

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

Water Right Application S-88458 in the name      )  
of CARL ST HILAIRE and ST HILAIRE BROTHERS      )                              FINAL ORDER  
HERMISTON FARM LLC                                    )

**Summary:** Order approving Application S-88458 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 the Columbia River Basin Program (OAR 690-519). These statutes and rules can be viewed on following website:

<https://www.oregon.gov/OWRD/programs/policylawandrules/Pages/default.aspx>

The Department's main page is <https://www.oregon.gov/OWRD>.

This Final Order is issued pursuant to ORS 537.170(6) to (9) and OAR 690-310-0170 to 0190.

**FINDINGS OF FACT**

1. On September 8, 2017, Carl St Hilaire and St Hilaire Brothers Hermiston Farm LLC submitted an application to the Department for a water use permit.
2. On August 31, 2021, the Department issued a Proposed Final Order recommending approval of the application. The protest period closed October 15, 2021 and no protest was filed.
3. The findings of fact in the Proposed Final Order are incorporated herein with the following modification:
  - a. Based on the conditions recommended by the Oregon Department of Fish and Wildlife, pursuant to OAR 690-033, Condition #4 (Water Use During October and November) shall be removed from the attached draft permit.

**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)).

CONCLUSIONS OF LAW

1. The conclusions of law in the Proposed Final Order are incorporated herein.
2. The proposed use, as conditioned, would not impair or be detrimental to the public interest.

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.

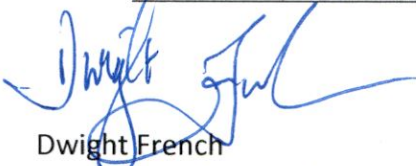
ORDER

Application S-88458 is approved. A permit consistent with the attached draft permit shall be issued upon payment of remaining permit recording fees.

**A permit recording fee in the amount of \$440.00 is due no later than 60 days from the date of this Final Order. Failure to submit the required fees within 60 days from the date of this Final Order may result in the proposed rejection of Application S-88458.**

If you need to request additional time to submit the required fee, a written request should be received in the Salem Office of the Department by the deadline above. The Department will evaluate the request and determine whether or not the request may be granted.

DATED JAN 07 2022



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

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- If you have any questions about statements contained in this document, please contact Kim French at [Kim.R.French@oregon.gov](mailto:Kim.R.French@oregon.gov) or 503-979-3168.
  - 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.
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DRAFT

This is not a permit.

DRAFT

STATE OF OREGON

COUNTY OF UMATILLA

DRAFT PERMIT TO APPROPRIATE THE PUBLIC WATERS

THIS DRAFT PERMIT IS HEREBY ISSUED TO

CARL ST HILAIRE  
ST HILAIRE BROTHERS HERMISTON FARM LLC  
84186 HIGHWAY 37  
HERMISTON OR 97838

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

APPLICATION FILE NUMBER: S-88458

SOURCE OF WATER: COLUMBIA RIVER, TRIBUTARY TO PACIFIC OCEAN

RATE AND PURPOSE OR USE: 55.94 CUBIC FEET PER SECOND (CFS) FOR PRIMARY IRRIGATION OF 4475.5 ACRES, FURTHER LIMITED TO 6.5 CFS FOR SUPPLEMENTAL IRRIGATION OF 521.29 ACRES

DATE OF PRIORITY: SEPTEMBER 8, 2017

POINT OF DIVERSION:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
5 N	30 E	WM	8	SW NW	2920 FEET NORTH AND 150 FEET EAST FROM SW CORNER, SECTION 8

THE PLACE OF USE AND PERIOD OF USE IS AS FOLLOWS:

Twp	Rng	Sec	Q-Q	Primary Irrigation Acres		Supplemental Irrigation
				10/1 - 4/14	11/1 - 2/28-29	Acres
				10/1 - 4/14	11/1 - 2/28-29	3/31 - 4/14 & 10/1- 10/31
4 N	30 E	3	NE NE		27.68	27.68
4 N	30 E	3	NW NE		23.03	23.03
4 N	30 E	3	SW NE		28.56	28.56
4 N	30 E	3	SE NE		33.32	33.32
4 N	30 E	3	NE NW		29.00	29.00
4 N	30 E	3	NW NW		29.48	29.48
4 N	30 E	3	SW NW		26.56	26.56
4 N	30 E	3	SE NW		21.89	21.89
4 N	30 E	3	NE SW		31.50	31.50
4 N	30 E	3	NW SW		40.65	40.65
4 N	30 E	3	SW SW		39.97	39.97
4 N	30 E	3	SE SW		39.56	39.56
4 N	30 E	3	NE SE		38.27	38.27
4 N	30 E	3	NW SE		33.39	33.39

