



Oregon

Theodore R. Kulongoski, Governor

Water Resources Department

North Mall Office Building
725 Summer Street NE, Suite A
Salem, OR 97301-1271
503-986-0900
FAX 503-986-0904

September 12, 2008

PATTERSON NURSERY SALES INC
BILL PATTERSON
PO BOX 99
BORING, OR 97009

Reference: File G-16940

Dear Mr. Patterson:

**THIS IS NOT A PERMIT AND IS
SUBJECT TO CHANGE AT THE NEXT PHASE OF PROCESSING.**

This letter is to inform you of the preliminary analysis of your water use permit application and to describe your options. In determining whether a water use permit application may be approved, the Department must consider the factors listed below, all of which must be favorable to the proposed use if it is to be allowed. Based on the information you have supplied, the Water Resources Department has made the following preliminary determinations:

Initial Review Determinations:

1. The application proposed to use 0.9 cubic foot per second (CFS) of water from Well 2 (CLAC 19304) and Well 3 (CLAC 57278) in the Tickle Creek Basin for year-round nursery use on 6.0 acres.
2. The proposed use is not prohibited by law or rule except where otherwise noted below.
3. Uses included in nursery use are fully included in irrigation and agriculture uses, both of which are allowed by OAR 690-502, the Willamette Basin Program. Therefore, the use of water from Well 2 (CLAC 19304) and Well 3 (CLAC 57278) in the Tickle Creek Basin for nursery use is classified.
4. If properly conditioned, the proposed use of ground water will avoid injury to existing ground water rights and the resource.

The Department has determined, based upon OAR 690-009, that the proposed ground water use will not have the potential for substantial interference with any surface water source.

5. The Department has determined there are deficiencies with the application. Please refer to the **Additional Information Required** section below for specific information.

Summary of Initial Determinations

The use of 0.9 CFS from Well 2 (CLAC 19304) and Well 3 (CLAC 57278) in the Tickle Creek Basin for nursery use on 6.0 acres is allowable year round.

Because of these favorable determinations, the Department can now move your application to the next phase of the water rights application review process where public interest factors will be evaluated.

Additional Information Required

OAR 690-310-050((4)(b) requires that the application map submitted to the Department show the location of pipelines, ditches or other means of transporting water for the proposed use. Please submit an updated map that demarcates the location of any pipelines, ditches or other means of transporting water from Well 2 (CLAC 19304) and Well 3 (CLAC 57278) to the proposed places of use under this application.

Please reference the application number when sending any correspondence regarding the conclusions of this initial review. Comments received within the comment period will be evaluated at the next phase of the process.

To Proceed With Your Application:

If you choose to proceed with your application, you do not have to notify the Department. Your application will automatically be placed on the Department's Public Notice to allow others the opportunity to comment. After the comment period the Department will complete a public interest review and issue a Proposed Final Order.

Withdrawal Refunds:

If you choose not to proceed, you may withdraw your application and receive a refund (minus a \$150 processing charge per application.) To accomplish this you must notify the Department in writing by **Friday, September 26, 2008**. For your convenience you may use the enclosed "STOP PROCESSING" form.

If A Permit Is Issued It Will Likely Include The Following Conditions:

1.Measurement, recording and reporting conditions:

- A. Before water use may begin under this permit, the permittee shall install a totalizing flow meter or other suitable measuring device as approved by the Director at each point of appropriation. 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.
2. If substantial interference with a senior water right occurs due to withdrawal of water from any well listed on this permit, then use of water from the well(s) shall be discontinued or reduced and/or the schedule of withdrawal shall be regulated until or unless the Department approves or implements an alternative administrative action to mitigate the interference. The Department encourages junior and senior appropriators to jointly develop plans to mitigate interferences.
 3. The wells shall produce ground water from the deep Troutdale aquifer.
 4. For the purpose of determining declines, the reference level for Well 2 (CLAC 19304) shall be 190.0 feet below land surface.
 5. (1) Use of water from any well, as allowed herein, shall be controlled or shut off if the well displays:
 - (a) An average water level decline of three or more feet per year for five consecutive years; or
 - (b) A total water level decline of fifteen or more feet; or
 - (c) A hydraulic interference decline of fifteen or more feet in any neighboring well providing water for senior exempt uses or wells covered by prior rights.

