

STATE OF OREGON

COUNTY OF JACKSON

PERMIT TO APPROPRIATE THE PUBLIC WATERS

THIS PERMIT IS HEREBY ISSUED TO

THOR THOMPSON  
BUTTE CREEK RANCH LLC  
1441 BROWNSBORO MERIDIAN  
EAGLE POINT, OR 97524

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

APPLICATION FILE NUMBER: G-18388

SOURCE OF WATER: WELL 1 (JACK 54961/L49363), WELL 2, WELL 3, WELL 5 (JACK 19406), WELL 6 (JACK 19404), AND WELL 7 IN LITTLE BUTTE CREEK BASIN

PURPOSE OR USE: NURSERY USE ON 80.0 ACRES

MAXIMUM RATE: 0.20 CUBIC FOOT PER SECOND

PERIOD OF USE: YEAR-ROUND

DATE OF PRIORITY: SEPTEMBER 21, 2016

WELL LOCATIONS:

WELL 1 (JACK 54961/L49363): SW  $\frac{1}{4}$  SE  $\frac{1}{4}$  SECTION 6, T36S, R1E, W.M.; 83 FEET NORTH AND 1346 FEET WEST FROM SE CORNER, SECTION 6

WELL 2: NW  $\frac{1}{4}$  SE  $\frac{1}{4}$  SECTION 6, T36S, R1E, W.M.; 1507 FEET NORTH AND 2418 FEET WEST FROM SE CORNER, SECTION 6

WELL 3: NW  $\frac{1}{4}$  SE  $\frac{1}{4}$  SECTION 6, T36S, R1E, W.M.; 1526 FEET NORTH AND 2375 FEET WEST FROM SE CORNER, SECTION 6

WELL 5 (JACK 19406): NE  $\frac{1}{4}$  SE  $\frac{1}{4}$  SECTION 6, T36S, R1E, W.M.; 1610 FEET NORTH AND 1240 FEET WEST FROM SE CORNER, SECTION 6

WELL 6 (JACK 19404): SW  $\frac{1}{4}$  NE  $\frac{1}{4}$  SECTION 6, T36S, R1E, W.M.; 3275 FEET NORTH AND 2116 FEET WEST FROM SE CORNER, SECTION 6

WELL 7: NE  $\frac{1}{4}$  NE  $\frac{1}{4}$  SECTION 6, T36S, R1E, W.M.; 4120 FEET NORTH AND 1063 FEET WEST FROM SE CORNER, SECTION 6

The amount of water used for nursery use under this right, together with the amount secured under any other right existing for the same lands, is limited to 0.15 cubic foot per second per acre and 5.0 acre feet per acre per year. For irrigation of containerized nursery plants, the amount of water diverted under this right, together with the amount secured under any other right existing for the same lands, is limited to ONE-FORTIETH of one cubic foot per second and 5.0 acre feet per acre per year. For irrigation of in-ground nursery plants, the amount of water diverted under this right, together with the amount secured under any other right existing for the same lands, is limited to ONE-EIGHTIETH of one cubic foot per second and 2.5 acre feet per acre per year. The use of water for nursery use may be made at any time, during the period of allowed use specified above, that the use is beneficial. For irrigation of any other crop, the amount of water diverted under this right, together with the amount secured under any other right existing for the same lands, is limited to ONE-EIGHTIETH of one cubic foot per second and 2.5 acre feet per acre during the irrigation season of each year.

THE PLACE OF USE IS LOCATED AS FOLLOWS:

SW ¼ SE ¼ 5.0 ACRES  
 SE ¼ SE ¼ 5.0 ACRES  
 SECTION 31  
 TOWNSHIP 35 SOUTH, RANGE 1 EAST, W.M.

NE ¼ NE ¼ 10.0 ACRES  
 NW ¼ NE ¼ 10.0 ACRES  
 SW ¼ NE ¼ 10.0 ACRES  
 SE ¼ NE ¼ 10.0 ACRES  
 NE ¼ SE ¼ 10.0 ACRES  
 NW ¼ SE ¼ 10.0 ACRES  
 SW ¼ SE ¼ 10.0 ACRES  
 SECTION 6  
 TOWNSHIP 36 SOUTH, RANGE 1 EAST, W.M.

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 appropriation. 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.

Static Water Level Conditions (Only From Well 5 (JACK 19406)):

The Department requires the water user to obtain, from a qualified individual (see below), and report annual static water levels for each well on the permit. The static water level shall be measured in the month of March. Reports shall be submitted to the Department within 30 days of measurement.

The permittee shall report an initial March static water-level measurement once well construction is complete and annual measurements thereafter. Annual measurements are required whether or not the well is used. The first annual measurement will establish a reference level against which future measurements will be compared. However, the Director may establish the reference level based on an analysis of other water-level data. The Director may require the user to obtain and report additional water levels each year if more data are needed to evaluate the aquifer system.

All measurements shall be made by a certified water rights examiner, registered professional geologist, registered professional engineer, licensed well constructor or pump installer licensed by the Construction Contractors Board. Measurements shall be submitted on forms provided by, or specified by, the Department. Measurements shall be made with equipment that is accurate to at least the standards specified in OAR 690-217-0045. The Department requires the individual performing the measurement to:

- A. Associate each measurement with an owner's well name or number and a Department well log ID; and
- B. Report water levels to at least the nearest tenth of a foot as depth-to-water below ground surface; and
- C. Specify the method of measurement; and
- D. Certify the accuracy of all measurements and calculations reported to the Department.

