

STATE OF OREGON

COUNTY OF WASHINGTON

PERMIT TO APPROPRIATE THE PUBLIC WATERS

THIS PERMIT IS HEREBY ISSUED TO

Midway Equities, LLC  
21445 SW Edy Rd.  
Sherwood, Oregon 97140

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

APPLICATION FILE NUMBER: G-12601

SOURCE OF WATER: WELL # 3 IN THE MCFEE CREEK BASIN

PURPOSE OR USE: SUPPLEMENTAL NURSERY OPERATIONS ON 80.7 ACRES

MAXIMUM RATE: 300.0 GALLONS PER MINUTE(0.668 CFS), OR ITS EQUIVALENT IN CASE OF ROTATION, MEASURED AT THE WELL

PERIOD OF USE: YEAR ROUND

DATE OF PRIORITY: JULY 5, 1991

POINT OF DIVERSION LOCATION: SW 1/4 NE 1/4, SECTION 8, T2S, R2W, W.M.; 1015 FEET NORTH AND 94 FEET EAST FROM C 1/4 CORNER, SECTION 8

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

This is a final order in other than contested case. This order is subject to judicial review under This 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 ORS 536.075 and OAR 137-004-0080 you may either petition for judicial review or 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.

THE PLACE OF USE IS LOCATED AS FOLLOWS:

SW 1/4 NE 1/4 15.4 ACRES  
NE 1/4 SW 1/4 36.0 ACRES  
NW 1/4 SW 1/4 9.1 ACRES  
SE 1/4 SW 1/4 26.6 ACRES

SECTION 8

TOWNSHIP 2 SOUTH, RANGE 2 WEST, W.M.

**This permit expires on October 31, 2018. This permit may be renewed for additional periods of time, not to exceed five years each, if the Director finds the groundwater resource can probably support the continued use.**

Actual construction of the well was to have begun by June 23, 1995. Complete application of water to the use was to have been made on or before October 1, 1997.

**The Place of Use, Well Location and rate of use have been modified to match the Claim of Beneficial Use and Final Proof Survey Submitted on August 4, 1995.**

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.

The source of water allowed herein is limited to a confined aquifer within the Columbia River Basalts.

The permittee shall obtain a static water-level measurement for each well during **March** of each year and report the measurement to the Department within **30** days. The measurement shall be made by a certified water-rights examiner, registered professional geologist, certified engineering geologist, professional engineer, licensed well constructor,

pump installer licensed by the Construction Contractors Board, licensed land surveyor or the permittee/appropriator. Water levels shall be reported as depth-to-water below ground level and shall be accompanied by supporting calculations. Reports and calculations shall be provided to the Department on forms provided by the Department and shall be certified as to their accuracy by the individual making the measurements. If a well listed on this permit displays a total static water-level decline of 25 or more feet over any period of years, as compared to the reference level, then the permittee shall discontinue use of, or reduce the rate of volume of withdrawals from, the well(s). Such action shall be taken until the water level recovers to above the 25-foot decline level or until the Department determines, based on the permittee's or the Department's data and analysis, that no action is necessary because the aquifer in question can sustain the observed declines without adversely impacting the resource or senior water rights. The reference level for water-level declines shall be the second annual measurement taken after water use begins under the terms of this permit. The permittee shall in no instance allow excessive decline to occur within the aquifer as a result of use under this permit.

**Failure to provide March static water level measurements will likely result in suspension of water from the well(s) authorized under this permit, until compliance with the annual measurement requirement is met.**

**For the purpose of considering subsequent renewals of this permit, the Department will be using 48.683 feet below land surface, as the reference static water level.**

#### STANDARD CONDITIONS

The wells 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 an additional 5 year extension, 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

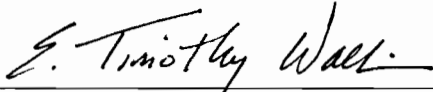
practical technologies or conservation practices to achieve this end.

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 shall be limited when it interferes with any prior surface or ground water rights.

The Director finds that the proposed use(s) of water described by this permit, as conditioned, will not impair or be detrimental to the public interest.

Issued December 17, 2013



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Phillip C. Ward, Director  
Water Resources Department

Application G-12601 Water Resources Department  
Basin 2 Volume 22 McFee Creek & Misc.  
JKS MGMT. CODE 4KG

Permit G-17112  
District 18