac{1}{4}$ SE $\frac{1}{4}$ 37.83 ACRES
 NW $\frac{1}{4}$ SE $\frac{1}{4}$ 39.58 ACRES
 SW $\frac{1}{4}$ SE $\frac{1}{4}$ 24.42 ACRES
 SE $\frac{1}{4}$ SE $\frac{1}{4}$ 31.14 ACRES
 SECTION 1

SE $\frac{1}{4}$ SW $\frac{1}{4}$ 25.3 ACRES
 SW $\frac{1}{4}$ SE $\frac{1}{4}$ 26.9 ACRES
 SECTION 2

NE $\frac{1}{4}$ NE $\frac{1}{4}$ 36.4 ACRES
 NW $\frac{1}{4}$ NE $\frac{1}{4}$ 37.1 ACRES
 SW $\frac{1}{4}$ NE $\frac{1}{4}$ 11.8 ACRES
 SE $\frac{1}{4}$ NE $\frac{1}{4}$ 37.5 ACRES
 SECTION 11

TOWNSHIP 3 NORTH, RANGE 27 EAST, W.M.

THE PLACE OF USE IS LOCATED AS FOLLOWS (CONTINUED):

NE ¼ NW ¼	36.5	ACRES
NW ¼ NW ¼	1.2	ACRES
SW ¼ NW ¼	33.8	ACRES
SE ¼ NW ¼	36.6	ACRES
NE ¼ SW ¼	34.3	ACRES
NW ¼ SW ¼	26.1	ACRES
SW ¼ SW ¼	29.4	ACRES
SE ¼ SW ¼	40.0	ACRES
NE ¼ SE ¼	34.0	ACRES
NW ¼ SE ¼	40.0	ACRES
SW ¼ SE ¼	33.2	ACRES
SE ¼ SE ¼	20.3	ACRES

SECTION 11

NE ¼ NE ¼	19.8	ACRES
NW ¼ NE ¼	33.24	ACRES
SW ¼ NE ¼	33.1	ACRES
SE ¼ NE ¼	37.8	ACRES
NE ¼ NW ¼	32.82	ACRES
NW ¼ NW ¼	27.2	ACRES
SW ¼ NW ¼	29.0	ACRES
SE ¼ NW ¼	35.7	ACRES
NE ¼ SW ¼	28.8	ACRES
NW ¼ SW ¼	39.8	ACRES
SW ¼ SW ¼	29.9	ACRES
SE ¼ SW ¼	18.9	ACRES
NE ¼ SE ¼	32.6	ACRES
NW ¼ SE ¼	6.4	ACRES

SECTION 12

NE ¼ NE ¼	29.8	ACRES
NW ¼ NE ¼	32.2	ACRES
SW ¼ NE ¼	33.4	ACRES
SE ¼ NE ¼	36.1	ACRES
NE ¼ NW ¼	35.6	ACRES
NW ¼ NW ¼	37.5	ACRES
SW ¼ NW ¼	34.2	ACRES
SE ¼ NW ¼	21.0	ACRES
NE ¼ SW ¼	0.5	ACRE
NW ¼ SW ¼	35.5	ACRES
SW ¼ SW ¼	10.1	ACRES
NE ¼ SE ¼	32.3	ACRES
NW ¼ SE ¼	30.4	ACRES
SW ¼ SE ¼	35.6	ACRES
SE ¼ SE ¼	29.0	ACRES

SECTION 13
TOWNSHIP 3 NORTH, RANGE 27 EAST, W.M.

THE PLACE OF USE IS LOCATED AS FOLLOWS (CONTINUED):

NE ¼ NE ¼	33.9	ACRES
NW ¼ NE ¼	39.2	ACRES
SW ¼ NE ¼	32.3	ACRES
SE ¼ NE ¼	33.6	ACRES
NE ¼ NW ¼	30.4	ACRES
NW ¼ NW ¼	21.0	ACRES
SW ¼ NW ¼	9.7	ACRES
SE ¼ NW ¼	32.5	ACRES
NE ¼ SW ¼	40.0	ACRES
NW ¼ SW ¼	15.5	ACRES
SE ¼ SW ¼	3.9	ACRES
NE ¼ SE ¼	39.6	ACRES
NW ¼ SE ¼	16.6	ACRES
SE ¼ SE ¼	12.7	ACRES

SECTION 14

NW ¼ NW ¼	13.6	ACRES
SW ¼ NW ¼	15.5	ACRES

SECTION 15

NE ¼ NE ¼	33.9	ACRES
NW ¼ NE ¼	12.7	ACRES
SW ¼ NE ¼	13.4	ACRES
SE ¼ NE ¼	38.0	ACRES
NE ¼ NW ¼	37.7	ACRES
NW ¼ NW ¼	25.53	ACRES
SW ¼ NW ¼	24.53	ACRES
SE ¼ NW ¼	37.4	ACRES
NE ¼ SW ¼	30.7	ACRES
NW ¼ SW ¼	31.4	ACRES
SW ¼ SW ¼	32.5	ACRES
SE ¼ SW ¼	31.9	ACRES