The Department may require the discontinuance of groundwater use, or reduce the rate or volume of withdrawal, from the well(s) if any of the following events occur:

- A. Annual water-level measurements reveal an average water-level decline of three or more feet per year for five consecutive years; or
- B. Annual water-level measurements reveal a water-level decline of 15 or more feet in fewer than five consecutive years; or
- C. Annual water-level measurements reveal a water-level decline of 25 or more feet; or
- D. Hydraulic interference leads to a decline of 25 or more feet in any neighboring well with senior priority.

The period of restricted use shall continue until the water level rises above the decline level which triggered the action or the Department determines, based on the permittee's and/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 causing substantial interference with senior water rights. The water user shall not allow excessive decline, as defined in Commission rules, to occur within the aquifer as a result of use under this permit. If more than one well is involved, the water user may submit an alternative measurement and reporting plan for review and approval by the Department.

Static Water Level Conditions:

To monitor the effect of water use from the well(s) authorized under this permit, the Department requires the water user to obtain, from a qualified individual (see below), and report annual static water-level measurements. The static water level shall be measured in the month of March. Reports shall be submitted to the Department within 30 days of measurement.

Measurements must be made according to the following schedule:

**Before Use of Water Takes Place**

Initial and Annual Static Water Level Measurements

The Department requires the permittee to report an initial water-level measurement in the month specified above once well construction is complete, and annually thereafter until use of water begins; and

**After Use of Water has Begun**

Reference Static Water Level Determination

Following the first year of water use, the user shall report one static water-level measurement in the month specified above which will establish the reference level against which future annual measurements will be compared. The Director may require the user to obtain and report additional static water levels after the reference level has been determined. The additional measurements may be required in a different month. If the measurement requirement is stopped, the Director may restart it at any time.

All measurements shall be made by a certified water rights examiner, registered professional geologist, registered professional engineer, licensed well constructor or pump installer licensed by the Construction Contractors Board and be submitted to the Department on forms provided by the Department. The Department requires the individual performing the measurement to:

- A. Identify each well with its associated measurement;
- B. Measure and report water levels to the nearest tenth of a foot as depth-to-water below ground surface;
- C. Specify the method used to obtain each well measurement; and
- D. Certify the accuracy of all measurements and calculations reported to the Department.

The Department may require the discontinuance of groundwater use, or reduce the rate or volume of withdrawal, from the well(s) if any of the following events occur:

- A. Annual water-level measurements reveal an average water-level decline of three or more feet per year for five consecutive years; or
- B. Annual water-level measurements reveal a water-level decline of 15 or more feet in fewer than five consecutive years; or
- C. Annual water-level measurements reveal a water-level decline of 25 or more feet; or
- D. Hydraulic interference leads to a decline of 25 or more feet in any neighboring well with senior priority.

The period of non-use or restricted use shall continue until the water level rises above the decline level which triggered the action or until the Department determines, based on the permittee's and/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 water user shall in no instance allow excessive decline, as defined in Commission rules, to occur within the aquifer as a result of use under this permit. If more than one well is involved, the water user may submit an alternative measurement and reporting plan for review and approval by the Department.

Scenic Waterway Condition:

Use of water under authority of this permit may be regulated if analysis of data available after the permit is issued discloses that the appropriation will measurably reduce the surface water flows necessary to maintain the free-flowing character of a scenic waterway in quantities necessary for recreation, fish and wildlife in effect as of the priority date of the right or as those quantities may be subsequently reduced.

Drip Condition:

Irrigation allowed under this permit shall be by drip irrigation or by an equally efficient method.

Well Identification Tag Condition:

Prior to using water from any well listed on this permit, the permittee shall ensure that the well has been assigned an OWRD Well Identification Number (Well ID tag), which shall be permanently attached to the well. The Well ID shall be used as a reference in any correspondence regarding the well, including any reports of water use, water level, or pump test data.

**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.

If the number, location, source, or construction of any well deviates from that proposed in the permit application or required by permit conditions, this permit may be subject to cancellation, unless the Department authorizes the change in writing.

If substantial interference with surface water or 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.

The well(s) shall be constructed and maintained in accordance with the General Standards for the Construction and Maintenance of Water Supply Wells in Oregon. The works shall be equipped with a usable access port adequate to determine water-level elevation in the well at all times.

If the riparian area is disturbed in the process of developing a point of appropriation, 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 downstream waters decreases to the point that those waters no longer meet state or federal water quality standards due to reduced flows.

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.

Prior to receiving a certificate of water right, the permit holder shall submit to the Water Resources Department the results of a pump test meeting the Department's standards for each point of appropriation (well), unless an exemption has been obtained in writing under OAR 690-217. The Director may require water-level or pump-test data every ten years thereafter.

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.

Construction of the well shall be made 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.

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.

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

*AUGUST 18 2017*

*E. Timothy Wallin*

E. Timothy Wallin, Water Rights Program Manager  
for Thomas M. Byler, Director