

STATE OF OREGON

COUNTY OF CLACKAMAS

PERMIT TO APPROPRIATE THE PUBLIC WATERS

THIS PERMIT IS HEREBY ISSUED TO

DAVID BERNERT
4131 IMPERIAL DR
WEST LINN, OR 97068

(503) 557-8872

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

APPLICATION FILE NUMBER: S-86202

SOURCE OF WATER: WILLAMETTE RIVER BASIN STORAGE PROJECTS

PURPOSE OR USE: NURSERY IRRIGATION ON 52.5 ACRES

MAXIMUM VOLUME: 112.0 ACRE FEET (AF) EACH YEAR, BEING 82.0 AF FROM POINT OF DIVERSION 1 AND 30.0 AF FROM POINT OF DIVERSION 2

PERIOD OF USE: MARCH 1 THROUGH OCTOBER 31

DATE OF PRIORITY: MARCH 17, 2005

POINTS OF DIVERSION LOCATIONS:

POD 1: DLC 45; NE $\frac{1}{4}$ SW $\frac{1}{4}$, SECTION 23, T3S, R1W, W.M.; 2050 FEET NORTH & 1480 FEET EAST FROM SW CORNER, SECTION 23

POD 2: DLC 42; NW $\frac{1}{4}$ SW $\frac{1}{4}$, SECTION 23, T3S, R1W, W.M.; 1500 FEET NORTH & 850 FEET EAST FROM SW CORNER, SECTION 23

For irrigation of in-ground nursery plants the amount of water diverted is limited to one eightieth of one cubic foot per second and 2.5 acre feet per acre per year. For irrigation of any other crop, the amount of water diverted is limited to one eightieth of one cubic foot per second and 2.5 acre feet per acre during the irrigation season of each year.

THE PLACE OF USE IS LOCATED AS FOLLOWS:

DLC 45	NE $\frac{1}{4}$ NW $\frac{1}{4}$	19.0 ACRES
DLC 46	NW $\frac{1}{4}$ NW $\frac{1}{4}$	0.2 ACRE
DLC 46	SW $\frac{1}{4}$ NW $\frac{1}{4}$	0.3 ACRE
DLC 45	SE $\frac{1}{4}$ NW $\frac{1}{4}$	18.0 ACRES
DLC 45	NE $\frac{1}{4}$ SW $\frac{1}{4}$	3.0 ACRES
DLC 42	SW $\frac{1}{4}$ SW $\frac{1}{4}$	9.0 ACRES
DLC 42	SE $\frac{1}{4}$ SW $\frac{1}{4}$	2.9 ACRES

SECTION 23

DLC 42 NE ¼ NW ¼ 0.1 ACRE
SECTION 26
TOWNSHIP 3 SOUTH, RANGE 1 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 consistent with current Oregon Department of Fish and Wildlife (ODFW) standards. Fish screening is to prevent fish from entering the proposed diversion while by-pass devices provide adequate upstream and downstream passage for fish. The required screen and by-pass devices are to be in place and functional, and approved in writing by ODFW prior to diversion of any water. The permittee may submit evidence in writing that ODFW has determined screens and/or by-pass devices are not necessary.

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 in accordance with ODFW's Fish and Wildlife Habitat Mitigation Policy OAR 635-415. For purposes of mitigation, the ODFW Fish and Wildlife Habitat Mitigation Goals and Standards, OAR Chapter 635, Division 415, Section 030 adopted November 13, 1991 shall be followed.

The use of water under this right is subject to the terms and conditions of contract No. 059E101514, or a satisfactory replacement, between the Bureau of Reclamation and the applicant, a copy of which is on file in the records of the Water Resources Department.

STANDARD CONDITIONS

Where two or more water users agree among themselves as to the manner of rotation in the use of water and such agreement is placed in writing and filed by such water users with the watermaster, and such rotation system does not infringe upon such prior rights of any water user not a party to such rotation plan, the watermaster shall distribute the water according to such agreement.

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.

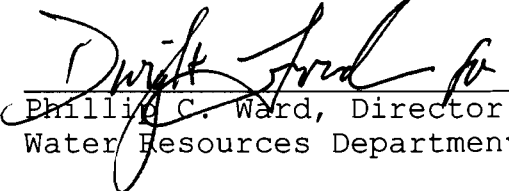
By law, the land use associated with this water use must be in compliance with statewide land-use goals and any local acknowledged land-use plan.

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.

Completion of construction and complete application of the water to the use shall be made on or before October 1, 2010. 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 17, 2005


Phillip C. Ward, Director
Water Resources Department

Application S-86202 Water Resources Department
Basin 2 Volume 26 WILLAMETTE R & TRIBS
Huffmaam

PERMIT 54227
16