SECTION 16

NE ¼ NE ¼	34.52	ACRES
NW ¼ NE ¼	27.61	ACRES
SW ¼ NE ¼	28.52	ACRES
SE ¼ NE ¼	34.52	ACRES
NE ¼ NW ¼	33.34	ACRES
NW ¼ NW ¼	32.58	ACRES
SW ¼ NW ¼	34.5	ACRES
SE ¼ NW ¼	38.56	ACRES
NE ¼ SW ¼	3.26	ACRES
NW ¼ SW ¼	2.13	ACRES

SECTION 17

TOWNSHIP 3 NORTH, RANGE 27 EAST, W.M.

THE PLACE OF USE IS LOCATED AS FOLLOWS (CONTINUED) :

NE $\frac{1}{4}$ NE $\frac{1}{4}$ 31.25 ACRES
 NW $\frac{1}{4}$ NE $\frac{1}{4}$ 31.25 ACRES
 SW $\frac{1}{4}$ NE $\frac{1}{4}$ 31.25 ACRES
 SE $\frac{1}{4}$ NE $\frac{1}{4}$ 31.25 ACRES
 NE $\frac{1}{4}$ NW $\frac{1}{4}$ 31.25 ACRES
 NW $\frac{1}{4}$ NW $\frac{1}{4}$ 31.25 ACRES
 SW $\frac{1}{4}$ NW $\frac{1}{4}$ 31.25 ACRES
 SE $\frac{1}{4}$ NW $\frac{1}{4}$ 31.25 ACRES
 NE $\frac{1}{4}$ SE $\frac{1}{4}$ 37.7 ACRES
 NW $\frac{1}{4}$ SE $\frac{1}{4}$ 18.3 ACRES
 SW $\frac{1}{4}$ SE $\frac{1}{4}$ 18.0 ACRES
 SE $\frac{1}{4}$ SE $\frac{1}{4}$ 37.3 ACRES

SECTION 19

SW $\frac{1}{4}$ NE $\frac{1}{4}$ 31.3 ACRES
 SE $\frac{1}{4}$ NW $\frac{1}{4}$ 31.3 ACRES
 NE $\frac{1}{4}$ SW $\frac{1}{4}$ 31.2 ACRES
 NW $\frac{1}{4}$ SW $\frac{1}{4}$ 6.9 ACRES
 SW $\frac{1}{4}$ SW $\frac{1}{4}$ 6.9 ACRES
 NW $\frac{1}{4}$ SE $\frac{1}{4}$ 31.2 ACRES

SECTION 20

NE $\frac{1}{4}$ NE $\frac{1}{4}$ 26.1 ACRES
 NW $\frac{1}{4}$ NE $\frac{1}{4}$ 24.7 ACRES
 SW $\frac{1}{4}$ NE $\frac{1}{4}$ 34.0 ACRES
 SE $\frac{1}{4}$ NE $\frac{1}{4}$ 35.0 ACRES
 NE $\frac{1}{4}$ SE $\frac{1}{4}$ 1.9 ACRES
 NW $\frac{1}{4}$ SE $\frac{1}{4}$ 2.0 ACRES

SECTION 23

NE $\frac{1}{4}$ NE $\frac{1}{4}$ 17.5 ACRES
 NW $\frac{1}{4}$ NE $\frac{1}{4}$ 33.9 ACRES
 SW $\frac{1}{4}$ NE $\frac{1}{4}$ 28.7 ACRES
 SE $\frac{1}{4}$ NE $\frac{1}{4}$ 17.5 ACRES

SECTION 24

NE $\frac{1}{4}$ NW $\frac{1}{4}$ 3.8 ACRES
 NW $\frac{1}{4}$ NW $\frac{1}{4}$ 12.4 ACRES
 SW $\frac{1}{4}$ NW $\frac{1}{4}$ 20.5 ACRES
 NE $\frac{1}{4}$ SW $\frac{1}{4}$ 7.9 ACRES
 NW $\frac{1}{4}$ SW $\frac{1}{4}$ 40.0 ACRES
 SW $\frac{1}{4}$ SW $\frac{1}{4}$ 36.9 ACRES
 SE $\frac{1}{4}$ SW $\frac{1}{4}$ 5.7 ACRES

SECTION 25

TOWNSHIP 3 NORTH, RANGE 27 EAST, W.M.

