

STATE OF OREGON

COUNTY OF WASHINGTON

PERMIT TO CONSTRUCT A RESERVOIR AND TO
STORE FOR BENEFICIAL USE THE PUBLIC WATERS

THIS PERMIT IS HEREBY ISSUED TO:

MIDWAY NURSERY, INC.
14900 S.W. HILLSBORO HWY
HILLSBORO, OREGON 97123

503-628-3232

to use MIDWAY NURSERY RESERVOIR, originally constructed under Permit R-11266, to store the waters of MCFEE CREEK, a tributary of TUALATIN RIVER, to be appropriated under Application 73421, Permit 51525, for IRRIGATION, SUPPLEMENTAL IRRIGATION AND AGRICULTURAL USE.

This permit is issued approving Reservoir Application R-73420. The date of priority is MAY 26, 1993. The amount of water entitled to be stored each year is not more than 42.0 ACRE-FEET. Water may be appropriated for storage from November 1 through June 30 of each year.

The dam will be located as follows:

SE 1/4 SW 1/4, SECTION 8, T 2 S, R 2 W, W.M.

The total area proposed to be submerged by the reservoir, when full, is not more than the existing 4.9 acres; the proposed maximum depth of water is not more than 21.4 feet; the maximum height of the existing dam is 35 feet.

The area to be submerged by the reservoir is located within:

NE 1/4 SW 1/4
SE 1/4 SE 1/4
SECTION 8
TOWNSHIP 2 SOUTH, RANGE 2 WEST, W.M.

The storage of water allowed herein is subject to the installation and maintenance of a fully functional conduit/gate assembly having a minimum diameter of 8 inches.

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.
- 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.
- C. The Director may require the permittee to keep and maintain a record of the amount (volume) of water used and may require the permittee to report water use on a periodic schedule as established by the Director. In addition, the Director may require the permittee to report general water use information, the periods of water use and the place and nature of use of water under the permit. The Director may provide an opportunity for the permittee to submit alternative reporting procedures for review and approval.

The permittee shall install, maintain, and operate fish screening and by-pass devices as required by the Oregon Department of Fish and Wildlife to prevent fish from entering the proposed diversion. The required screens and by-pass devices are to be in place, functional and approved by an ODFW representative prior to diversion of any water.

The permittee shall not construct, operate or maintain any dam or artificial obstruction to fish passage in the channel of the subject stream.

The permittee shall not appropriate any live stream flows during the period of July 1 through October 31.

In the event of a request for a change in point of appropriation, an additional point of appropriation or alteration of the appropriation facility associated with this authorized diversion, the quantity of water allowed herein, together with any other right, shall not exceed the capacity of the facility at the time of perfection of this right.

This right is limited to any deficiency in the available supply of any prior right existing for the same land.

Actual construction work shall begin on or before June 23, 1995 and shall be completed on or before October 1, 1996. The reservoir shall be filled and complete application of the stored water to the use shall be made on or before October 1, 1997.

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.

The 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 storage of water allowed herein may be made only at times when sufficient water is available to satisfy all prior rights, including prior rights for maintaining instream flows.

The Director of the Water Resources Department has found that the proposed use of water described by this permit, as conditioned, will not impair or be detrimental to the public interest.

Issued this date, June 23, 1994.

15/ MARTHA O. PAGEL

Water Resources Department
Martha O. Pagel
Director