Twp	Rng	Sec	Q-Q	Primary Irrigation Acres		Supplemental Irrigation Acres
				10/1 – 4/14	11/1 – 2/28-29	3/31 – 4/14 & 10/1- 10/31
4 N	30 E	3	SW SE		39.46	39.46
4 N	30 E	3	SE SE		38.97	38.97
5 N	30 E	15	NE SW		33.70	
5 N	30 E	15	NW SW		31.60	
5 N	30 E	15	SW SW		34.50	
5 N	30 E	15	SE SW		32.40	
5 N	30 E	20	SW NE		2.40	
5 N	30 E	20	NE NW		0.30	
5 N	30 E	20	NW NW		1.20	
5 N	30 E	20	SW NW		37.60	
5 N	30 E	20	SE NW		24.10	
5 N	30 E	20	NE SW		35.00	
5 N	30 E	20	NW SW		32.40	
5 N	30 E	20	SW SW		38.40	
5 N	30 E	20	SE SW		30.40	
5 N	30 E	20	NE SE		16.00	
5 N	30 E	20	NW SE		40.40	
5 N	30 E	20	SW SE		39.60	
5 N	30 E	20	SE SE		33.60	
5 N	30 E	21	NE NE		31.60	
5 N	30 E	21	NW NE		33.80	
5 N	30 E	21	SW NE		39.20	
5 N	30 E	21	SE NE		30.80	
5 N	30 E	21	NE NW		31.60	
5 N	30 E	21	NW NW		33.60	
5 N	30 E	21	SW NW		34.40	
5 N	30 E	21	SE NW		37.80	
5 N	30 E	21	NE SW		39.40	
5 N	30 E	21	NW SW		34.20	
5 N	30 E	21	SW SW		30.20	
5 N	30 E	21	SE SW		26.40	
5 N	30 E	21	NE SE		38.80	
5 N	30 E	21	NW SE		35.60	
5 N	30 E	21	SW SE		37.60	
5 N	30 E	21	SE SE		33.20	
5 N	30 E	22	NE NE	4.90		
5 N	30 E	22	NW NE	16.28		
5 N	30 E	22	SE NE	28.00		
5 N	30 E	22	SE SW	3.67		
5 N	30 E	22	NE SE	40.35		
5 N	30 E	22	NW SE	32.56		
5 N	30 E	22	SW SE	33.78		
5 N	30 E	22	SE SE	21.87		
5 N	30 E	22	NE NW		33.20	
5 N	30 E	22	NW NW		32.50	
5 N	30 E	22	SW NW		34.40	
5 N	30 E	22	SE NW		30.80	

Twp	Rng	Sec	Q-Q	Primary Irrigation Acres		Supplemental Irrigation Acres
				10/1 – 4/14	11/1 – 2/28-29	3/31 – 4/14 & 10/1- 10/31
5 N	30 E	22	NE SW		33.30	
5 N	30 E	22	NW SW		34.50	
5 N	30 E	22	SW SW		34.10	
5 N	30 E	22	SE SW		30.90	
5 N	30 E	23	NE NE	17.16		
5 N	30 E	23	NW NE	13.05		
5 N	30 E	23	SW NE	30.09		
5 N	30 E	23	SE NE	36.95		
5 N	30 E	23	NE NW	20.13		
5 N	30 E	23	NW NW	36.55		
5 N	30 E	23	SW NW	37.63		
5 N	30 E	23	SE NW	20.91		
5 N	30 E	23	NE SW	12.05		
5 N	30 E	23	NW SW	22.15		
5 N	30 E	23	SW SW	40.12		
5 N	30 E	23	SE SW	33.52		
5 N	30 E	23	NE SE	21.32		
5 N	30 E	23	NW SE	31.45		
5 N	30 E	23	SW SE	38.66		
5 N	30 E	23	SE SE	27.34		
5 N	30 E	26	NE NE	1.17		
5 N	30 E	26	NW NE	33.95		
5 N	30 E	26	SW NE	20.98		
5 N	30 E	26	NE NW	27.72		
5 N	30 E	26	NW NW	30.91		
5 N	30 E	26	SW NW	15.66		
5 N	30 E	26	SE NW	14.55		
5 N	30 E	26	NW SW	1.96		
5 N	30 E	27	NE NE	10.14		
5 N	30 E	27	NW NE	8.57		
5 N	30 E	27	SW NE	0.39		
5 N	30 E	27	SE NE	27.97		
5 N	30 E	27	NE NW	4.34		
5 N	30 E	27	NE SE	20.55		
5 N	30 E	27	NW SE	0.30		
5 N	30 E	27	NE NE		8.35	
5 N	30 E	27	NW NE		24.10	
5 N	30 E	27	NE NW		34.30	
5 N	30 E	27	NW NW		32.30	
5 N	30 E	27	SW NW		37.50	
5 N	30 E	27	SE NW		31.70	
5 N	30 E	27	NE SW		0.10	
5 N	30 E	27	NW SW		19.30	
5 N	30 E	27	SW SW		6.90	
5 N	30 E	27	SE SW		26.00	
5 N	30 E	27	SW SE		10.70	
5 N	30 E	27	SE SE		2.80	

