

STATE OF OREGON

COUNTY OF YAMHILL

PERMIT TO APPROPRIATE THE PUBLIC WATERS

THIS PERMIT IS HEREBY ISSUED TO

EVERGREEN AGRICULTURAL ENTERPRISES, INC.
P.O. BOX 1254
MCMINNVILLE, OREGON 97128

PHONE: (503) 472-9361

The specific limits for the use are listed below along with conditions of use.

APPLICATION FILE NUMBER: S-80450

SOURCE OF WATER: PALMER CREEK, A TRIBUTARY OF THE YAMHILL RIVER, AND THE WILLAMETTE RIVER, TRIBUTARY TO THE COLUMBIA RIVER

PURPOSE OR USE OF WATER: AGRICULTURAL USE AND SUPPLEMENTAL IRRIGATION ON 200.4 ACRES FOR NURSERY OPERATIONS FROM PALMER CREEK, AND AGRICULTURAL USE FOR NURSERY OPERATIONS FROM THE WILLAMETTE RIVER

MAXIMUM RATE/VOLUME ALLOWED: 5.01 CUBIC FEET PER SECOND (CFS) FROM EITHER SOURCE, BUT LIMITED TO NO MORE THAN 5.01 CFS AT ANY ONE TIME

PERIOD OF USE: NOVEMBER 1 THROUGH APRIL 30 FOR AGRICULTURAL USE AND MARCH 1 THROUGH APRIL 30 FOR SUPPLEMENTAL IRRIGATION FROM PALMER CREEK; AND APRIL 1 TO SEPTEMBER 30 FOR AGRICULTURAL USE FROM THE WILLAMETTE RIVER

DATE OF PRIORITY: JUNE 14, 1995 FOR WATER FROM PALMER CREEK AND MARCH 14, 1996 FOR WATER FROM THE WILLAMETTE RIVER

POINT OF DIVERSION LOCATION: SE 1/4 SW 1/4, SECTION 32, T5S, R3W, W.M.; NW 1/4 SW 1/4, SECTION 4, T6S, R3W, W.M.; PALMER CREEK - 125 FEET NORTH AND 1550 FEET EAST FROM SW CORNER OF MATHENY DLC 60; WILLAMETTE RIVER - 4700 FEET NORTH AND 1290 FEET WEST FROM THE SE CORNER OF GAY DLC 58

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 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.

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THE PLACE OF USE IS LOCATED AS FOLLOWS:

NE 1/4 SW 1/4	31.3 ACRES
SE 1/4 SW 1/4	10.8 ACRES
NE 1/4 SE 1/4	40.0 ACRES
NW 1/4 SE 1/4	40.0 ACRES
SW 1/4 SE 1/4	15.2 ACRES
SE 1/4 SE 1/4	8.3 ACRES

SECTION 32

NE 1/4 SW 1/4	7.5 ACRES
NW 1/4 SW 1/4	39.0 ACRES
SW 1/4 SW 1/4	7.4 ACRES
SE 1/4 SW 1/4	0.9 ACRE

SECTION 33

TOWNSHIP 5 SOUTH, RANGE 3 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, 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.

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.

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.

The use may be restricted if the quality of the source stream, namely the Yamhill River and Willamette River, decreases to the point that it no longer meets state and federal water quality standards due to reduced flows.

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

STANDARD CONDITIONS

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

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.

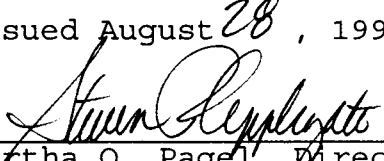
By law, the land use associated with this water use must be in compliance with statewide land-use goals and any local acknowledged land-use plan.

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 finds that the proposed use(s) of water described by this permit, as conditioned, will not impair or be detrimental to the public interest.

Actual construction work shall begin within one year from permit issuance and shall be completed on or before October 1, 1998. Complete application of the water to the use shall be made on or before October 1, 1999.

Issued August 28, 1996

for 
Martha O. Pagel, Director
Water Resources Department

Application S-80450 Water Resources Department
Basin 02 Volume 12A, Palmer Creek & Misc. &
Volume 25, Willamette River N1/2 & Misc.

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District 16