

**Oregon Water Resources Department
Water Right Services Division**

Water Right Application S-88645 in the)
name of JACK PLATT and PLATT DAIRY)
)

FINAL ORDER ON
RECONSIDERATION

Summary: Order approving Application S-88645 and issuing a draft permit.

Authority

The application is being processed in accordance with Oregon Revised Statute (ORS) 537.153 through 537.175, and 390.826, and Oregon Administrative Rule (OAR) Chapter 690, Divisions 5, 33, 300, 310, 400, 410, and Willamette Basin Program OAR 690-502. These statutes and rules can be viewed on the Oregon Water Resources website: <http://www.oregon.gov/owrd/pages/law/index.aspx>

The Department's main page is <http://www.oregon.gov/OWRD/pages/index.aspx>

This Final Order is issued pursuant to ORS 183.484 and OAR 137-004-0080(8).

FINDINGS OF FACT

1. On August 3, 2018, Jack Platt and Platt Dairy submitted an application to the Department for a water use permit:

VOLUME	983.5 ACRE-FEET (AF)
USE	PRIMARY IRRIGATION OF 133.9 ACRES SUPPLEMENTAL IRRIGATION OF 849.6 ACRES
SOURCE	WILLAMETTE BASIN PROJECT RESERVOIRS, CONSTRUCTED UNDER PERMITS R-1625 AND R-5363
COUNTY	POLK COUNTY
RESERVOIR LOCATION	SECTION 21, TOWNSHIP 9 SOUTH, RANGE 4 WEST, W.M.

NOTICE OF RIGHT TO PETITION FOR RECONSIDERATION OR JUDICIAL REVIEW

This is a Final Order in other than contested case. This order is subject to judicial review under ORS 536.075 and ORS 183.484. Any petition for judicial review must be filed within the 60 day time period specified by ORS 183.484(2). Pursuant to OAR 137-004-0080 you may petition the Director for reconsideration of this order. A petition for reconsideration may be granted or denied by the Director, and if no action is taken within 60 days following the date the petition was filed, the petition shall be deemed denied.

HEARING RIGHTS

Under the provisions of ORS 537.170 and ORS 537.622, the applicant may request a contested case hearing by submitting the information required for a protest under ORS 537.153(6) or ORS 537.621(7) to the Department within 14 days after the date of mailing of this order as shown below. If a contested case hearing is requested, the Department must schedule one. In the contested case hearing, however, only those issues based on the modifications to the Proposed Final Order may be addressed. Only the applicant or protestant may appeal this order. (ORS 537.170(7)(b)).

2. The Department provided public notice of the application in the Department's weekly public notice on August 14, 2018. A 30-day comment period followed.
3. The Department has evaluated the application and any comments received, and finds that no public interest issues under ORS 537.170(8) would be affected adversely by the proposed use.
4. On December 11, 2018, the Department issued a Final Order approving Application S-88645 and draft permit. Subsequently, the Department discovered the December 11, 2018 draft permit erroneously referenced the season for primary and supplemental irrigation. The attached draft permit has been corrected to reflect the proper season for primary and supplemental irrigation.
5. On February 11, 2019 the Department reconsidered the Final Order for Application S-88645, pursuant to OAR 137-004-0080(5).

CONCLUSIONS OF LAW

1. Application S-88645 is consistent with the requirements of ORS 537.147 and OAR Chapter 690.

NOTE: When issuing permits, ORS 537.170(6) authorizes the Department to include provisions or restrictions concerning the use, control, and management of the water to be appropriated for the project. This draft permit is conditioned accordingly.


ORDER

This Final Order and draft permit supersede the December 11, 2018 Final Order and draft permit, which are of no further force or effect.

Application S-88645 is approved. **Upon submittal of a valid and executed contract with Bureau of Reclamation, a permit shall be issued authorizing the proposed water use.** Failure to meet this requirement within 60 days from the date of this Final Order may result in the proposed rejection of the application.

If you need to request additional time, your written request should be received in the Salem office of the Department within 60 days of this Final Order. The Department will evaluate the request and determine whether or not the request may be approved.

DATED April 18th, 2019



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

If you have questions about statements contained in this document, please contact Lisa Graham at Elisabeth.A.Graham@oregon.gov or 503-986-0808.
If you have other questions about the Department or any of its programs please contact our Water Resources Customer Service Group at 503-986-0900.