Twp	Rng	Sec	Q-Q	Primary Irrigation Acres		Supplemental Irrigation Acres
				10/1 – 4/14	11/1 – 2/28-29	3/31 – 4/14 & 10/1- 10/31
5 N	30 E	28	NE NE		36.00	
5 N	30 E	28	NW NE		32.80	
5 N	30 E	28	SW NE		25.70	
5 N	30 E	28	SE NE		38.00	
5 N	30 E	28	NE NW		39.20	
5 N	30 E	28	NW NW		39.20	
5 N	30 E	28	SW NW		25.00	
5 N	30 E	28	SE NW		33.60	
5 N	30 E	28	NE SW		41.20	
5 N	30 E	28	NW SW		39.20	
5 N	30 E	28	SW SW		19.60	
5 N	30 E	28	SE SW		24.00	
5 N	30 E	28	NE SE		31.00	
5 N	30 E	28	NW SE		22.80	
5 N	30 E	28	SW SE		4.70	
5 N	30 E	28	SE SE		11.40	
5 N	30 E	32	NE NE		0.80	
5 N	30 E	32	SE NE		26.00	
5 N	30 E	32	SE SW		33.20	
5 N	30 E	32	NE SE		36.00	
5 N	30 E	32	NW SE		31.20	
5 N	30 E	32	SW SE		31.10	
5 N	30 E	32	SE SE		32.80	
5 N	30 E	33	NE NE		39.80	
5 N	30 E	33	NW NE		18.80	
5 N	30 E	33	SW NE		31.50	
5 N	30 E	33	SE NE		34.30	
5 N	30 E	33	NE NW		21.20	
5 N	30 E	33	NW NW		1.70	
5 N	30 E	33	SW NW		31.00	
5 N	30 E	33	SE NW		39.30	
5 N	30 E	33	NE SW		35.20	
5 N	30 E	33	NW SW		36.80	
5 N	30 E	33	SW SW		30.00	
5 N	30 E	33	SE SW		32.80	
5 N	30 E	33	NE SE		38.90	
5 N	30 E	33	NW SE		38.20	
5 N	30 E	33	SW SE		16.90	
5 N	30 E	33	SE SE		16.30	
5 N	30 E	34	NE NE		30.00	
5 N	30 E	34	NW NE		36.40	
5 N	30 E	34	SW NE		33.00	
5 N	30 E	34	SE NE		28.50	
5 N	30 E	34	NE NW		40.00	
5 N	30 E	34	NW NW		35.80	
5 N	30 E	34	SW NW		35.90	
5 N	30 E	34	SE NW		30.00	

Twp	Rng	Sec	Q-Q	Primary Irrigation Acres		Supplemental Irrigation Acres
				10/1 – 4/14	11/1 – 2/28-29	3/31 – 4/14 & 10/1- 10/31
5 N	30 E	34	NE SW		35.30	
5 N	30 E	34	NW SW		37.80	
5 N	30 E	34	SW SW		24.78	
5 N	30 E	34	SE SW		22.39	
5 N	30 E	34	NE SE		32.00	
5 N	30 E	34	NW SE		32.40	
5 N	30 E	34	SW SE		20.42	
5 N	30 E	34	SE SE		13.12	
<b>Total Acres</b>				<b>839.65</b>	<b>3635.85</b>	<b>521.29</b>

**PERMIT SPECIFIC 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. **Water Use Measurement, Recording, and Reporting:**
  - 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.

**3. Fish Screen/By-pass:**

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 prior to diversion of any water. Permittee shall obtain written approval from ODFW that the installation of the required screen and by-pass devices meets the state’s criteria or the permittee shall submit documentation that ODFW has determined screens and/or by-pass devices are not necessary.

## STANDARD CONDITIONS

1. 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.
2. 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.
3. 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.
4. 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.

## DEVELOPMENT AND COMPLETION TIMELINE REQUIREMENTS

1. 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.
2. 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.
3. 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.

Issued

**DRAFT - THIS IS NOT A PERMIT**

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