

STATE OF OREGON

COUNTY OF MARION

PERMIT TO APPROPRIATE THE PUBLIC WATERS

THIS PERMIT IS HEREBY ISSUED TO

KUENZI TURF AND NURSERY  
6500 STATE STREET  
SALEM, OREGON 97301

**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-13783 and approved by Special Order Vol. 131, Page 16, entered MAY 2 - 2024 and to describe an extension of time for complete application of water approved July 1, 2021 and an assignment approved on May 4, 2023. This permit supersedes Permit G-15191.**

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

APPLICATION FILE NUMBER: G-15547

SOURCE OF WATER: SEVEN WELLS IN LITTLE PUDDING RIVER BASIN

PURPOSE OR USE: NURSERY USE ON 260.8 ACRES

MAXIMUM RATE: 2.57 CUBIC FEET PER SECOND

PERIOD OF USE: YEAR ROUND

DATE OF PRIORITY: JUNE 27, 2001

**Authorized Points of Appropriation:**

Twp	Rng	Mer	Sec	Q-Q	DLC	GLot	Measured Distances
7 S	2 W	WM	27	NE NW			WELL 4 - 725 FEET SOUTH AND 1350 FEET EAST FROM THE NW CORNER OF SECTION 27
7 S	2 W	WM	27	NW SW			WELL 1 - 2250 FEET NORTH AND 750 FEET EAST FROM THE SW CORNER OF SECTION 27
7 S	2 W	WM	27	SE SW		2	WELL 2 (MARI 17377) - 725 FEET NORTH AND 1880 FEET EAST FROM THE SW CORNER OF SECTION 27
7 S	2 W	WM	27	SE SW		2	WELL 3 - 787 FEET NORTH AND 1360 FEET EAST FROM THE SW CORNER OF SECTION 27
7 S	2 W	WM	27	SE SW		2	WELL 6 - 830 FEET NORTH AND 2640 FEET WEST FROM THE NE CORNER OF SECTION 34
7 S	2 W	WM	28	SW SE	81		WELL 9 - 625 FEET NORTH AND 1910 FEET WEST FROM THE SE CORNER OF SECTION 28
7 S	2 W	WM	28	SE SE			WELL 5 - 367 FEET NORTH AND 166 FEET WEST FROM THE SW CORNER OF SECTION 27

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, during the period of allowed use specified above, 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.

#### Authorized Place of Use:

NURSERY OPERATIONS					
Twp	Rng	Mer	Sec	Q-Q	Acres
7 S	2 W	WM	27	NE NW	6.4
7 S	2 W	WM	27	NW NW	7.6
7 S	2 W	WM	27	SW NW	26.0
7 S	2 W	WM	27	SE NW	23.0
7 S	2 W	WM	27	NE SW	33.0
7 S	2 W	WM	27	NW SW	36.1
7 S	2 W	WM	27	SW SW	25.0
7 S	2 W	WM	27	SE SW	35.0
7 S	2 W	WM	28	NE SE	14.6
7 S	2 W	WM	28	NW SE	9.9
7 S	2 W	WM	28	SW SE	13.4
7 S	2 W	WM	28	SE SE	30.8
				Total	260.8

#### Permit Amendment T-13783 Conditions

The quantity of water diverted at the new point of appropriation (Well 2) shall not exceed the quantity of water lawfully available at the original point of appropriation (Well 2).

The combined quantity of water diverted at the new additional points of appropriation (Wells 6 and 9), together with that diverted at the original points of appropriation (Wells 1, 2, 3, 4 and 5), shall not exceed the quantity of water lawfully available at the original points of appropriation (Wells 1, 2, 3, 4 and 5)

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

#### Extension of Time Conditions

The permit holder must submit a completed Progress Report Form to the Department by **October 1, 2024.**

- (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.

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.

**For Well 1 (MARI 20055) only:**

- (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 install a meter or other measuring device suitable to the Director, and shall submit an annual report of water used to the Department by December 1 of each year.

- (3) The permittee/appropriator 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 constructor, 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 section (3).

**For Wells 2 - 5:**

To monitor the effect of water use from the well(s) authorized under this permit, the Department requires the water user to make 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 submit 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 Water Level Determination

Following the first year of water use, the user shall submit 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 water user is not required to measure additional water levels after the reference level has been determined unless required by the Director. 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; 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 annual water level measurements reveal any of the following events:

- (A) An average water level decline of three or more feet per year for five consecutive years; or
- (B) A water level decline of 15 or more feet in fewer than five consecutive years; or
- (C) 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 or restricted use shall continue until the annual 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.

## 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.

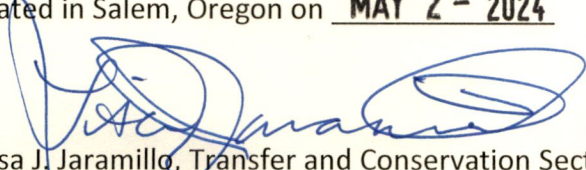
The use of water shall be limited when it interferes with any prior surface or ground water rights.

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, 2006. By Extension of Time Order dated July 1, 2021, the deadline for complete application of water to the use was extended to October 1, 2026. If the water is not completely applied before this date, and the permittee wishes to continue development under the permit, the permittee must submit an application for extension of time, which may be approved based upon the merit of the application.

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 (CWRE).

Dated in Salem, Oregon on MAY 2 - 2024



Lisa J. Jaramillo, Transfer and Conservation Section Manager, for  
DOUGLAS E. WOODCOCK, ACTING DIRECTOR  
Oregon Water Resources Department

**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 23.

