

Application for a Permit to
Store Water in a Reservoir
 Alternate Review (ORS 537.409)



Oregon Water Resources Department
 725 Summer Street NE, Suite A
 Salem, Oregon 97301-1266
 (503) 986-0900
 www.oregon.gov/OWRD

You may use this form for any reservoir storing less than 9.2 acre-feet or with a dam less than 10 feet high.

Use a separate form for each reservoir

SECTION 1: APPLICANT INFORMATION AND SIGNATURE

Applicant

NAME T&K SESTER FAMILY, LLC ATTN: TED SESTER			PHONE (HM) -
PHONE (WK) 503-351-8954	CELL -	FAX -	
ADDRESS 24200 SE HIGHWAY 212			
CITY DAMASCUS	STATE OR	ZIP 97089	E-MAIL * TED@SESTERFARMS.COM

Organization

NAME -			PHONE -	FAX -
ADDRESS -			CELL -	
CITY -	STATE -	ZIP -	E-MAIL * -	

Agent – The agent is authorized to represent the applicant in all matters relating to this application.

AGENT / BUSINESS NAME THEODORE RESSLER, RG, CWRE – SUMMIT WATER RESOURCES, LLC			PHONE 503-701-4535	FAX -
ADDRESS PO Box 11268			CELL -	
CITY PORTLAND	STATE OR	ZIP 97211	E-MAIL * TRESSLER@SUMMITWR.COM	

Note: Attach multiple copies as needed

* By providing an e-mail address, consent is given to receive all correspondence from the department electronically. (paper copies of the final order documents will also be mailed.)

By my signature below I confirm that I understand:

- I am asking to use water specifically as described in this application.
- Evaluation of this application will be based on information provided in the application.
- I cannot legally store water until the Water Resources Department issues a permit.
- Oregon law requires that a permit be issued before beginning construction. Acceptance of this application does not guarantee a permit will be issued.
- If I get a permit, I must not waste water.
- If development of the water use is not according to the terms of the permit, the permit can be cancelled.
- The water use must be compatible with local comprehensive land use plans.
- Even if the Department issues a permit, I may have to stop using water to allow senior water right holders to get water to which they are entitled.

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I (we) affirm that the information contained in this application is true and accurate.

	Ted Sester	9/16/2022
Applicant Signature	Print Name and Title if applicable	Date
Applicant Signature	Print Name and Title if applicable	Date

SECTION 2: SOURCE OF WATER AND LOCATION OF RESERVOIR

Reservoir name:	Hwy 212 Recovery Pond				
Source*:	Runoff	Tributary:	Unnamed Tributary of Noyer Creek		
	Recovered Irrigation Water	Tributary:	Deep Creek		
County:	Clackamas				
Quantity:	50 Acre-Feet [length x width x depth / 43,560] (surface area ~ 1.42 acre)				
Reservoir Location:	Township (N or S)	Range (E or W)	Section	Quarter-Quarter	Tax Lot #
	2S	3E	10	NENE	00300, 00200, 00100
Maximum Height of Dam Berm:	2 feet. If excavated write "zero feet."				

Notes:

¹ In addition to runoff, recovered irrigation water from the property's existing irrigation system will be stored in the proposed reservoir during the authorized storage season.

* Provide the name of the water body or other source from which water will be diverted, and the name of the stream or lake it flows into. Indicate if source is run-off, seepage, an unnamed stream, or spring.

SECTION 3: WATER USE

Indicate the proposed use(s) of the stored water: Multipurpose Use

NOTE: You may wish to consider filing for "re" for your reservoir. Multipurpose use does not limit the types of future uses for the stored water. Multipurpose covers all uses including: stock water, fish and wildlife, aesthetics, domestic, irrigation, agriculture, fire protection and pollution abatement.

SECTION 4: PROPERTY OWNERSHIP

Do you own all the land where you propose to divert, transport, and use water?

- Yes (please check appropriate box below then skip to section 5)
 - There are no encumbrances
 - This land is encumbered by easements, right of way, roads of way, roads or other encumbrances
- No (Please check the appropriate box below)
 - I have a recorded easement or written authorization permitting access.
 - I do not currently have written authorization or easement permitting access.
 - Written authorization or an easement is not necessary, because the only affected lands I do not own are state-owned submersible lands, and this application is for irrigated and/or domestic use only (ORS 274.040). (Do not check this box if you described your use as "Multipurpose" in #3 above.)