- (2) The water user shall be responsible for complying with each of the following requirements for measuring water levels in the well(s).
 - (a) Use of water from a new well shall not begin until an initial static water level in the well has been measured and reported to the Department.
 - (b) In addition to the measurement required in subsection (a) of this section, a water level measurement shall be made each year during the period March 1 through March 31.
 - (c) All water level measurements shall be made by a qualified individual. Qualified individuals are certified water rights examiners, registered geologists, registered professional engineers, licensed land surveyors, licensed water well driller, licensed pump installer, or the permittee/appropriator.
 - (d) Any qualified individual measuring a well shall use standard methods of procedure and equipment designed for the purpose of well measurement. The equipment used shall be well suited to the conditions of construction at the well. A list of standard methods of procedure and suitable equipment shall be available from the Department.
 - (e) The permittee/appropriator shall report the record of measurement to the Department on a form available from the Department. The record of measurement shall include both measurements and calculations, shall include a certification as to their accuracy signed by the individual making the measurements, and shall be submitted to the Department within 90 days from the date of measurement. The Department shall determine when any of the declines cited in section (1) are evidenced by the well measurement required in this section.

6. Use of water under authority of this permit may be regulated if analysis of data available after the permit is issued discloses that the appropriation will measurably reduce the surface water flows necessary to maintain the free-flowing character of a scenic waterway in quantities necessary for recreation, fish and wildlife in effect as of the priority date of the right or as those quantities may be subsequently reduced.

The water source identified in your application may be affected by an Agricultural Water Quality Management Area Plan. These plans are developed by the Oregon Department of Agriculture (ODA) with the cooperation of local landowners and other interested stakeholders, and help to ensure that current and new appropriations of water are done in a way that does not adversely harm the environment. You are encouraged to explore ODA's Water Quality Program web site at http://www.oregon.gov/ODA/NRD/water_agplans.shtml to learn more about the plans and how they may affect your proposed water use.

If you have any questions:

Feel free to call me at 503-986-0816 if you have any questions regarding the contents of this letter or your application. Please have your application number available if you call. General questions about water rights and water use permits should be directed to our customer service staff at 503-986-0801. When corresponding by mail, please use this address: Kerry Kavanagh, Oregon Water Resources Department, 725 Summer St NE Ste A, Salem OR 97301-1266. Our fax number is 503-986-0901.

Sincerely,



Kerry Kavanagh
Water Right Application Caseworker

enclosures: Application Process Description and Stop Processing Request Form

G-16940
WAB 2-172
POU 2-172
GW - no psi

APPLICATION FACT SHEET

Application File Number: G-16940

Applicant: BILL PATTERSON PATTERSON NURSERY SALES INC

County: Clackamas

Watermaster: 20

Priority Date: November 19, 2007

Source: WELL 2 (CLAC 19304) AND WELL 3 (CLAC 57278) IN TICKLE CREEK BASIN

Use: NURSERY USE ON 6.0 ACRES

Quantity: 0.9 CUBIC FOOT PER SECOND

Basin Name & Number: Willamette, #2

Stream Index Reference: Volume 23A TICKLE CR & MISC

Well Locations:

WELL 2 (CLAC 19304) - NENW, SECTION 10, T2S, R4E, W.M.; 680 FEET SOUTH
AND 1280 FEET WEST FROM N1/4 CORNER, SECTION 10

WELL 3 (CLAC 57278) - NENW, SECTION 10, T2S, R4E, W.M.; 210 FEET SOUTH
AND 800 FEET WEST FROM N1/4 CORNER, SECTION 10

Place of Use:

NW $\frac{1}{4}$ NE $\frac{1}{4}$ 6.0 ACRES
SECTION 10
TOWNSHIP 2 SOUTH, RANGE 4 EAST, W.M.

14 DAY STOP PROCESSING DEADLINE DATE: Friday, September 26, 2008

PUBLIC NOTICE DATE: Tuesday, September 16, 2008

30 DAY COMMENT DEADLINE DATE: Thursday, October 16, 2008

Mailing List for IR Copies

Application #G-16940

IR Date: September 12, 2008

Original mailed to applicant:

PATTERSON NURSERY SALES INC
BILL PATTERSON
PO BOX 99
BORING, OR 97009

Copies sent to:

1. WRD - File # G-16940
2. WRD - Water Availability: Ken Stahr

IR, Map, and Fact Sheet Copies sent to:

3. WRD - WM #20
4. WRD -NW Regional Well Inspector

Affected Landowners (include "Notice of Initial Review--Affected Landowner"):

1. Itsuo Hosaka, 35288 SE Kelso Road, Boring, OR 97009

Copies sent to Other Interested Persons (CWRE, Agent, Well Driller, Commenter, etc.)

1. Steven Applegate Consulting, 3395 Huckleberry Ct S, Salem OR 97302

Caseworker: Kerry Kavanagh

COPYSHT.IR

<p>Copies Mailed By: _____ (SUPPORT STAFF) on: _____ (DATE)</p>

REMINDER: Copy **all** IR's for uses in the Klamath Basin to DEQ and ODFW contacts, regardless of whether they are subject to Division 33. (If they are not subject to Division 33, do not include Division 33 forms.)

