

STATE OF OREGON

COUNTY OF CLACKAMAS

PERMIT TO APPROPRIATE THE PUBLIC WATERS

THIS PERMIT IS HEREBY ISSUED TO:

VERNON BRUCK
PO BOX 2837
WILSONVILLE, OR 97070

This superseding permit is issued to describe an amendment for additional points of appropriation and a change in point of appropriation proposed under Permit Amendment Application T-12491 and approved by Special Order Vol. 107, Page 627, entered FEB 06 2018 and to describe an extension of time for complete application of water approved December 19, 2014. This permit supersedes Permit G-16661.

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

APPLICATION FILE NUMBER: G-17230

SOURCE OF WATER: WELLS 2, 3, 4, 5, AND 6 IN NEWLAND CREEK BASIN

PURPOSE OR USE: NURSERY USE ON 69.7 ACRES

MAXIMUM RATE: 0.87 CUBIC FOOT PER SECOND

PERIOD OF USE: YEAR-ROUND

DATE OF PRIORITY: JUNE 3, 2009

WELL LOCATIONS:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
3 S	1 E	WM	17	NW SW	WELL 2 – 280 FEET SOUTH AND 120 FEET EAST FROM THE W¼ CORNER OF SECTION 17
3 S	1 E	WM	18	NE SE	WELL 3 – 590 FEET SOUTH AND 1290 FEET WEST FROM THE E¼ CORNER OF SECTION 18
3 S	1 E	WM	18	SE SE	WELL 4 – 1640 FEET SOUTH AND 515 FEET WEST FROM THE E¼ CORNER OF SECTION 18
3 S	1 E	WM	17	NW SW	WELL 5 – 45 FEET SOUTH AND 920 FEET EAST FROM THE W¼ CORNER OF SECTION 17
3 S	1 E	WM	18	SE SE	WELL 6 – 1640 FEET SOUTH AND 210 FEET WEST FROM THE E¼ CORNER OF SECTION 18

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 a maximum of 5.0 acre feet per acre and a diversion of 0.15 cubic foot per second per acre. For irrigation of containerized nursery plants, the amount of water diverted 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 is limited to one eightieth of one cubic foot per second and 2.5 acre feet 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 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.

Authorized Place of Use:

NURSERY USE					
Twp	Rng	Mer	Sec	Q-Q	Acres
3 S	1 E	WM	17	NW SW	22.8
3 S	1 E	WM	17	SW SW	10.3
3 S	1 E	WM	18	NE SE	20.1
3 S	1 E	WM	18	SE SE	16.5
Total					69.7

Permit Amendment T-12491 Conditions:

The quantity of water diverted at the new points of appropriation, Wells 4, 5, and 6, shall not exceed the quantity of water lawfully available at the original point of appropriation, Well 1.

The combined quantity of water diverted at the new additional points of appropriation, Wells 4, 5, and 6, together with that diverted at the old points of appropriation, Wells 2 and 3, shall not exceed the quantity of water lawfully available at the original points of appropriation, Wells 2 and 3.

Water shall be acquired from the same aquifer as the original points of appropriation.

Extension of Time Conditions:

Checkpoint Condition

The permit holder must submit a completed Progress Report Form to the Department by October 1, 2018 and 2023.

- a. At each checkpoint, the permit holder shall submit and the Department shall review evidence of the permit holder's diligence towards completion of the project and compliance with terms and conditions of the permit and extension. If, after this review, the Department determines the permit holder has not been diligent in developing and perfecting the water use permit, or complied with all terms and conditions, the Department shall modify or further condition the permit or extension to ensure future compliance, or begin cancellation proceedings on the undeveloped portion of the permit pursuant to ORS 537.260 or 537.410, or require submission of a final proof survey pursuant to ORS 537.250;

- b. The Department shall provide notice of receipt of progress reports in its weekly notice and shall allow a 30 day comment period for each report. The Department shall provide notice of its determination to anyone who submitted comments.

Existing Permit Conditions:

Measurement, recording and reporting conditions:

- A. Before water use may begin under this permit, the permittee shall install a totalizing flow meter or other suitable measuring device as approved by the Director at each point of appropriation. The permittee shall maintain the meter or measuring device in good working order.
- B. The permittee 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.
- C. The permittee shall allow the watermaster access to the meter; provided however, where any meter is located within a private structure, the watermaster shall request access upon reasonable notice.
- D. The Director may provide an opportunity for the permittee to submit alternative measuring and reporting procedures for review and approval.

The well shall produce ground water only from the alluvial ground water reservoir.

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 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

Seven Consecutive Annual Measurements

Following the first year of water use, the user shall report seven consecutive annual static water level measurements. The first of these seven annual measurements will establish the

reference level against which future annual measurements will be compared. Based on an analysis of the data collected, the Director may require the user to obtain and report annual static water level measurements beyond the seven year minimum reporting period. 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; and
- B. Measure and report water levels to the nearest tenth of a foot as depth-to-water below ground surface; and
- C. Specify the method used to obtain each well measurement; and
- D. Certify the accuracy of all measurements and calculations submitted to the Department.

The water user shall discontinue use of, or reduce the rate or volume of withdrawal from, the well(s) if any of the following events occur:

- A. Annual water level measurement 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 leading 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.

Prior to using water from any well listed in 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 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 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.

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.

The original permit was issued March 11, 2010. Completion of construction and application of the water to the use was to be made on or before March 11, 2015. By Extension of Time dated December 19, 2014, the deadline for complete application of water was extended to October 1, 2024.

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 FEB 06 2018



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