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List the names and mailing addresses of all affected landowners:

NA

SECTION 5: ENVIRONMENTAL IMPACT

Channel: Is the Reservoir: in-stream or off channel?

Wetland: Is the project in a wetland? YES NO unknown

Existing: Is this an existing reservoir? YES NO **A smaller existing recovery pond is located in the proposed reservoir's footprint.**

Fish Habitat: Is there a fish habitat upstream of the proposed structure? YES NO unknown

Existing: Have you been working with other agencies? YES NO

Indicate agency, staff and phone numbers of those involved. Also indicate any agencies that are cost sharing in this project.

SECTION 6: WITHIN A DISTRICT

Check here if the point of diversion or place of use are located within or served by an irrigation or other water district.

Irrigation District Name:		Address:	
City:	State:	Zip:	

SECTION 7: DESCRIPTION

Provide a short description of the design and operation of the proposed diversion, including a description of how live flow will be passed outside the authorized storage season. Use this space for narrative. You may also provide narrative and sketches on separate pages.

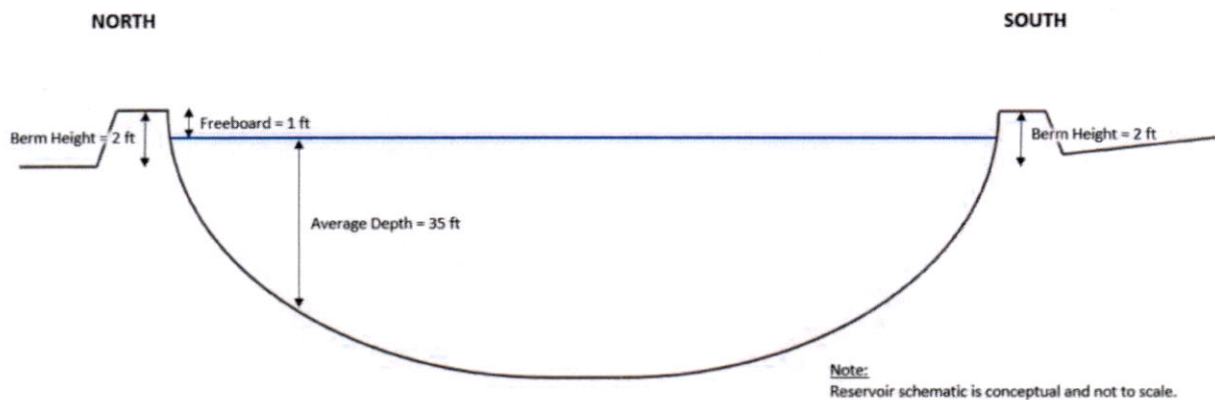
The proposed reservoir is off-channel and will be filled with a combination of runoff and recycled water from the property's water system during the authorized storage season. The water stored in the reservoir (during the storage season) will be carried over for use during the subsequent irrigation season. (Note: During the irrigation season, the reservoir also will be used as a bulge within the irrigation system.) There will be two 12-inch diameter outlet pipes for the reservoir, which will drain to an existing culvert that drains to an unnamed intermittent tributary of Noyer Creek. The application map illustrates the location of the proposed reservoir, the outlet pipe, and the unnamed intermittent tributary of Noyer Creek. The unnamed tributary of Noyer Creek passes through a closed pipe culvert to the north of the proposed reservoir (see solid blue line on application map).

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If the diversion involves a dam, use this space below for sketches of the diversion (e.g. cross-section of the dam with its dimensions, dimension and placement of outlet pipe, means of passing live flow outside of the authorized storage season, and means for providing fish passage).

The proposed reservoir is off-channel, therefore there will be no live flow passing through the reservoir to bypass. The anticipated design of the reservoir includes:

- Earthen berms constructed around all sides of the reservoir.
- The berms will be a maximum height of 2 feet along the reservoir's perimeter.
- The interior of the reservoir will be excavated to provide an average depth of 35 feet.
- There will be 1 foot of freeboard along the berms when the reservoir is full.
- There are two 12-inch diameter outlet pipes for the reservoir (see application map).



