

STATE OF OREGON

COUNTY OF MULTNOMAH

PERMIT TO CONSTRUCT A RESERVOIR AND STORE THE PUBLIC WATERS

THIS PERMIT IS HEREBY ISSUED TO

BRADLEY AND DIANE S FACKRELL
LAKESIDE GARDENS
16211 SE FOSTER RD
PORTLAND, OREGON 97326

(503) 760-6045

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

APPLICATION FILE NUMBER: R-84599

SOURCE OF WATER: KELLY CREEK, TRIBUTARY OF JOHNSON CREEK, TRIBUTARIES OF WILLAMETTE RIVER, AND A WELL

STORAGE FACILITIES: POND #1 AND POND #2

PURPOSE OR USE OF THE STORED WATER: AESTHETICS, FISH, WILDLIFE AND RECREATION

MAXIMUM VOLUME: 2.76 ACRE-FEET (AF) EACH YEAR; BEING 2.08 AF IN POND #1 AND 0.68 AF IN POND #2

WATER MAY BE APPROPRIATED FOR STORAGE: DECEMBER 1 THROUGH JUNE 1 FROM KELLY CREEK AND YEAR ROUND FROM A WELL UNDER APPLICATION G-15259, PERMIT #G-15139

DATE OF PRIORITY: APRIL 26, 2001

The area submerged by the reservoirs, when full, will be 0.828 ACRE for POND #1 and 0.222 ACRE for POND #2. The maximum depth of water will be 6 feet for POND #1 and 5 feet for POND #2. The maximum height of the dams shall not exceed 8 feet.

DAM LOCATIONS:

POND #1: SE ¼ SE ¼, SECTION 13, T1S, R2E, W.M.; 281 FEET NORTH & 235 FEET WEST; FROM THE MOST NORTHERLY SE CORNER OF EBENEZER CRESSWELL DLC #60

POND #2: SE ¼ SE ¼, SECTION 13, T1S, R2E, W.M. 452 FEET NORTH & 280 FEET WEST, FROM THE MOST NORTHERLY SE CORNER OF EBENEZER CRESSWELL DLC #60

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

SE ¼ SE ¼
SECTION 13

NE ¼ NE ¼
SECTION 24

TOWNSHIP 1 SOUTH, RANGE 2 EAST, W.M.

Measurement, recording and reporting conditions:

- A. The Director may require the permittee to install a meter or other suitable measuring device as approved by the Director. If the Director notifies the permittee to install a meter or other measuring device, the permittee shall install such device within the period stated in the notice. Such installation period shall not be less than 90 days unless special circumstances warrant a shorter installation period. Once installed, the permittee shall maintain the meter or measuring device in good working order and shall allow the watermaster access to the meter or measuring device. The Director may provide an opportunity for the permittee to submit alternative measuring procedures for review and approval.
- B. 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.

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 and to prevent stocked fish from escaping from the reservoirs and entering the creek. 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.

No water from the reservoir shall be returned to Kelly Creek.

STANDARD CONDITIONS

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.

The storage of water allowed herein is subject to the installation and maintenance of a fully functional conduit/gate assembly having a minimum diameter of 8 inches.

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.

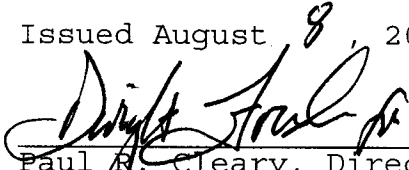
The use of water allowed herein may be made only at times when sufficient water is available to satisfy all prior rights, including prior rights for maintaining instream flows.

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.

The reservoir shall be filled and complete application of the stored water to the use shall be made on or before October 1, 2006. 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 August 8, 2002


Paul R. Cleary, Director
Water Resources Department

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District 20

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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