THE PLACE OF USE IS LOCATED AS FOLLOWS (CONTINUED):

NE ¼ NE ¼	13.5	ACRES
NW ¼ NE ¼	1.5	ACRES
SW ¼ NE ¼	3.5	ACRES
SE ¼ NE ¼	40.0	ACRES
NE ¼ NW ¼	5.15	ACRES
NW ¼ NW ¼	21.25	ACRES
SW ¼ NW ¼	28.25	ACRES
SE ¼ NW ¼	11.45	ACRES
NE ¼ SW ¼	31.25	ACRES
NW ¼ SW ¼	31.25	ACRES
SW ¼ SW ¼	31.25	ACRES
SE ¼ SW ¼	31.25	ACRES
NE ¼ SE ¼	29.02	ACRES
SE ¼ SE ¼	24.13	ACRES

SECTION 26

NW ¼ NW ¼	20.2	ACRES
SW ¼ NW ¼	19.3	ACRES
NE ¼ SW ¼	9.1	ACRES
NW ¼ SW ¼	18.1	ACRES
SW ¼ SW ¼	17.7	ACRES
SE ¼ SW ¼	9.7	ACRES
NE ¼ SE ¼	12.2	ACRES
NW ¼ SE ¼	36.3	ACRES
SW ¼ SE ¼	37.5	ACRES
SE ¼ SE ¼	12.7	ACRES

SECTION 27

NE ¼ NE ¼	37.4	ACRES
NW ¼ NE ¼	5.8	ACRES
SW ¼ NE ¼	5.8	ACRES
SE ¼ NE ¼	36.5	ACRES
NE ¼ SE ¼	38.1	ACRES
NW ¼ SE ¼	7.0	ACRES
SW ¼ SE ¼	6.9	ACRES
SE ¼ SE ¼	37.2	ACRES
NE ¼ NE ¼	34.75	ACRES
NW ¼ NE ¼	20.75	ACRES
SW ¼ NE ¼	13.15	ACRES
SE ¼ NE ¼	34.25	ACRES
SW ¼ NW ¼	5.95	ACRES
SE ¼ NW ¼	10.35	ACRES
NE ¼ SW ¼	39.45	ACRES

NW ¼ SW ¼ 36.15 ACRES
SW ¼ SW ¼ 28.1 ACRES
SE ¼ SW ¼ 36.2 ACRES

SECTION 34

TOWNSHIP 3 NORTH, RANGE 27 EAST, W.M.

THE PLACE OF USE IS LOCATED AS FOLLOWS (CONTINUED):

NE ¼ SE ¼ 39.65 ACRES
NW ¼ SE ¼ 33.75 ACRES
SW ¼ SE ¼ 20.45 ACRES
SE ¼ SE ¼ 37.35 ACRES

SECTION 34

NW ¼ NE ¼ 3.4 ACRES
SW ¼ NE ¼ 1.8 ACRES
NE ¼ NW ¼ 31.25 ACRES
NW ¼ NW ¼ 31.25 ACRES
SW ¼ NW ¼ 31.25 ACRES
SE ¼ NW ¼ 31.25 ACRES
NW ¼ SW ¼ 22.6 ACRES
SW ¼ SW ¼ 17.2 ACRES

SECTION 35

NE ¼ NW ¼ 1.88 ACRES
SW ¼ NW ¼ 3.35 ACRES
NW ¼ SW ¼ 4.35 ACRES
SW ¼ SW ¼ 1.14 ACRES
SE ¼ SE ¼ 4.0 ACRES

SECTION 36

TOWNSHIP 3 NORTH, RANGE 27 EAST, W.M.

NE ¼ NW ¼ 28.69 ACRES
NW ¼ NW ¼ 25.0 ACRES
SW ¼ NW ¼ 22.03 ACRES
SE ¼ NW ¼ 35.0 ACRES
NE ¼ SW ¼ 25.0 ACRES
NW ¼ SW ¼ 19.19 ACRES
SW ¼ SW ¼ 28.83 ACRES
SE ¼ SW ¼ 28.7 ACRES

SECTION 6

NE ¼ NW ¼ 34.7 ACRES
NW ¼ NW ¼ 31.9 ACRES
SW ¼ NW ¼ 29.2 ACRES
SE ¼ NW ¼ 23.5 ACRES
NE ¼ SW ¼ 31.1 ACRES
NW ¼ SW ¼ 24.0 ACRES
SW ¼ SW ¼ 22.8 ACRES
SE ¼ SW ¼ 30.1 ACRES

SECTION 7
TOWNSHIP 3 NORTH, RANGE 28 EAST, W.M.