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Attachment 1
Map

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Attachment 2
Water Master Review

Watermaster Alternate Reservoir Application Review Sheet

In lieu of the water right application process set forth in ORS 537.140 to 537.211, an owner of a reservoir may submit an alternate reservoir application for a reservoir that has a storage capacity less than 9.2 acre-feet or a dam or impoundment structure less than 10 feet in height. ORS 537.409 describes the criteria used to evaluate alternate reservoir applications.

The review shall be limited to issues pertaining to: a) water availability, b) potential detrimental impact to existing fishery resources; and c) potential injury to existing water rights. (ORS 537.409 (6))

Within 60 days after the Water Resources Department provides public notice, any person may submit detailed, legally obtained information in writing, requesting the Department to deny the application for a permit on the basis that the reservoir: (a) Would result in injury to an existing water right; or (b) Would pose a significant detrimental impact to existing fishery resources. (ORS 537.409 (5))

Applicant's Name		
1. Does the proposed reservoir have the potential to injure existing water rights? <input checked="" type="checkbox"/> YES <input type="checkbox"/> NO Explain: Water is not available year-round for the proposed use		
2. Can conditions be applied to mitigate the potential injury to existing water rights? <input checked="" type="checkbox"/> YES <input type="checkbox"/> NO Explain: Limit storage season to November 1-June 30 annually		
3. Is water available for the proposed reservoir? <input checked="" type="checkbox"/> YES <input type="checkbox"/> NO		
4. If yes, during what period? Beginning: Nov 1 End: June 30 Attach a WARS printout at 50% exceedance. If WARS does not cover the proposed location, make a recommendation for a storage season based upon regulation history and your knowledge of the location. (Water Availability for Reservoir Policy found under OAR 690-410-0070(2)(c))		
5. Did you meet with staff from another agency to discuss this application? <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO		
Who:	Agency:	Date:
Who:	Agency:	Date:

Watermaster Name: Amy Landvoigt

Watermaster Signature: *Amy J Landvoigt* Date: 8/1/2022

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NOTE: This completed form must be returned to the applicant

DETAILED REPORT ON THE WATER AVAILABILITY CALCULATION

Watershed ID #: 89
Time: 2:01 PM

DEEP CR > CLACKAMAS R - AT MOUTH
Basin: WILLAMETTE

Exceedance Level: 50
Date: 08/01/2022

Month	Natural Stream Flow	Consumptive Use and Storage	Expected Stream Flow	Reserved Stream Flow	Instream Requirements	Net Water Available
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Monthly values are in cfs.
Storage is the annual amount at 50% exceedance in ac-ft.

JAN	246.00	3.60	242.00	0.00	35.00	207.00
FEB	206.00	3.12	203.00	0.00	35.00	168.00
MAR	148.00	1.50	146.00	0.00	35.00	111.00
APR	144.00	1.63	142.00	0.00	35.00	107.00
MAY	96.50	3.61	92.90	0.00	35.00	57.90
JUN	47.30	4.50	42.80	0.00	20.00	22.80
JUL	16.10	7.99	8.11	0.00	20.00	-11.90
AUG	7.42	6.46	0.97	0.00	10.00	-9.04
SEP	6.58	2.48	4.10	0.00	10.00	-5.90
OCT	8.70	0.70	8.00	0.00	10.00	-2.00
NOV	77.70	1.00	76.70	0.00	35.00	41.70
DEC	273.00	3.89	269.00	0.00	35.00	234.00
ANN	76,900	2,450	74,400	0	19,000	57,200

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Attachment 3
ODFW Review

ODFW Alternate Reservoir Application Review Sheet

This portion to be completed by the applicant.

Applicant Name: T&K Sester Family, LLC Attn: Ted Sester

Address: 24200 SE Hwy 212, Damascus, OR 97089

Phone/Email: 503-351-8954/ted@sesterfarms.com

Reservoir Name: Recovery Pond

Source: Run-off and recovered irrigation water

Basin Name: Noyer Ck<Deep Ck<Clackamas R

Twp Rng Sec QQ: 2S 3E 10

Volume (AF): 50 AF

in-channel

off-channel

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Note: It is unlikely that ODFW will be able to complete this form while you wait, nevertheless we recommend making an appointment to submit the form so as to provide any necessary clarifications. See pg. 6 of Instructions for contact information.

