

STATE OF OREGON

COUNTY OF YAMHILL

PERMIT TO APPROPRIATE THE PUBLIC WATERS

THIS PERMIT IS HEREBY ISSUED TO

BAILEY NURSERIES, INC.
9855 NW PIKE RD.
YAMHILL, OREGON 97148

PHONE: (503) 662-3244

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

APPLICATION FILE NUMBER: S-70218

SOURCE OF WATER: BRYAN CREEK AND WALKER RESERVOIR CONSTRUCTED UNDER PERMITS R-1407, R-1560, R-1762 AND R-12495, A TRIBUTARY OF CHEHALEM CREEK

PURPOSE OR USE: AGRICULTURAL USE (NURSERY OPERATIONS) ON 250.7 ACRES

RATE OF USE: 1.78 CUBIC FOOT PER SECOND FROM BRYAN CREEK AND 64.0 ACRE-
FEET OF STORED WATER FROM WALKER RESERVOIR

PERIOD OF ALLOWED USE: JANUARY 1 THROUGH DECEMBER 31

DATE OF PRIORITY: MARCH 5, 1990

POINT OF DIVERSION LOCATION: NW 1/4 SW 1/4, SECTION 2, T3S, R3W, W.M.;
1750 FEET NORTH AND 1240 FEET EAST FROM THE SE CORNER OF SECTION 2

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.

THE PLACE OF USE IS LOCATED AS FOLLOWS:

NW 1/4 NW 1/4	7.4 ACRES
SW 1/4 NW 1/4	32.6 ACRES
SE 1/4 NW 1/4	10.4 ACRES
NE 1/4 SW 1/4	20.9 ACRES
NW 1/4 SW 1/4	32.7 ACRES
SW 1/4 SW 1/4	32.7 ACRES

SE 1/4 SW 1/4 39.0 ACRES

SECTION 2

NE 1/4 NE 1/4 1.1 ACRES

SE 1/4 NE 1/4 4.0 ACRES

NE 1/4 SE 1/4 4.0 ACRES

SE 1/4 SE 1/4 2.3 ACRES

SECTION 3

NE 1/4 NE 1/4 1.9 ACRES

SECTION 10

NE 1/4 NW 1/4 31.2 ACRES

NW 1/4 NW 1/4 30.5 ACRES

SECTION 11

TOWNSHIP 3 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.

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. Complete application of water to the use shall be made on or before October 1, 2002. 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 July 29, 1998



Martha O. Pagel, Director
Water Resources Department