

STATE OF OREGON

COUNTY OF DESCHUTES

PERMIT TO APPROPRIATE THE PUBLIC WATERS

THIS PERMIT IS HEREBY ISSUED TO

RODNEY JENTSCH
20511 F. STREET
RUPERT, ID 83350

VAN METER AND SON NURSERY INC
9825 SE 362ND AVE
BORING, OR 97009

This superseding permit is issued to describe an amendment for an additional point of appropriation proposed under Permit Amendment Application T-13149 and approved by Special Order Vol. 113, Page 100, entered August 30, 2019, and to describe an extension of time for complete application of water approved November 6, 2015, and an assignment to new permittees approved January 28, 2019. This permit supersedes Permit G-15670.

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

APPLICATION FILE NUMBER: G-15936

SOURCE OF WATER: WELL 1 AND WELL 2 AND WELL 3 IN JOHNSON CREEK BASIN

PURPOSE OR USE: NURSERY USE ON 46.57 ACRES

RATE OF USE: 0.80 CUBIC FOOT PER SECOND (CFS); BEING 0.37 CFS FROM WELL 1 AND WELL 3, AND 0.43 CFS FROM WELL 2 AND WELL 3

PERIOD OF USE: YEAR ROUND

DATE OF PRIORITY: FEBRUARY 27, 2003

WELL LOCATIONS:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
1S	4E	WM	27	NE SE	WELL 1 - 690 FEET SOUTH AND 1350 FEET EAST FROM THE C1/4 CORNER OF SECTION 27
1S	4E	WM	26	NW SW	WELL 2 - 685 FEET SOUTH AND 65 FEET EAST FROM THE W1/4 CORNER OF SECTION 26
1S	4E	WM	27	NE SE	WELL 3 - 930 FEET SOUTH AND 2095 FEET EAST FROM THE C1/4 CORNER OF SECTION 27

The amount of water used for nursery use 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 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 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:

NURSERY						
Twp	Rng	Mer	Sec	Q-Q	Acres	Well
1 S	4 E	WM	26	NW SW	6.7	Wells 1 & 2
1 S	4 E	WM	27	SE NE	4.45	Wells 1 & 2
1 S	4 E	WM	27	NE SE	6.25	Wells 1 & 2
1S	4E	WM	27	NE SE	29.17	Well 3
TOTAL					46.57	

Permit Amendment T-12887 Conditions:

The combined quantity of water diverted at the new point of appropriation (Well 3), shall not exceed the quantity of water lawfully available at the original points of appropriation (Wells 1 and 2) located:

Water use measurement conditions:

- a. Before water use may begin under this order, the water user shall install a totalizing flow meter, or, with prior approval of the Director, another suitable measuring device, at each point of appropriation.
- b. The water user shall maintain the meters or measuring devices in good working order.
- c. The water user shall allow the Watermaster access to the meters or measuring devices; provided however, where the meters or measuring devices are located within a private structure, the Watermaster shall request access upon reasonable notice.

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

Extension Conditions:

Checkpoint Condition

The permit holder must submit a completed Progress Report Form to the Department by **August 5, 2020**. **A form is enclosed with this final order.**

- 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.

Original Permit Conditions:

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 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.

If the number, location or construction of any well deviates from that proposed in the permit application or permit conditions, the conclusions of the Proposed Final Order and Final Order under which this permit was granted may be revised, conditions may be appropriately revised, or this permit may not be valid.

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.

- (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 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 driller, 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.
- (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 this section.

The use of water under terms of this permit is subject to regulation concurrent with or prior to regulation of a senior right competing for water from the same source when regulation is the result of water level declines that exceed limits specified in the senior right.

STANDARD CONDITIONS

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 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 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.

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.

Complete application of the water to the use shall be made on or before October 1, 2008, when the permit was originally issued on July 13, 2004. By Extension of Time final Order dated November 6, 2015, the completion of the application of water was extended to on or before October 1, 2020.

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.

AUG 30 2019

Signed at Salem, Oregon this _____.



Lisa J. Jaramillo, Transfer and Conservation Section Manager for
THOMAS M. BYLER, DIRECTOR
Oregon Department of Water Resources

Mailing date SEP 03 2019 _____

REAL ESTATE TRANSACTIONS: Pursuant to ORS 537.330, in any transaction for the conveyance of real estate that includes any portion of the lands described in this permit, the seller of the real estate shall, upon accepting an offer to purchase that real estate, also inform the purchaser in writing whether any permit, transfer approval order, or certificate evidencing the water right is available and that the seller will deliver any permit, transfer approval order or certificate to the purchaser at closing, if the permit, transfer approval order or certificate is available.

CULTURAL RESOURCES PROTECTION LAWS: Permittees involved in ground-disturbing activities should be aware of federal and state cultural resources protection laws. ORS 358.920 prohibits the excavation, injury, destruction or alteration of an archeological site or object, or removal of archeological objects from public and private lands without an archeological permit issued by the State Historic Preservation Office. 16 USC 470, Section 106, National Historic Preservation Act of 1966 requires a federal agency, prior to any undertaking to take into account the effect of the undertaking that is included on or eligible for inclusion in the National Register. For further information, contact the State Historic Preservation Office at 503-378-4168, extension 232.