This portion to be completed by Oregon Department of Fish and Wildlife (ODFW) staff.

1) Is the proposed project and AO¹ off channel?..... YES* NO
(if yes then proceed to #4; if no then proceed to #2)

**Based on available information, the proposed use does not appear to involve instream structures that would create or maintain an artificial obstruction. However, if the applicant creates or maintains an artificial obstruction to fish passage for the proposed use, the applicant will need to address Oregon's fish passage laws.*

2) Is the proposed project or AO located where NMF² are or were historically present?..... YES NO
(if yes then proceed to #3; if no then proceed to #4)

3) If NMF are or were historically present:

a. Is there an ODFW-approved fish-passage plan?..... YES NO

b. Is there an ODFW-approved fish-passage waiver or exemption?..... YES NO

If fish passage is required under ORS 509.580 through .910, then either 3(a) or 3(b) must be "Yes" to move forward with the application. If responses to 3(a) and 3(b) are "No", then the proposed reservoir does not meet the requirements of Oregon Fish Passage Law and shall not be constructed as proposed.

4) Would the proposed project pose any other significant detrimental impact to an existing fishery resource locally or downstream?..... YES NO

Explain below (for example, list STE species or other existing fishery resources that would be impacted negatively.)

Any diversion or appropriation of water for storage during the period July 1-November 30 poses a significant detrimental impact to existing fishery resources. (For example, if diversion of water for storage during a certain time period would cause a significant detrimental impact to an existing fishery resource, then ODFW should recommend conditions or limitations.)

¹ AO = Artificial Obstruction means any dam, diversion, culvert or other human-made device placed in waters of this state that precludes or prevents the migration of native migratory fish. ORS 509.580 (1)

² NMF = Native Migratory Fish Species in Oregon as defined by OAR 635 - 412 - 0005 (32)

If NMF fish are present at the project site or point of water diversion then the applicant should be advised that a fish screen consistent with screening criteria will be required.

- This proposed pond or reservoir contemplates impounding water in the Columbia Basin above Bonneville Dam. ODFW has determined that additional diversions of water in this area pose a significant detrimental impact to existing fishery resources during the period April 15 through September 30.

ESA-listed fish (winter steelhead, spring and fall Chinook Salmon, and Coho Salmon), sensitive species (Coastal Cutthroat Trout and Pacific Lamprey), and other game fish (summer steelhead) may be present in Noyer Creek, Deep Creek, and/or the Clackamas River during the period of impact. ODFW has identified biologically necessary flows not captured in an instream water right (e.g., flows in a Basin Investigation Report, Persistence Flow Determination, Seasonally Varying Flow prescription, or other flow analysis) that would benefit fishery resources at the Point of Diversion or downstream.

In addition to existing instream water rights and pending instream water right applications, ODFW recommends the following biologically necessary flows be available in the Clackamas River at the mouth to protect public uses:

JAN	800 cfs	APR	800 cfs	JUL	650 cfs	OCT	800 cfs
FEB	800 cfs	MAY	800 cfs	AUG	650 cfs	NOV	800 cfs
MAR	800 cfs	JUN	650 cfs	SEP	751 cfs	DEC	800 cfs

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Based on parameters assessed by ODFW, instream flows are currently below those essential to support the biological needs of an existing fishery resource during July 1-November 30. In addition, ODFW reviewed available information (Clackamas subbasin TMDL; DEQ Methodology) regarding water quality impairment and determined that the proposed use would impair water quality that supports existing fishery resources (e.g., habitat) at or downstream of the Point of Diversion. Noyer Creek is in the Clackamas River subbasin and subject to the Clackamas subbasin TMDL. The critical period associated with stream temperature TMDL criteria is the summer period from July 1-September 30 when instream peak temperatures are expected to be near annual maximums. High stream temperatures can be directly lethal to aquatic life but may also have sublethal effects on growth and development during different life stages, as well as the swimming, feeding and reproductive ability of juveniles and adults.

Because of these reasons, the proposed use will diminish water quality, physical habitat, and/or alter the flow regime to which fish are naturally adapted. These changes will negatively affect their distribution, productivity, and abundance. Therefore, a further reduction in flow or alteration of habitat from the proposed use would result in a significant detrimental impact to an existing fishery resource without appropriate conditions and/or mitigation.

