

STATE OF OREGON

COUNTY OF LINN

PERMIT TO APPROPRIATE THE PUBLIC WATERS

THIS PERMIT IS HEREBY ISSUED TO

DAVID VAN ESSEN
39161 RIVER DRIVE
LEBANON, OREGON 97355

This superseding permit is issued to describe an amendment for a change in point of diversion proposed under Permit Amendment Application T-12371 and approved by Special Order Vol. 101, Page 646, entered AUG 09 2016, and to describe an extension of time for complete application of water approved May 6, 2016. This permit supersedes Permit S-53870.

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

APPLICATION FILE NUMBER: S-85120

SOURCE OF WATER: SOUTH SANTIAM RIVER AND WILLAMETTE BASIN PROJECTS, CONSTRUCTED UNDER PERMIT R-5363, TRIBUTARIES OF SANTIAM RIVER

PURPOSE OR USE: NURSERY USE ON 27.5 ACRES FROM SOUTH SANTIAM RIVER AND IRRIGATION OF 11.0 ACRES FROM WILLAMETTE BASIN PROJECTS

MAXIMUM RATE: 1.5 CUBIC FEET PER SECOND FROM SOUTH SANTIAM RIVER AND 27.5 ACRE-FEET FROM WILLAMETTE BASIN PROJECTS

PERIOD OF USE: OCTOBER 1 THROUGH APRIL 30 FOR NURSERY USE AND APRIL 1 THROUGH SEPTEMBER 30 FOR IRRIGATION

DATE OF PRIORITY: APRIL 11, 2002

POINT OF DIVERSION LOCATION:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
12 S	1 W	WM	29	NW NE	220 FEET SOUTH AND 470 FEET EAST FROM THE NORTH 1/4 CORNER OF SECTION 29

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 any time, 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:

Irrigation					
Twp	Rng	Mer	Sec	Q-Q	Acres
12 S	1 W	WM	29	NW NE	2.50
12 S	1 W	WM	29	SW NE	8.50

Nursery Use					
Twp	Rng	Mer	Sec	Q-Q	Acres
12 S	1 W	WM	29	NW NE	6.20
12 S	1 W	WM	29	SW NE	21.30

Permit Amendment T-12371 Conditions

The water user shall operate and maintain the approved fish screen at the new point of diversion. If Oregon Department of Fish and Wildlife (ODFW) determines the screen is not functioning properly, and is unsuccessful in working with the water user to meet ODFW standards, ODFW may request that OWRD regulate the use of water until OWRD receives notification from ODFW that the fish screen is functioning properly.

The quantity of water diverted at the new point of diversion shall not exceed the quantity of water lawfully available at the original points of appropriation.

Water use measurement conditions:

- a. Before water use may begin under this order, the water user shall install a totalizing flow meter, or, with prior approval of the Director, another suitable measuring device at each point of diversion.
- b. The water user shall maintain the meters or measuring devices in good working order.
- c. The water user shall allow the Watermaster access to the meters or measuring devices; provided however, where the meters or measuring devices are located within a private structure, the Watermaster shall request access upon reasonable notice.

Water shall be acquired from the same surface water source as the original point of diversion.

Extension of Time Conditions

Checkpoint Condition

The permit holder must submit a completed Progress Report Form to the Department by **October 1, 2020**.

- a. At each checkpoint, the permit holder shall submit and the Department shall review evidence of the permit holder's diligence towards completion of the project and compliance with terms and conditions of the permit and extension. If, after this review, the Department determines the permit holder has not been diligent in developing and perfecting the water use permit, or complied with all terms and conditions, the Department shall modify or further condition the permit or extension to ensure future compliance, or begin cancellation proceedings on the undeveloped portion of the permit pursuant to ORS 537.260 or 537.410, or require submission of a final proof survey pursuant to ORS 537.250;
- b. The Department shall provide notice of receipt of progress reports in its weekly notice and shall allow a 30 day comment period for each report. The Department shall provide notice of its determination to anyone who submitted comments.

Existing Conditions

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 use of water under this right is subject to the terms and conditions of contract No. 2-07-10-W0904, 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.

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 required screens and fishways are to be in place, functional, and approved by ODFW before diversion of any water.

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.

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 was to be made on or before October 1, 2007, when the permit was originally issued on December 6, 2002. By Extension of Time Final Order dated May 6, 2016 the completion of the application of water was extended to on or before October 1, 2021.

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 **AUG 09 2016** , 2016



Dwight French, Water Right Services Division Administrator, for
Thomas M. Byler, Director
Oregon Water Resources Department