

STATE OF OREGON

COUNTY OF WASHINGTON

PERMIT TO APPROPRIATE THE PUBLIC WATERS

THIS PERMIT IS HEREBY ISSUED TO

MIDWAY NURSERY, INC  
14900 HILLSBORO HWY  
HILLSBORO, OREGON 97123

503-628-3231

to use water stored in MIDWAY NURSERY RESERVOIR, under APPLICATION R-73420, PERMIT R-11569, originally constructed under PERMIT R-11266, a tributary of MCFEE CREEK, for IRRIGATION OF 5.0 ACRES, SUPPLEMENTAL IRRIGATION OF 103.3 ACRES AND AGRICULTURAL USE.

This permit is issued approving Application 73421. The date of priority is MAY 26, 1993. The use is limited to not more than 42.0 ACRE-FEET STORED WATER ONLY, BEING 15.0 ACRE-FEET FOR AGRICULTURAL USE, AND 27.0 ACRE-FEET FOR IRRIGATION, or its equivalent in case of rotation, measured at the point of diversion from the source.

The point of diversion is located as follows:

SE 1/4 SW 1/4, SECTION 8, T 2 S, R 2 W, W.M.; 1140 FEET NORTH AND 2325 FEET EAST FROM THE SW CORNER OF SECTION 8.

The amount of water used for AGRICULTURAL USE 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 AGRICULTURAL USE may be made at anytime of the year 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.

Stored water may be appropriated from March 1 through October 31 of each year for irrigation, and year-round for agriculture use.

The use shall conform to such reasonable rotation system as may be ordered by the proper state officer.

A description of the proposed place of use under this permit is as follows:

	<u>PRIMARY</u>	<u>SUPPLEMENTAL</u>
SW 1/4 NE 1/4		27.8 ACRES
SE 1/4 NW 1/4		18.8 ACRES
NE 1/4 SW 1/4		33.3 ACRES
NW 1/4 SW 1/4	5.0 ACRES	8.7 ACRES
SE 1/4 SW 1/4		14.7 ACRES

SECTION 8  
TOWNSHIP 2 SOUTH, RANGE 2 WEST, W.M.

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.

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"CERTIFICATE NO. 26651  
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- 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.

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. Complete application of water 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.

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.

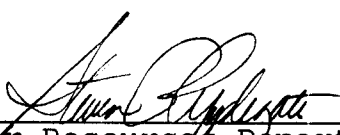
By law, the land use associated with this water use must be in compliance with statewide land-use goals and any local acknowledged land-use plan.

The use of water 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.

This permit is issued to correctly describe the reservoir permit number and supersedes permit 51525.

Issued this date, July 24, 1995.

  
 Water Resources Department  
 Martha O. Pagel  
 Director

Application 73421  
 Basin 2

Water Resources Department  
 Volume 22 McFee Creek & Misc.

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 District 18