STATE OF OREGON

COUNTY OF POLK

DRAFT PERMIT TO APPROPRIATE THE PUBLIC WATERS

THIS DRAFT PERMIT IS HEREBY ISSUED TO:

JACK PLATT
 PLATT DAIRY
 11070 OAK HILL RD
 INDEPENDENCE OR 97351

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

APPLICATION FILE NUMBER: S-88645

SOURCE OF WATER: WILLAMETTE BASIN PROJECT RESERVOIRS, CONSTRUCTED UNDER PERMITS R-1628 AND R-5363, TRIBUTARIES TO WILLAMETTE RIVER

PURPOSE OR USE AND PERIOD OF USE:

PRIMARY IRRIGATION OF 131.7 ACRES; MARCH 1 THROUGH OCTOBER 31

PRIMARY IRRIGATION OF 848.8 ACRES; MARCH 1 THROUGH MARCH 31 AND OCTOBER 1 THROUGH OCTOBER 31

SUPPLEMENTAL IRRIGATION OF 848.8 ACRES; APRIL 1 THROUGH SEPTEMBER 30

MAXIMUM VOLUME: 983.5 ACRE-FEET (OR AS FURTHER LIMITED BY CONTRACT)

DATE OF PRIORITY: AUGUST 3, 2018

Authorized Point of Re-Diversion:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
9 S	4 W	WM	23	SE SW	430 FEET NORTH AND 1550 FEET EAST FROM SW CORNER, SECTION 23

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 2.5 acre-feet for each acre irrigated during the irrigation season of each year.

Authorized Place of Use:

Twp	Rng	Mer	Sec	Q-Q	Primary Irrigation (MAR 1-OCT 31)	Primary Irrigation (MAR 1-MAR 31 & OCT 1-OCT 31)	Supplemental Irrigation (APR 1-SEP 30)
9 S	4 W	WM	8	SW SE	10.7		
9 S	4 W	WM	8	SE SE	2.3		
9 S	4 W	WM	16	SW SW		30.1	30.1
9 S	4 W	WM	16	SE SW	4.1	3.6	3.6
9 S	4 W	WM	17	NE NE	6.2		
9 S	4 W	WM	17	NW NE	34.4		
9 S	4 W	WM	17	SW NE	5.0		
9 S	4 W	WM	17	SE NE	0.1		

Twp	Rng	Mer	Sec	Q-Q	Primary Irrigation (MAR 1-OCT 31)	Primary Irrigation (MAR 1-MAR 31 & OCT 1-OCT 31)	Supplemental Irrigation (APR 1-SEP 30)
9 S	4 W	WM	8	SW SE	10.7		
9 S	4 W	WM	8	SE SE	2.3		
9 S	4 W	WM	16	SW SW		30.1	30.1
9 S	4 W	WM	16	SE SW	4.1	3.6	3.6
9 S	4 W	WM	17	NE NE	6.2		
9 S	4 W	WM	17	NW NE	34.4		
9 S	4 W	WM	17	SW NE	5.0		
9 S	4 W	WM	17	SE NE	0.1		
9 S	4 W	WM	17	SW SE		36.0	36.0
9 S	4 W	WM	17	SE SE		31.1	31.1
9 S	4 W	WM	20	NE NE		40.0	40.0
9 S	4 W	WM	20	NW NE		40.0	40.0
9 S	4 W	WM	20	SW NE		40.0	40.0
9 S	4 W	WM	20	SE NE		39.4	39.4
9 S	4 W	WM	20	NE SE		21.2	21.2
9 S	4 W	WM	20	NW SE		20.7	20.7
9 S	4 W	WM	21	NW NE		39.5	39.5
9 S	4 W	WM	21	SW NE		23.8	23.8
9 S	4 W	WM	21	SE NE	4.4		
9 S	4 W	WM	21	NE NW	3.0	34.1	34.1
9 S	4 W	WM	21	NW NW		40.0	40.0
9 S	4 W	WM	21	SW NW		40.0	40.0
9 S	4 W	WM	21	SE NW	0.4	24.9	24.9
9 S	4 W	WM	21	NE SW		32.2	32.2
9 S	4 W	WM	21	NW SW		22.1	22.1
9 S	4 W	WM	21	SE SW		4.6	4.6
9 S	4 W	WM	21	NE SE	1.4		
9 S	4 W	WM	21	NW SE		39.2	39.2
9 S	4 W	WM	21	SW SE		7.8	7.8
9 S	4 W	WM	22	SW NW	12.4		
9 S	4 W	WM	22	SE NW	5.3		
9 S	4 W	WM	22	NE SW	12.2		
9 S	4 W	WM	22	NW SW	23.9		
9 S	4 W	WM	22	NE SE		3.3	3.3
9 S	4 W	WM	22	NW SE		5.0	5.0
9 S	4 W	WM	22	SW SE		16.6	16.6
9 S	4 W	WM	22	SE SE		12.1	12.1
9 S	4 W	WM	28	NE NE		6.2	6.2
9 S	4 W	WM	28	NW NE		16.0	16.0
9 S	4 W	WM	28	SW NE		40.0	40.0
9 S	4 W	WM	28	SE NE		15.0	15.0