Impairment to Fishery Resource	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec
Water Quantity												
Water Quality												

If YES, can conditions be applied to mitigate the significant detrimental impact to an existing fishery resource?

- NO (explain)
- YES

See applicable conditions selected from "Menu of Conditions" on next page

Water is only available to support the quality and quantity of biologically necessary flows at the POD and/or downstream during December 1-June 30. ODFW recommends the storage season be restricted to coincide with this period or the proposed use be mitigated prior to issuance of a Proposed Final Order for any storage outside of this period. Without appropriate mitigation and/or conditions (see below), a further reduction in flow or alteration of habitat from the proposed water use outside of this period will result in a significant detrimental impact to an existing fishery resource.

Mitigation is often complicated, time consuming, and expensive, and may include, but is not limited to, actions such as replacing the proposed amount of water through purchasing or transferring an existing water right. **If the applicant chooses to pursue mitigation after application submittal to WRD, ODFW will provide a Mitigation Obligation consistent with the goals and standards of OAR 635-415-0025 (ODFW Habitat Mitigation Recommendations) to compensate for any potential impact from the proposed use.** Upon request, the WRD caseworker can schedule a consultation with ODFW for more information. Any pump used to fill the reservoir must be equipped with an ODFW approved fish screen. Please contact Hilary Doulos (541-296-8026) in the Dalles ODFW Screen Shop for additional information.

ODFW Signature: _____ 

Print Name: Jason Brandt

ODFW Title: SW Hydro Coordinator

Date: 9/14/22

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MENU OF CONDITIONS FOR WRD, ODFW, DEQ AND ODA

Revised May 12, 2020, March 25, 2021

Use this menu to identify appropriate conditions to be included in the permit:

- 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, including through irrigation practices and the management of any livestock, 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.
- b52** Water may be diverted only when Department of Environmental Quality sediment standards are being met.
- b5** The water user shall install and maintain adequate treatment facilities meeting current DEQ requirements to remove sediment before returning the water to the stream.
- b51a** The period of use has been limited to December 1-June 30.
- b57** Before water use may begin under this permit, a totalizing flow meter must be installed at each diversion point.
- b58** Before water use may begin under this permit, a staff gage that measures the entire range and stage between full reservoir level and dead-pool storage must be installed in the reservoir. The staff gage shall be United States Geological Survey style porcelain enamel iron staff gage style A, C, E or I.
- blv:** Water must be diverted to a trough or tank through an enclosed water delivery system. The delivery system must be equipped with an automatic shutoff or limiting flow control mechanism or include a means for returning water to the stream source through an enclosed delivery system. The use of water shall not exceed 0.10 cubic feet per second per 1000 head of livestock.
- Bypass Flows:** Per 690-410-0070 (2)(c), the following flows shall be bypassed or passed through the reservoir during the filling season:
- 1) When the biologically necessary flows identified below are not available immediately upstream of the impacted area, the permittee shall pass all live flow downstream at a rate equal to the inflow, minus the amount of mitigation water provided upstream, if applicable, and
 - 2) When the biologically necessary flows identified below are available immediately upstream of the impacted area, the permittee shall pass flow downstream at a rate equal to or greater than the biologically necessary flows.
- Once the reservoir has reached the permitted volume, all live flow shall be passed downstream at a rate equal to the inflow.
- The permittee shall quantify and document inflow and outflow and maintain the bypass flows for the life of the permit and subsequent certificate per the approved Bypass Plan. The bypass flow data shall be available upon request by the Oregon Water Resources Department, Oregon Department of Fish and Wildlife, Oregon Department of Environmental Quality, or Oregon Department of Agriculture.
- Construction Activities:** For construction activities (clearing, grading, excavation, staging, and stockpiling) that will disturb one or more acres and may discharge to state waters, the permittee is required to obtain from DEQ a 1200-C NPDES Stormwater Construction Permit prior to project construction.
- fence:** The stream and its adjacent riparian area shall be fenced to exclude livestock.
- fishapprove:** 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.
- fishdiv33:** 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.
- 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 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.
- fishmay:** Notwithstanding that 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 by-pass devices to prevent fish from entering the proposed diversion and to provide adequate upstream and downstream passage for fish.

