

STATE OF OREGON

COUNTY OF COLUMBIA

PERMIT TO STORE PUBLIC WATERS

THIS PERMIT IS HEREBY ISSUED TO:

NGHIA NGUYEN  
15589 NW TRAKEHNER WAY  
PORTLAND OR 97229

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

APPLICATION FILE NUMBER: R-88067

SOURCE OF WATER: NEHALEM RIVER, TRIBUTARY TO NEHALEM BAY

STORAGE FACILITY: ELLIOTT POND

MAXIMUM VOLUME: 10.0 ACRE FEET

DATE OF PRIORITY: APRIL 1, 2015

WATER MAY BE APPROPRIATED AS FOLLOWS: NOVEMBER 1 THROUGH JUNE 30

USE: MULTIPLE PURPOSE

**Dam Location/Authorized Point of Diversion:**

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
6 N	5 W	WM	30	SE NE	1150 FEET NORTH AND 950 FEET WEST FROM E1/4 CORNER, SECTION 30

**The Area To Be Submerged:**

Twp	Rng	Mer	Sec	Q-Q
6 N	5 W	WM	30	SE NE

Measurement devices, and recording/reporting of annual water storage conditions:

- A. Before water use may begin under this permit, the permittee shall install a totalizing flow meter at each point of diversion. The permittee shall maintain the device in good working order.
- B. The permittee shall allow the watermaster access to the device; provided however, where any device is located within a private structure, the watermaster shall request access upon reasonable notice.
- C. The Director may require the permittee to keep and maintain a record of the volume of water stored, and may require the permittee to report water-storage 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.
- D. The Director may provide an opportunity for the permittee to submit alternative measuring and reporting procedures for review and approval. The storage of water

allowed herein is subject to the installation and maintenance of an outlet pipe (with a minimum diameter of 8" for any in-channel reservoir). This requirement may be waived if the Department determines other means have been provided to evacuate water when necessary.

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

The Director may require the user to measure inflow and outflow, above and below the reservoir respectively, to ensure that live flow is not impeded outside the storage season. Measurement devices and their implementation must be acceptable to the Director, and the Director may require that data be recorded on a specified periodic basis and reported to the Department annually or more frequently.

The permittee shall not construct, operate or maintain any dam or artificial obstruction to fish passage in the channel of the subject stream without providing a fishway to ensure adequate upstream and downstream passage for fish, unless the permittee has requested and been granted a fish passage waiver by the Oregon Fish and Wildlife Commission. The permittee is hereby directed to contact an Oregon Department of Fish and Wildlife Fish Passage Coordinator, before beginning construction of any in-channel obstruction.

The permittee shall install, maintain, and operate fish screening consistent with current Oregon Department of Fish and Wildlife (ODFW) standards. Fish screening is to prevent fish from entering the proposed diversion. The required screen are to be in place and functional prior to diversion of any water. The permittee shall obtain written approval from ODFW that the installation of the required screen meets the state's criteria or the permittee shall submit documentation that ODFW has determined screens are not necessary.

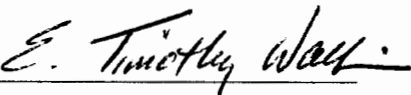
This permit allows an annual appropriation (not to exceed the specified volume). This permit does not provide for the appropriation of water for out-of-reservoir uses, the maintenance of the water level or maintaining a suitable freshwater condition. If any water is to be used for out-of-reservoir purposes, a secondary water right is required. If any additional live flow is to be appropriated to maintain either the water level or a suitable freshwater condition, an additional water right is required.

#### **STANDARD CONDITIONS**

1. 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.
2. 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.
3. 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.
4. 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.
5. 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 in accordance with ODFW's Fish and Wildlife Habitat Mitigation Policy OAR 635-415. For purposes of mitigation, the ODFW Fish and Wildlife Habitat Mitigation Goals and Standards, OAR Chapter 635, Division 415, shall be followed.

6. The use may be restricted if the quality of downstream waters decreases to the point that those waters no longer meet existing state or federal water quality standards due to reduced flows.
7. If the volume of the completed reservoir is 9.2 acre feet or more and a dam is used to impound the water, the height of the dam shall be less than 10.0 feet.
8. Construction shall be completed and up to the permitted annual volume of water shall be stored within five years of the date of permit issuance.
9. Within one year after storage of water, the permittee shall submit a claim of beneficial use to the Oregon Water Resources Department.
10. 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 capacity is equal to or greater than 9.2 acre-feet.
11. If no secondary permit exists and the reservoir capacity is 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 Departmental standards.

Issued July 30 2015.



E. Timothy Wallin, Water Rights Program Manager  
for Thomas M. Byler, Director