

STATE OF OREGON

COUNTY OF WASHINGTON

PERMIT TO CONSTRUCT A RESERVOIR AND STORE THE PUBLIC WATERS

THIS PERMIT IS HEREBY ISSUED TO

DAVID DUYCK AND GLENN WALTERS NURSERY INC  
PO BOX 280  
BANKS, OREGON 97106

(503) 693-1125

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

APPLICATION FILE NUMBER: R-84729

SOURCE OF WATER: RUNOFF, TRIBUTARY TO WEST FORK DAIRY CREEK

STORAGE FACILITY: RESERVOIR

PURPOSE OR USE OF THE STORED WATER: STORAGE FOR NURSERY USE, AND TO BE APPROPRIATED UNDER APPLICATION S-84728, PERMIT S-53788 FOR IRRIGATION OF 156.9 ACRES

MAXIMUM STORAGE VOLUME: 22.0 ACRE-FEET EACH YEAR

WATER MAY BE APPROPRIATED FOR STORAGE DURING THE PERIOD: DECEMBER 1 THROUGH MARCH 31 OF EACH YEAR

DATE OF PRIORITY: APRIL 30, 2001

THE MAXIMUM HEIGHT OF THE DAM SHALL NOT EXCEED 9.80 FEET.

DAM LOCATION: NE 1/4 SW 1/4, SECTION 7, T1N, R3W, W.M.; 1830 FEET NORTH AND 1340 FEET EAST FROM THE SW CORNER OF SECTION 7

THE AREA TO BE SUBMERGED BY THE RESERVOIR IS LOCATED AS FOLLOWS:

NE 1/4 SW 1/4  
NW 1/4 SW 1/4  
SECTION 7

TOWNSHIP 1 NORTH, RANGE 3 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.
- 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.

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- C. The Director may require the permittee to keep and maintain a record of the amount (volume) of water used and may require the permittee to report water use on a periodic schedule as established by the Director. In addition, the Director may require the permittee to report general water use information, the periods of water use and the place and nature of use of water under the permit. The Director may provide an opportunity for the permittee to submit alternative reporting procedures for review and approval.

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.

The storage of water allowed herein is subject to the installation and maintenance of an outlet pipe, or the provision of other means to evacuate water when determined necessary by the Water Resources Director to satisfy prior downstream rights.

Use under this permit is limited to the reservoir area. This permit does not provide for the appropriation of water for maintaining the water level or maintaining a suitable fresh water condition.

#### STANDARD CONDITIONS

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.

This permit does not authorize the permit holder to pursue this right in such a way as to interfere with or affect adjacent property not under the ownership of the permit holder.

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.

Actual construction work shall begin within one year from permit issuance. The reservoir shall be filled and complete application of the stored water to the use shall be made on or before October 1, 2006.


Within one year after complete application of water to the proposed use, the permittee shall submit a claim of beneficial use to the Oregon Water Resources Department.

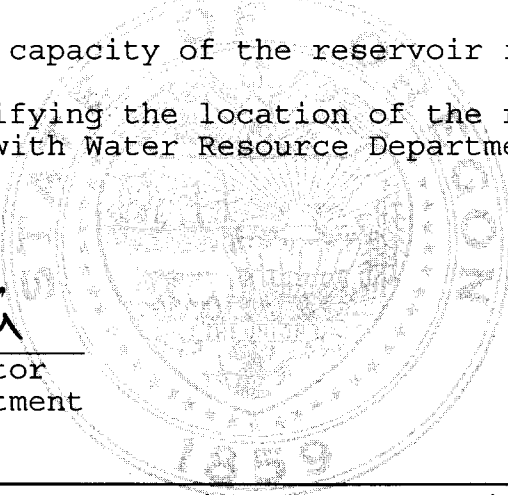
The claim of beneficial use shall be prepared by a Certified Water Right Examiner in conformance with the requirements of OAR 690-014 if an associated secondary permit exists for the use of stored water under this permit, or if the reservoir stores 9.2 or more acre-feet of water.

If no secondary permit exists and the reservoir stores less than 9.2 acre-feet of water, the claim of beneficial use need not be prepared by a Certified Water Right Examiner. The information submitted to the Oregon Water Resources Department shall include:

- (a) the dimensions of the reservoir;
- (b) the maximum capacity of the reservoir in acre-feet; and
- (c) a map identifying the location of the reservoir prepared in compliance with Water Resource Department standards.

Issued June 24, 2002

  
Paul R. Cleary, Director  
Water Resources Department



NOTE: 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.

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