

STATE OF OREGON

COUNTY OF JACKSON

PERMIT TO APPROPRIATE THE PUBLIC WATERS

THIS PERMIT IS HEREBY ISSUED TO

NOAH LEVINE  
ELVIS OIL CO LLC  
4870 STERLING CREEK RD  
JACKSONVILLE, OR 97530

**This superseding permit is issued to describe an amendment for an additional point of appropriation proposed under Permit Amendment Application T-13047 and approved by Special Order Vol. 113, Page 250, entered September 24, 2019. This permit supersedes Permit G-17837.**

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

APPLICATION FILE NUMBER: G-18340

SOURCE OF WATER: WELL 1 (JACK 58952/L96224) AND WELL 2 IN SPENCER GULCH BASIN

PURPOSE OR USE: NURSERY USE ON 4.0 ACRES

MAXIMUM RATE: 0.03 CUBIC FOOT PER SECOND

PERIOD OF USE: YEAR-ROUND

DATE OF PRIORITY: JULY 12, 2016

WELL LOCATIONS:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
38 S	2 W	WM	31	NE SW	WELL 1 (JACK 58952/L96224) – 1784 FEET NORTH AND 2577 FEET EAST FROM THE SW CORNER OF SECTION 31
38 S	2 W	WM	31	SE SW	WELL 2 - 680 FEET NORTH AND 1986 FEET EAST FROM THE SW CORNER OF SECTION 31

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:

NURSERY USE					
Twp	Rng	Mer	Sec	Q-Q	Acres
38 S	2 W	WM	31	NE SW	2.0
39 S	2 W	WM	6	NW NW	2.0
Total					4.0

**Permit Amendment T-13047 Conditions:**

The combined quantity of water diverted at the new point of appropriation (Well 2), together with that diverted at the old point of appropriation (Well 1 (JACK 58952/L96224)), shall not exceed the quantity of water lawfully available at the original point of appropriation (Well 1 (JACK 58952/L96224)).

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 new point of appropriation (new and existing).
- 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 point of appropriation.

**Original Permit Conditions:**

**Measurement Devices, and Recording/Reporting of Annual Water Use Conditions:**

The use of water under this permit may expire or be extended five years from issuance of the permit. A water right certificate shall be issued at the end of the five year period if the Director finds:

- 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.

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.

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 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 diversion, 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 results 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 August 31, 2017. Completion of construction and application of the water to the use shall be made on or before August 31, 2022. 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 SEP 24 2019



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