

STATE OF OREGON

COUNTY OF YAMHILL

PERMIT TO APPROPRIATE THE PUBLIC WATERS

THIS PERMIT IS HEREBY ISSUED TO

DON POND, FOR BAILEY NURSERIES INC.
9855 NW PIKE ROAD
YAMHILL, OREGON 97148

(503) 662-3244

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

APPLICATION FILE NUMBER: S-85072

SOURCE OF WATER: KATZ FARM RESERVOIR, CONSTRUCTED UNDER PERMIT R-11492,
AN UNNAMED STREAM, AND NORTH YAMHILL RIVER, TRIBUTARIES OF YAMHILL RIVER

PURPOSE OR USE: NURSERY OPERATIONS ON 29.3 ACRES

MAXIMUM RATE: 60.0 ACRE-FEET OF STORED WATER ONLY FROM KATZ RESERVOIR,
AND 2.0 CUBIC FEET PER SECOND FROM AN UNNAMED STREAM AND NORTH YAMHILL
RIVER

PERIOD OF USE: YEAR ROUND FROM KATZ RESERVOIR AND DECEMBER 1 THROUGH
APRIL 30 FROM AN UNNAMED STREAM AND NORTH YAMHILL RIVER

DATE OF PRIORITY: MARCH 7, 2002

POINT OF DIVERSION LOCATION:

NORTH YAMHILL DIVERSION: SW $\frac{1}{4}$ NW $\frac{1}{4}$, SECTION 33, T3S, R4W, W.M. 1360
FEET SOUTH & 770 FEET EAST FROM NW CORNER, SECTION 33

KATZ DAM: SE $\frac{1}{4}$ NW $\frac{1}{4}$, SECTION 33, T3S, R4W, W.M. 1850 FEET SOUTH &
2390 FEET EAST FROM NW CORNER, SECTION 33

UNNAMED STREAM: SW $\frac{1}{4}$ NW $\frac{1}{4}$, SECTION 34, T3S, R4W, W.M. 1350 FEET
SOUTH & 630 FEET EAST FROM NW CORNER, SECTION 34

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

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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:

SW $\frac{1}{4}$ SE $\frac{1}{4}$ 19.0 ACRES
SE $\frac{1}{4}$ SE $\frac{1}{4}$ 8.8 ACRES
SECTION 27

NE $\frac{1}{4}$ NE $\frac{1}{4}$ 0.4 ACRES
NW $\frac{1}{4}$ NE $\frac{1}{4}$ 1.1 ACRES
SECTION 34

TOWNSHIP 3 SOUTH, RANGE 4 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.

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.

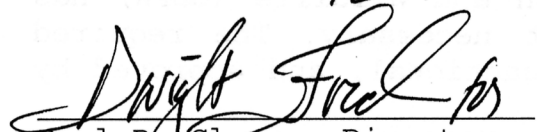
The use of water allowed herein may be made only at times when sufficient water is available to satisfy all prior rights, including prior rights for maintaining instream flows.

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, 2007. 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 November 12, 2002


Paul R. 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.