THE PLACE OF USE IS LOCATED AS FOLLOWS (CONTINUED):

SW ¼	NE ¼	3.0	ACRES
SE ¼	NW ¼	37.0	ACRES
NE ¼	SW ¼	25.0	ACRES
NW ¼	SW ¼	40.0	ACRES
SW ¼	SW ¼	40.0	ACRES
SE ¼	SW ¼	12.0	ACRES

SECTION 17

NE ¼	NW ¼	35.6	ACRES
NW ¼	NW ¼	34.0	ACRES
SW ¼	NW ¼	33.5	ACRES
SE ¼	NW ¼	17.4	ACRES
NE ¼	SW ¼	20.0	ACRES
NW ¼	SW ¼	39.1	ACRES
SW ¼	SW ¼	0.9	ACRE
SE ¼	SW ¼	28.5	ACRES
NE ¼	SE ¼	4.0	ACRES
SE ¼	SE ¼	40.0	ACRES

SECTION 18

NE ¼	NE ¼	40.0	ACRES
NW ¼	NE ¼	1.9	ACRES
SE ¼	NE ¼	40.0	ACRES
NE ¼	NW ¼	3.8	ACRES
SE ¼	NW ¼	0.6	ACRE
NE ¼	SE ¼	8.0	ACRES
NW ¼	SE ¼	40.0	ACRES
SW ¼	SE ¼	0.6	ACRE
SE ¼	SE ¼	4.2	ACRES

SECTION 19

NE ¼	NW ¼	2.0	ACRES
NW ¼	NW ¼	36.0	ACRES
SW ¼	NW ¼	15.0	ACRES

SECTION 20

NW ¼	SW ¼	1.1	ACRES
SW ¼	SW ¼	0.9	ACRE
NE ¼	SE ¼	20.4	ACRES
NW ¼	SE ¼	11.8	ACRES
SW ¼	SE ¼	16.7	ACRES

SE ¼ SE ¼ 28.0 ACRES
 SECTION 30
 TOWNSHIP 3 NORTH, RANGE 28 EAST, W.M.

THE PLACE OF USE IS LOCATED AS FOLLOWS (CONTINUED):

NE ¼ SW ¼ 35.7 ACRES
 NW ¼ SW ¼ 15.9 ACRES
 SW ¼ SW ¼ 9.1 ACRES
 SE ¼ SW ¼ 37.0 ACRES
 NW ¼ SE ¼ 9.0 ACRES
 SW ¼ SE ¼ 9.0 ACRES
 SECTION 31

NE ¼ SW ¼ 31.3 ACRES
 NW ¼ SW ¼ 31.3 ACRES
 SW ¼ SW ¼ 31.2 ACRES
 SE ¼ SW ¼ 31.2 ACRES
 NE ¼ SE ¼ 6.7 ACRES
 NW ¼ SE ¼ 31.3 ACRES
 SW ¼ SE ¼ 31.2 ACRES
 SE ¼ SE ¼ 31.2 ACRES
 SECTION 32

TOWNSHIP 3 NORTH, RANGE 28 EAST, W.M.

Measurement, recording and reporting conditions:

- A. Before water use may begin under this permit, the permittee shall install a totalizing flow meter or other suitable measuring device as approved by the Director at each point of diversion. The permittee shall maintain the meter(s) or measuring device(s) in good working order.
- B. 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.
- C. The permittee shall allow the watermaster access to the meter(s) or measuring device(s); provided however, where any meter or measuring device is located within a private structure, the watermaster shall request access upon reasonable notice.

- D. The Director may provide an opportunity for the permittee to submit alternative measuring and reporting procedures for review and approval.

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.

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

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

DRAFT - THIS IS **NOT** A PERMIT

for Phillip C. Ward, Director
Water Resources Department

Mailing List for PFO Copies

Application #S-86866

PFO Date April 13, 2010

Original mailed to applicant:

KENT MADISON
29299 MADISON RD
ECHO, OR 97826

Copies sent to:

1. WRD - File # S-86866
2. Water Availability: Ken Stahr

Copies Mailed
By: _____ (SUPPORT STAFF)
on: _____ (DATE)

PFO, Map, and Fact Sheet Copies sent to:

3. WRD - Regional Manager: NC
4. WRD -Watermaster # 5

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

5. Bill Porfily, Porfily Water Rights Consulting, P.O. Box 643, Stanfield, OR 97878
6. Jason Melady, GSI Water Solutions, Inc., 55 SW Yamhill Street, Suite 400, Portland, OR 97204

"\$20 LETTER" sent to Interested Persons who have not protested or paid for copies (affected landowners)

1. Columbia Improvement District, P.O. Box 47, Boardman, OR 97818
2. Con-Agra Foods Lamb Weston, 78153 Westland Rd, Hermiston, OR 97838
3. Port of Umatilla, 500 Willamette St, Umatilla, OR 97882
4. City of Hermiston, 180 NE 2nd St, Hermiston, OR 97830

CASEWORKER : Kerry Kavanagh