

STATE OF OREGON

COUNTY OF COLUMBIA

PERMIT TO APPROPRIATE THE PUBLIC WATERS

THIS PERMIT IS HEREBY ISSUED TO

FRED AND MARY ELLEN BERNET
51364 DIKE RD
SCAPPOOSE, OREGON 97056

(503) 543-2711

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

APPLICATION FILE NUMBER: S-84987

SOURCE OF WATER: MULTNOMAH CHANNEL, A TRIBUTARY OF COLUMBIA RIVER

PURPOSE OR USE: NURSERY USE ON 328.65 ACRES

MAXIMUM RATE: 5.0 CUBIC FEET PER SECOND

PERIOD OF USE: YEAR ROUND

DATE OF PRIORITY: DECEMBER 12, 2001

POINT OF DIVERSION LOCATIONS:

POD #1: NW ¼ NE ¼, SECTION 19, T3N, R1W, W.M.; 180 FEET SOUTH & 725 FEET EAST FROM S1/4 CORNER, SECTION 18

POD #2: SE ¼ SE ¼, SECTION 18, T3N, R1W, W.M.; 35 FEET NORTH & 1390 FEET EAST FROM S1/4 CORNER, SECTION 18

POD #3: NE ¼ SW ¼, SECTION 17, T3N, R1W, W.M.; 1360 FEET NORTH & 1650 FEET EAST FROM SW CORNER, SECTION 17

POD #4: NE ¼ SW ¼, SECTION 17, T3N, R1W, W.M.; 2165 FEET NORTH & 1590 FEET EAST FROM SW CORNER, SECTION 17

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.

THE PLACE OF USE IS LOCATED AS FOLLOWS:

| | | |
|-----------|------|-------|
| NE ¼ NW ¼ | 0.6 | ACRES |
| NW ¼ NW ¼ | 34.0 | ACRES |
| SW ¼ NW ¼ | 35.0 | ACRES |
| NE ¼ SW ¼ | 2.0 | ACRES |
| NW ¼ SW ¼ | 38.8 | ACRES |
| SW ¼ SW ¼ | 18.4 | ACRES |
| SE ¼ SW ¼ | 0.05 | ACRES |

SECTION 17

| | | |
|-----------|------|-------|
| NE ¼ NE ¼ | 10.0 | ACRES |
| NW ¼ NE ¼ | 2.6 | ACRES |
| SW ¼ NE ¼ | 0.3 | ACRES |
| SE ¼ NE ¼ | 31.1 | ACRES |
| NE ¼ SW ¼ | 12.9 | ACRES |
| SW ¼ SW ¼ | 0.5 | ACRES |
| SE ¼ SW ¼ | 32.2 | ACRES |
| NE ¼ SE ¼ | 33.5 | ACRES |
| NW ¼ SE ¼ | 7.5 | ACRES |
| SW ¼ SE ¼ | 39.2 | ACRES |
| SE ¼ SE ¼ | 30.0 | ACRES |

SECTION 18

TOWNSHIP 3 NORTH, RANGE 1 WEST, W.M.

Measurement, recording and reporting conditions:

- A. Before water use may begin under this permit, a totalizing flow meter must be installed at each diversion point. The totalizing flow meter must be installed and maintained as identified in OAR 690-507-645. The permittee shall maintain the meter 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; provided however, where the meter is located within a private structure, the watermaster shall request access upon reasonable notice.

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 or downstream waters decrease to the point that those waters no longer meet existing state or federal water quality standards due to reduced flows.

The permittee shall install, maintain, and operate fish screening to prevent fish from entering the proposed diversion. The permittee shall also install a fishway at the obstruction that will provide adequate upstream and downstream passage for fish. The permittee may submit evidence that the Oregon Department of Fish and Wildlife (ODFW) has determined screens and/or fishways are not necessary. The required screens and fishways are to be in place, functional, and approved by ODFW before diversion of any water.

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.

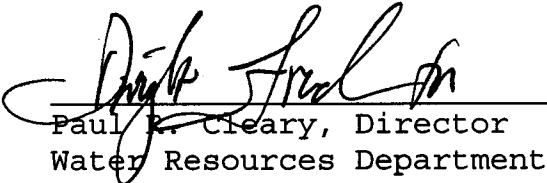
The use of water allowed herein may be made only at times when sufficient water is available to satisfy all prior rights, including prior rights for maintaining instream flows.

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.

Complete application of the water to the use shall be made on or before October 1, 2006. 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).

Issued September 17, 2002


Paul K. Cleary, Director
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 232.