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- fishpass:** As required by ORS 509.585, a person owning or operating an artificial obstruction (AO) may not construct or maintain any AO across any waters of this state that are inhabited, or historically inhabited, by native migratory fish (NMF) without providing passage for NMF. A person owning or operating an AO shall, prior to construction, fundamental change in permit status or abandonment of the AO in any waters of this state, obtain a determination from ODFW as to whether NMF are or historically have been present in the waters. If ODFW determines that NMF are or historically have been present in the waters, the person owning or operating the AO shall either submit a proposal for fish passage to ODFW or apply for a waiver or exemption. Approval of the proposed fish-passage facility, waiver, or exemption must be obtained from the department prior to construction, permit modification or abandonment of the AO. Approved fish-passage plans, waivers, and exemptions shall maintain adequate passage of NMF at all times (ORS 509.601) as per the approved plan, waiver or exemption.
- fishself:** 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 prior to diversion of any water. Permittee shall obtain written approval from ODFW that the installation of the required screen and by-pass devices meets the state's criteria or the permittee shall submit documentation that ODFW has determined screens and/or by-pass devices are not necessary.
- Fish Stocking:** Per ORS 498.222 and OAR 635-007-0600, all persons transporting fish in Oregon need to 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 approved by ODFW. As part of the permitting process, the permittee must also screen the inlet and outlet of their pond to insure that fish cannot escape into public waters and/or to keep wild fish from entering the pond.
- futile call:** The use of water allowed herein may be made only at times when waters from the (NAME OF SURFACE WATER) would not otherwise flow into a tributary of the type here River or sufficient water is available to satisfy all prior rights, including rights for maintaining instream flows.
- In-Water or Riparian Construction:** For in-water or riparian construction, permittee may be required to obtain additional permits from the Oregon Department of State Lands, the U.S. Army Corps of Engineers, and the DEQ Section 401 certification program prior to construction. The applicant must contact these agencies to confirm requirements.
- 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-August 31 unless an alternate time period is approved by the Oregon Department of Fish and Wildlife.
- Live Flow:** Once the allocated volume has been stored, permittee shall pass all live flow downstream at a rate equal to inflow, using methods that protect instream water quality.
- 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.
- On-Channel Reservoir:** The permittee shall design and operate the water storage facility such that all waters within and below the reservoir meet water quality criteria. The permittee shall develop a reservoir operations plan that details how water quality criteria and standards will be met. A Certified Water Rights Examiner shall verify that the reservoir operations are consistent with the plan before a certificate is issued. The reservoir operator shall maintain a copy of the plan and make it available for review upon request.
- riparian:** 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.
- Water Quality:** 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.
- wetland:** The permittee must submit an offsite determination request to the Oregon Department of State Lands (DSL) to determine the need for a wetland delineation prior to disturbance or development of the point of diversion and/or diversion of water.
- wq:** 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.

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Attachment 4
Land Use Information Form

Land Use Information Form



Oregon Water Resources Department
725 Summer Street NE, Suite A
Salem, Oregon 97301-1266
(503) 986-0900
www.oregon.gov/OWRD

NOTE TO APPLICANTS

In order for your application to be processed by the Water Resources Department (WRD), this Land Use Information Form must be completed by a local government planning official in the jurisdiction(s) where your water right will be used and developed. The planning official may choose to complete the form while you wait, or return the receipt stub to you. Applications received by WRD without the Land Use Form or the receipt stub will be returned to you. Please be aware that your application will not be approved without land use approval.

This form is NOT required if:

- 1) Water is to be diverted, conveyed, and/or used only on federal lands; **OR**
- 2) The application is for a water right transfer, allocation of conserved water, exchange, permit amendment, or ground water registration modification, and all of the following apply:
 - a) The existing and proposed water use is located entirely within lands zoned for exclusive farm-use or within an irrigation district;
 - b) The application involves a change in place of use only;
 - c) The change does not involve the placement or modification of structures, including but not limited to water diversion, impoundment, distribution facilities, water wells and well houses; and
 - d) The application involves irrigation water uses only.

