

STATE OF OREGON

COUNTY OF COOS

PERMIT TO APPROPRIATE THE PUBLIC WATERS

THIS PERMIT IS HEREBY ISSUED TO:

DANIEL E. DAVIS  
PO BOX 1741  
BANDON OR 97411

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

APPLICATION FILE NUMBER: S-87017

SOURCE OF WATER: WINDHURST RESERVOIR (PERMIT R-12928)

PURPOSE OR USE: CRANBERRY USE OF 33.02 ACRES

MAXIMUM VOLUME: 35.0 ACRE FEET

PERIOD OF USE: YEAR ROUND

DATE OF PRIORITY: OCTOBER 24, 2007

**Authorized Point of Re-Diversion:**

Twsp	Rng	Mer	Sec	Q-Q	Survey Coordinates
29 S	14 W	WM	6	NE SE	3215 FEET SOUTH AND 1068 FEET WEST FROM NE CORNER, SECTION 6

The amount of water diverted for cranberry operations, together with amounts secured under any other rights existing for the same lands, is limited as follows: For temperature control, 0.15 cubic foot per second per acre; For flood harvesting or pest control, 0.05 cubic foot per second per acre; For irrigation of cranberries, one-fortieth of one cubic foot per second and 3.0 acre-feet per acre for each acre irrigated during the irrigation season of each year. For the irrigation of any other crop, one-eightieth of one cubic foot per second and 2.5 acre-feet per acre for each acre irrigated during the irrigation season of each year.

**Authorized Place of Use:**

Twsp	Rng	Mer	Sec	Q-Q	Acres
29 S	14 W	WM	6	NE NE	9.40
29 S	14 W	WM	6	SE NE	16.22
29 S	14 W	WM	6	NE SE	7.40

**Measurement, recording and reporting conditions:**

- A. Before water use may begin under this permit, the permittee shall install a totalizing flow meter at each point of re-diversion, and maintain the meter(s) in good working order. The permittee 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 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; where a meter is located within a private structure, the watermaster shall request access upon reasonable notice.

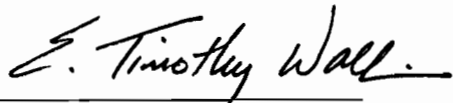
Notwithstanding that Oregon Department of Fish and Wildlife (ODFW) has made a determination that fish screens and/or by-pass devices are not necessary at the time of permit issuance, the permittee may be required in the future to install, maintain, and operate fish screening and/or by-pass devices to prevent fish from entering the proposed diversion, and to provide adequate upstream and downstream passage for fish.

### 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. Where two or more water users agree among themselves as to the manner of rotation in the use of water and such agreement is placed in writing and filed by such water users with the watermaster, and such rotation system does not infringe upon such prior rights of any water user not a party to such rotation plan, the watermaster shall distribute the water according to such agreement.
3. 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.
4. 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.
5. 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.
6. 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, Section 030 adopted November 13, 1991 shall be followed.
7. The use may be restricted if the quality of the source stream or downstream waters decreases to the point that those waters no longer meet existing state or federal water-quality standards due to reduced flows.
8. Complete application of the water to the use shall be made on or before October 1, 2012. If the water is not completely applied before this date, and the water user wishes to continue development under the permit, the water user must submit an application for extension of time, which may be approved based upon the merit of the application.
9. Within one year after complete application of water to the proposed use, the water user shall submit a claim of beneficial use, which includes a map and report, prepared by a Certified Water Rights Examiner (CWRE).
10. This permit does not allow unauthorized inundation of property not under the ownership of the permit holder.

11. This permit is issued to correctly describe the duty paragraph and the fish screen/by-pass requirements. Permit S-54461 is superseded by this instrument and is of no further force or effect.

Issued June 30, 2008

Handwritten signature of E. Timothy Wall in cursive script.

for Phillip C. Ward, Director  
Water Resources Department