Twp	Rng	Mer	Sec	Q-Q	Primary Irrigation (MAR 1-OCT 31)	Primary Irrigation (MAR 1-MAR 31 & OCT 1-OCT 31)	Supplemental Irrigation (APR 1-SEP 30)
9 S	4 W	WM	8	SW SE	10.7		
9 S	4 W	WM	8	SE SE	2.3		
9 S	4 W	WM	16	SW SW		30.1	30.1
9 S	4 W	WM	16	SE SW	4.1	3.6	3.6
9 S	4 W	WM	17	NE NE	6.2		
9 S	4 W	WM	17	NW NE	34.4		
9 S	4 W	WM	17	SW NE	5.0		
9 S	4 W	WM	17	SE NE	0.1		
9 S	4 W	WM	28	NE NW		5.6	5.6
9 S	4 W	WM	28	SE NW		16.2	16.2
9 S	4 W	WM	28	NE SW		19.0	19.0
9 S	4 W	WM	28	SE SW		15.8	15.8
9 S	4 W	WM	28	NE SE	2.9	12.3	12.3
9 S	4 W	WM	28	NW SE		28.6	28.6
9 S	4 W	WM	28	SW SE		15.8	15.8
9 S	4 W	WM	28	SE SE	3.0	11.0	11.0

1. Measurement Devices and Recording/Reporting of Annual Water Use 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 device in good working order.
- B. The permittee shall allow the watermaster access to the device; provided however, where any device is located within a private structure, the watermaster shall request access upon reasonable notice.
- C. The permittee shall keep a complete record of the volume of water diverted each month, and shall submit a report which includes 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.
- D. The Director may provide an opportunity for the permittee to submit alternative measuring and reporting procedures for review and approval.

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

3. The use of water under this right is subject to the terms and conditions of contract No. XXXX, or a satisfactory replacement, between the Bureau of Reclamation and the permittee, a copy of which must be on file in the records of the Water Resources Department.

STANDARD CONDITIONS

1. 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.
2. 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.
3. 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.
4. 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.
5. 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.
6. Construction of the water system shall begin within five years of the date of permit issuance. The deadline to begin construction may not be extended. This permit is subject to cancellation proceedings if the begin construction deadline is missed.
7. Complete 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.
8. Within one year after making complete application 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 _____ 2019

DRAFT – NOT A PERMIT

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

Mailing List for FO

Scheduled Mailing Date:

Application: S-88645

Permit: DRAFT

Original mailed to applicant:

JACK PLATT
PLATT DAIRY
11070 OAK HILL RD
INDEPENDENCE OR 97351

Sent via auto email:

1. WRD - Watermaster District 16, Joel Plahn
2. Agent – William Ferber; BILL@BKWRC.COM

Copies sent to:

1. a.l.o - Frederick M & Lynette A Friedow; 8140 Haley Rd; Independence OR 97351
2. a.l.o - VFO Independence LLC; 8930 Suver Rd; Monmouth OR 97361
3. a.l.o - Rhoten Family Trust, Helen M Rhoten, TR; 11423 One West; Buena Vista Independence OR 97351
4. a.l.o - Terry L and Olivia J Drazdoff; 5780 Main St; Independence OR 97351
5. a.l.o - Wendell P and Sherry L Sperling; 8835 Parker Rd; Independence OR 97351

Copies of FO and map sent to:

1. File - S-88645
2. WRD – Surface Water Section

Application Specialist: Lisa Graham

Copies Mailed
by: _____ (STAFF)
on: _____ (DATE)