NOTE TO LOCAL GOVERNMENTS

The person presenting the attached Land Use Information Form is applying for or modifying a water right. The Water Resources Department (WRD) requires its applicants to obtain land-use information to be sure the water rights do not result in land uses that are incompatible with your comprehensive plan. Please complete the form or detach the receipt stub and return it to the applicant for inclusion in their water right application. You will receive notice once the applicant formally submits his or her request to the WRD. The notice will give more information about WRD's water rights process and provide additional comment opportunities. You will have 30 days from the date of the notice to complete the land-use form and return it to the WRD. If no land-use information is received from you within that 30-day period, the WRD may presume the land use associated with the proposed water right is compatible with your comprehensive plan. Your attention to this request for information is greatly appreciated by the Water Resources Department. If you have any questions concerning this form, please contact the WRD's Customer Service Group at 503-986-0900.

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Land Use Information Form



Oregon Water Resources Department
725 Summer Street NE, Suite A
Salem, Oregon 97301-1266503-986-0900
www.oregon.gov/OWRD

NAME T&K SESTER FAMILY, LLC ATTN: TED SESTER			PHONE (HM) -	
PHONE (WK) 503-351-8954		CELL -	FAX -	
ADDRESS 24200 SE HIGHWAY 212				
CITY DAMASCUS	STATE OR	ZIP 97089	E-MAIL* TED@SESTERFARMS.COM	

A. Land and Location

Please include the following information for all tax lots where water will be diverted (taken from its source), conveyed (transported), and/or used or developed. Applicants for municipal use, or irrigation uses within irrigation districts may substitute existing and proposed service-area boundaries for the tax-lot information requested below.

Township	Range	Section	¼ ¼	Tax Lot #	Plan Designation (e.g., Rural Residential/RR-5)	Water to be:		Proposed Land Use:	
2S	3E	10	NENE	00300, 00200, 00100	EFU	<input checked="" type="checkbox"/> Diverted	<input type="checkbox"/> Conveyed	<input checked="" type="checkbox"/> Used	Storage

List all counties and cities where water is proposed to be diverted, conveyed, and/or used or developed:

Clackamas County

B. Description of Proposed Use

Type of application to be filed with the Water Resources Department:

- Permit to Use or Store Water
 Water Right Transfer
 Permit Amendment or Ground Water Registration Modification
 Limited Water Use License
 Allocation of Conserved Water
 Exchange of Water

Source of water: Reservoir/Pond Ground Water Surface Water (name) _____

Estimated quantity of water needed: **50** cubic feet per second gallons per minute acre-feet

Intended use of water: Irrigation Commercial Industrial Domestic for _____ household(s)
 Municipal Quasi-Municipal Instream Other **Storage for multipurpose use**

Briefly describe:

The applicant is proposing to store runoff and recycled irrigation water in an off-channel reservoir for multipurpose use Associated with the applicant's existing nursery operations at the property



Note to applicant: If the Land Use Information Form cannot be completed while you wait, please have a local government representative sign the receipt at the bottom of the next page and include it with the application filed with the Water Resources Department.

For Local Government Use Only

The following section must be completed by a planning official from each county and city listed unless the project will be located entirely within the city limits. In that case, only the city planning agency must complete this form. This deals only with the local land-use plan. Do not include approval for activities such as building or grading permits.

Please check the appropriate box below and provide the requested information

- Land uses to be served by the proposed water uses (including proposed construction) are allowed outright or are not regulated by your comprehensive plan. Cite applicable ordinance section(s):
- Land uses to be served by the proposed water uses (including proposed construction) involve discretionary land-use approvals as listed in the table below. (Please attach documentation of applicable land-use approvals which have already been obtained. Record of Action/land-use decision and accompanying findings are sufficient.) **If approvals have been obtained but all appeal periods have not ended, check "Being pursued."**

Type of Land-Use Approval Needed (e.g., plan amendments, rezones, conditional-use permits, etc.)	Cite Most Significant, Applicable Plan Policies & Ordinance Section References	Land-Use Approval:	
		<input type="checkbox"/> Obtained <input type="checkbox"/> Denied	<input type="checkbox"/> Being Pursued <input type="checkbox"/> Not Being Pursued
		<input type="checkbox"/> Obtained <input type="checkbox"/> Denied	<input type="checkbox"/> Being Pursued <input type="checkbox"/> Not Being Pursued
		<input type="checkbox"/> Obtained <input type="checkbox"/> Denied	<input type="checkbox"/> Being Pursued <input type="checkbox"/> Not Being Pursued
		<input type="checkbox"/> Obtained <input type="checkbox"/> Denied	<input type="checkbox"/> Being Pursued <input type="checkbox"/> Not Being Pursued
		<input type="checkbox"/> Obtained <input type="checkbox"/> Denied	<input type="checkbox"/> Being Pursued <input type="checkbox"/> Not Being Pursued

Local governments are invited to express special land-use concerns or make recommendations to the Water Resources Department regarding this proposed use of water below, or on a separate sheet.

