

STATE OF OREGON

COUNTY OF MARION

PERMIT TO APPROPRIATE THE PUBLIC WATERS

THIS PERMIT IS HEREBY ISSUED TO

ROBERT FESSLER  
11796 MONITOR MCKEE ROAD  
WOODBURN, OREGON 97071

(503)634-2231

The specific limits for the use are listed below along with conditions of use.

APPLICATION FILE NUMBER: G-14013

SOURCE OF WATER: WELL 5 IN PUDDING RIVER BASIN

PURPOSE OR USE: PRIMARY IRRIGATION OF 18.2 ACRES, SUPPLEMENTAL IRRIGATION OF 41.6 ACRES AND NURSERY OPERATIONS ON 13.7 ACRES

MAXIMUM RATE: NOT TO EXCEED A MAXIMUM CUMULATIVE TOTAL OF 1.37 CUBIC FEET PER SECOND (CFS), BEING 1.37 CFS FOR NURSERY OPERATIONS, AND 0.228 CFS FOR IRRIGATION OF 18.2 ACRES, AND 0.520 CFS FOR SUPPLEMENTAL IRRIGATION OF 41.6 ACRES

PERIOD OF USE: MARCH 1 THROUGH OCTOBER 31 FOR IRRIGATION AND YEAR ROUND FOR NURSERY OPERATIONS

DATE OF PRIORITY: MARCH 24, 1995

POINT OF DIVERSION LOCATION: SW 1/4 NE 1/4, SECTION 33, T5S, R1W, W.M.; 2480 FEET SOUTH & 2830 FEET EAST FROM NW CORNER, SECTION 33

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 (or its equivalent) and 2.5 acre-feet for each acre irrigated during the irrigation season of each year.

The amount of water used for NURSERY OPERATIONS is limited to a diversion of 0.15 cubic foot per second per acre. For the irrigation of **containerized nursery plants**, the amount of water diverted is limited to ONE-FORTIETH of one cubic foot per second (or its equivalent) and 5.0

acre feet per acre per year. For the irrigation of **in ground nursery plants** the amount of water diverted is limited to ONE-EIGHTIETH of one cubic foot per second (or its equivalent) and 2.5 acre feet per acre per year. The use of water for NURSERY OPERATIONS may be made at anytime of the year that the use is beneficial. For the irrigation of **any other crop**, the amount of water diverted is limited to ONE-EIGHTIETH of one cubic foot per second (or its equivalent) and 2.5 acre feet per acre during the irrigation season of each year.

THE PLACE OF USE IS LOCATED AS FOLLOWS:

	<u>PRIMARY</u>	<u>SUPPLEMENTAL</u>	<u>NURSERY OPERAT</u>
SE 1/4 SW 1/4		20.0 ACRES	
		SECTION 28	
SW 1/4 NE 1/4	4.4 ACRES	4.4 ACRES	
NE 1/4 NW 1/4	4.5 ACRES	3.8 ACRES	13.7 ACRES
SE 1/4 NW 1/4	9.3 ACRES	13.4 ACRES	
		SECTION 33	
		TOWNSHIP 5 SOUTH, RANGE 1 WEST, W.M.	

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.

This right is limited to any deficiency in the available supply of any prior right existing for the same land.

(1) Use of water from the well, as allowed herein, shall be controlled or shut off if the well displays:

(a) An average water level decline of three or more feet per year for five consecutive years; or

(b) A total water level decline of fifteen or more feet; or

(c) A hydraulic interference decline of fifteen or more feet in any neighboring well providing water for senior exempt uses or wells covered by prior rights.

(2) The water user shall install a meter or other measuring device suitable to the Director, and shall submit an annual report of water used to the Department by December 1 of each year.

(3) The permittee/appropriator shall be responsible for complying with each of the following requirements for measuring water levels in the well.

(a) Use of water from a new well shall not begin until an initial static water level in the well has been measured and submitted to the Department.

(b) In addition to the measurement required in subsection (a) of this section, a water level measurement shall be made each year during the period March 1 through March 31.

(c) All water level measurements shall be made by a qualified individual. Qualified individuals are certified water rights examiners, registered geologists, registered professional engineers, licensed land surveyors, licensed water well constructor, licensed pump installer, or the permittee/appropriator.

(d) Any qualified individual measuring a well shall use standard methods of procedure and equipment designed for the purpose of well measurement. The equipment used shall be well suited to the conditions of construction at the well. A list of standard methods of procedure and suitable equipment shall be available from the Department.

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(e) The permittee/appropriator shall submit a record of the measurement to the Department on a form available from the Department. The record of measurement shall include both measurements and calculations, shall include a certification as to their accuracy signed by the individual making the measurements, and shall be submitted to the Department within 90 days from the date of measurement. The Department shall determine when any of the declines cited in section (1) are evidenced by the well measurement required in section (3).

If substantial interference with a senior water right occurs due to withdrawal of water from any well listed on this permit, then use of water from the well(s) shall be discontinued or reduced and/or the schedule of withdrawal shall be regulated until or unless the Department approves or implements an alternative administrative action to mitigate the interference. The Department encourages junior and senior appropriators to jointly develop plans to mitigate interferences.

#### STANDARD CONDITIONS

The well shall be constructed in accordance with the General Standards for the Construction and Maintenance of Water Wells in Oregon. The works shall be equipped with a usable access port, and may also include an air line and pressure gauge adequate to determine water level elevation in the well at all times.

The use shall conform to such reasonable rotation system as may be ordered by the proper state officer.

Prior to receiving a certificate of water right, the permit holder shall submit the results of a pump test meeting the department's standards, to the Water Resources Department. The Director may require water level or pump test results every ten years thereafter.

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.

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