

STATE OF OREGON

COUNTY OF MARION

PERMIT TO CONSTRUCT A RESERVOIR AND STORE THE PUBLIC WATERS

THIS PERMIT IS HEREBY ISSUED TO

A AND R SPADA FARMS  
7251 SAINT PAUL HWY  
SAINT PAUL, OREGON 97137

(503) 633-2941

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

APPLICATION FILE NUMBER: R-85274

SOURCE OF WATER: RUNOFF, TRIBUTARY OF RYAN CREEK

STORAGE FACILITY: FELLER ROAD RESERVOIR

PURPOSE OR USE OF THE STORED WATER: TO BE APPROPRIATED UNDER APPLICATION S-85275, PERMIT 53978, FOR NURSERY USE OF 115.3 ACRES

MAXIMUM VOLUME: 138.7 ACRE FEET EACH YEAR

PERIOD OF USE: NOVEMBER 1 THROUGH JUNE 30

DATE OF PRIORITY: AUGUST 23, 2002

The area submerged by the reservoir, when full, will be 9.1 ACRES and the maximum depth of water will be 19.8 FEET. The maximum height of the dam shall not exceed 26.0 FEET.

DAM LOCATION: NE  $\frac{1}{4}$  NW  $\frac{1}{4}$ , SECTION 19, T4S, R1W, W.M.; 1070 FEET SOUTH & 95 FEET WEST FROM NW CORNER, WILLIAM WHITNEY DLC 48, SECTION 19

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

NW  $\frac{1}{4}$  NE  $\frac{1}{4}$

NE  $\frac{1}{4}$  NW  $\frac{1}{4}$

SECTION 19

TOWNSHIP 4 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

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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 as required by the Oregon Department of Fish and Wildlife to prevent fish from entering the proposed diversion. The required screen is to be in place and functional prior to diversion of any water.

The use of water for storage shall be limited when it reduces the flow of water in Ryan Creek.

The permittee shall pass all live flow outside the storage season described above.

#### **SPECIFIC DAM CONDITIONS**

No fill materials shall be placed until preparation of the foundation and the excavation of the core trench has been completed and examined in its entirety by the engineer of record, or by the Water Resources Dam Safety Engineer, or both.

The earthen dam and all appurtenant structures shall be constructed and maintained according to the approved plans and specifications on file with the Oregon Water Resources Dam Safety program. Any significant change in the approved design prior to or during construction shall be documented by the project engineer in a letter to Dam Safety. All construction shall be performed under the supervision of a registered professional engineer licensed in Oregon.

No water shall be stored until the Water Resources Department receives written certification from the engineer of record that construction has been completed in accordance with the approved plans and specifications. A revised reservoir capacity graph/table must accompany the engineer's written certification of completion. If construction deviated from the approved design, a set reproducible as-built drawings also must accompany the letter of completion.

The completed structure shall not be enlarged, modified, altered or otherwise changed without the prior written approval of the Director of the Water Resources Department or the Director's authorized representative. Except for routine repair and preventative maintenance, plans and specifications prepared by an Oregon licensed engineer are

required for any significant modification, alternation, or rehabilitation of the dam, spillway or appurtenant structures.

The outlet gate shall be cycled open and closed at least once each year and shall be fully operational at all times.

Routine maintenance of the dam, its concrete box spillway and all appurtenant structures shall be performed as necessary to remove trees, brush and debris, and to repair slumps, areas of erosion, or defective equipment necessary.

#### **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 water to the use shall be made on or before October 1, 2008. 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 October 31, 2003

  
Paul R. Cleary, Director  
Water Resources Department

REAL ESTATE TRANSACTIONS: 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.

CULTURAL RESOURCES PROTECTION LAWS: Permittees involved in ground-disturbing activities should be aware of federal and state cultural resources protection laws. ORS 358.920 prohibits the excavation, injury, destruction or alteration of an archeological site or object, or removal of archeological objects from public and private lands without an archeological permit issued by the State Historic Preservation Office. 16 USC 470, Section 106, National Historic Preservation Act of 1966 requires a federal agency, prior to any undertaking to take into account the effect of the undertaking that is included on or eligible for inclusion in the National Register. For further information, contact the State Historic Preservation Office at 503-378-4168, extension 232.