

STATE OF OREGON

COUNTY OF CLACKAMAS

PERMIT TO STORE PUBLIC WATERS

THIS PERMIT IS HEREBY ISSUED TO

T & K SESTER FAMILY, LLC  
24200 SE HWY 212  
DAMASCUS OR 97089

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

APPLICATION FILE NUMBER: R-89280

SOURCE OF WATER: RUNOFF, TRIBUTARY TO NOYER CREEK; NOYER CREEK, TRIBUTARY TO DEEP CREEK

STORAGE FACILITY: RESERVOIR 2

MAXIMUM DAM HEIGHT: 9.9 FEET

MAXIMUM VOLUME: 27.5 ACRE-FEET

PURPOSE OR USE OF THE STORED WATER: MULTIPURPOSE USE

WATER MAY BE APPROPRIATED FOR STORAGE DURING THE PERIOD: DECEMBER 1 THROUGH JUNE 30

DATE OF PRIORITY: OCTOBER 13, 2022

DAM LOCATION/POINT OF DIVERSION:

POD Name	Twp	Rng	Mer	Sec	Q-Q	Measured Distances
Reservoir 3	2 S	3 E	WM	10	SW SE	1352 FEET NORTH AND 1960 FEET WEST FROM SE CORNER, SECTION 10
Noyer Creek	2 S	3 E	WM	11	SW SW	285 FEET NORTH AND 650 FEET EAST FROM SE CORNER, SECTION 10

THE AREA TO BE SUBMERGED BY THE RESERVOIR:

Twp	Rng	Mer	Sec	Q-Q
2 S	3 E	WM	10	NW SE
2 S	3 E	WM	10	SW SE

## PERMIT SPECIFIC 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. **Water Use Measurement, Recording, and Reporting:**
  - A. Before water use may begin under this permit from Noyer Creek, the permittee shall install a totalizing flow meter at each point of diversion. The permittee shall maintain the device in good working order.
  - B. Before water use may begin under this permit from runoff, a staff gage that measures the entire range and stage between full reservoir level and dead-pool storage shall be installed in the reservoir. If no dead-pool, the gage must measure the full depth of the reservoir. The permittee shall maintain the device in good working order.
  - C. 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.
  - D. The Director may require the permittee to keep and maintain a record of the volume of water diverted 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.
  - E. The Director may provide an opportunity for the permittee to submit alternative measuring and reporting procedures for review and approval.

### 3. **Agricultural Water Quality Management Area Rules:**

The permittee shall comply with basin-specific Agricultural Water Quality Management Area Rules described in Oregon Administrative Rule Chapter 603-095. The permittee shall protect riparian areas, allowing site capable vegetation to establish and grow along streams, while providing the following functions: shade (on perennial and some intermittent streams), bank stability, and infiltration or filtration of overland runoff.

### 4. **Fish Stocking:**

Per ORS 498.222 and OAR 635-007-0600, all persons transporting fish in Oregon shall have a fish transport permit issued by the Oregon Department of Fish and Wildlife (ODFW). The permittee shall not stock fish in the reservoir without a fish transport permit issued by ODFW. As part of the permitting process, the permittee shall also screen the inlet and outlet of their pond to ensure that fish cannot escape into public waters and/or to keep wild fish from entering the pond.

**5. Fish Screen and By-Pass Device:**

The permittee shall install, maintain, and operate fish screening and by-pass devices consistent with current Oregon Department of Fish and Wildlife (ODFW) standards. Fish screening is to prevent fish from entering the proposed diversion while by-pass devices provide adequate upstream and downstream passage for fish. The required screen and by-pass devices are to be in place and functional and approved in writing by ODFW prior to diversion of any water. The permittee may submit evidence in writing that ODFW has determined screens and/or by-pass devices are not necessary.

**6. In-Water Work:**

Any in-water work related to construction, development, or maintenance of the proposed use shall be conducted during the preferred work period of July 15 through August 31, unless an alternate time period is approved by Oregon Department of Fish and Wildlife.

**7. Off-Channel Stored Water Releases:**

The permittee shall not release polluted water from this off-channel reservoir into waters of the state except when the release is directed by the State Engineer to prevent dam failure.

**8. Riparian Area Restoration:**

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 635-415, shall be followed.

**9. Water Quality:**

- A. 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.
- B. All water use under this permit shall comply with state and federal water quality laws. The permittee shall not violate any state and federal water quality standards, shall not cause pollution of any waters of the state, and shall not place or cause to be placed any wastes in a location where such wastes are likely to escape or be carried into the waters of the state by any means. The use may be restricted if the quality of source stream or downstream waters decrease to the point that those waters no longer meet existing state or federal water quality standards.

**10. Scenic Waterway Flows:**

Diversion of water under this permit is contingent on designated scenic waterway flows being met downstream. The user is required to monitor streamflow at Clackamas River near Estacada, OR,

USGS gage 14210000, and discontinue diversion when the flows specified below are unmet at the gage. At the discretion of the Director, the location and nature of streamflow monitoring required to protect scenic waterway flows is subject to change. In addition, the watermaster may regulate diversion under this right if it is determined by the Department that the flows listed below are unmet at the gage.

<b>Clackamas Scenic Waterway</b>	
<b>Month</b>	<b>Minimum Flow (CFS)</b>
January	1000
February	1000
March	1000
April	1000
May	1000
June	1000
December	1000

11. 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.
12. The permittee shall pass all live flow outside the storage season described above.
13. 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.

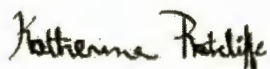
#### **STANDARD CONDITIONS**

1. 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.
2. 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.
3. 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.

## DEVELOPMENT AND COMPLETION TIMELINE REQUIREMENTS

1. Construction of the water system shall begin within five years of the date of permit issuance. The deadline to begin construction may not be extended. This permit is subject to cancellation proceedings if the begin construction deadline is missed.
2. The permitted volume of water shall be stored within five years of the date of permit issuance. If additional time is needed, the permittee may submit an application for extension of time, which may be approved based upon the merit of the application.
3. Within one year after storage of water, the permittee shall submit a claim of beneficial use to the Oregon Water Resources Department.
4. 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.
5. 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 Water Resources Department standards.

Issued MAR 31 2023



Katherine Ratcliffe  
Water Rights Section Manager, for  
Douglas E. Woodcock, Acting Director  
Oregon Water Resources Department