Allowed outright under Ordinance Section 401, Exclusive Farm Use (EFU) Zone.

Name: Steve Hanschka Title: Sr. Planner

Signature:  Phone: (503) 742-4512 Date: Sept. 15, 2022

Government Entity: Clackamas County

Note to local government representative: Please complete this form or sign the receipt below and return it to the applicant. If you sign the receipt, you will have 30 days from the Water Resources Department's notice date to return the completed Land Use Information Form or WRD may presume the land use associated with the proposed use of water is compatible with local comprehensive plans.

Receipt for Request for Land Use Information

Applicant name: _____

City or County: _____ Staff contact: _____

Signature: _____ Phone: _____ Date: _____

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Attachment 5
Legal Description

NOTE: Taxes for the year 2020-2021, paid in full.
Tax Amount: \$1.15
Code No.: 026-013
Map & Tax Lot No. 23E11 01800
Property ID/Key No. 00623917

(Affects Parcel V)

NOTE: Taxes for the year 2019-2020, paid in full.
Tax Amount: \$1,710.17
Code No.: 026-013
Map & Tax Lot No. 23E11 01700
Property ID/Key No. 00623908

(Affects Parcel VI)

NOTE: Taxes for the year 2020-2021, paid in full.
Tax Amount: \$1,157.76
Code No.: 026-008
Map & Tax Lot No. 23E10 02600W1
Property ID/Key No. 00621125

(Affects Parcels VII and VIII)

NOTE: Taxes for the year 2020-2021, paid in full.
Tax Amount: \$977.77
Code No.: 026-009
Map & Tax Lot No. 23E10 00100
Property ID/Key No. 00620812

(Affects Parcel IX)

NOTE: Taxes for the year 2020-2021, paid in full.
Tax Amount: \$163.56
Code No.: 026-009
Map & Tax Lot No. 23E10 00100W1
Property ID/Key No. 00620821

(Affects Parcel IX)

NOTE: Taxes for the year 2020-2021, paid in full.
Tax Amount: \$1,682.77
Code No.: 026-009
Map & Tax Lot No. 23E10 00200
Property ID/Key No. 00620830

(Affects Parcel X)

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NOTE: Taxes for the year 2020-2021, paid in full.
Tax Amount: \$11,621.08
Code No.: 026-009
Map & Tax Lot No. 23E10 00300
Property ID/Key No. 00620849

(Affects Parcel XI)

NOTE: Taxes for the year 2020-2021, paid in full.
Tax Amount: \$867.56
Code No.: 026-009
Map & Tax Lot No. 23E10 00300W1
Property ID/Key No. 00620858

(Affects Parcel XI)

NOTE: Taxes for the year 2020-2021, paid in full.
Tax Amount: \$712.41
Code No.: 026-009
Map & Tax Lot No. 23E10 00100
Property ID/Key No. 01204805

(Affects Parcel IX - Mobile Home)

NOTE: Taxes for the year 2020-2021, paid in full.
Tax Amount: \$103.26
Code No.: 026-009
Map & Tax Lot No. 23E10 00200
Property ID/Key No. 01142052

(Affects Parcel X - Mobile Home)

NOTE: Taxes for the year 2020-2021, paid in full.
Tax Amount: \$74.69
Code No.: 026-009
Map & Tax Lot No. 23E10 00200
Property ID/Key No. 01142613

(Affects Parcel X - Mobile Home)

The exceptions to coverage 1-5 inclusive as set forth above will remain on any subsequently issued Standard Coverage Title Insurance Policy.

In order to remove these exceptions to coverage in the issuance of an Extended Coverage Policy the following items are required to be furnished to the Company; additional exceptions to coverage may be added upon review of such information:

- A. Survey or alternative acceptable to the Company
- B. Affidavit regarding possession

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WHICH ARE PARALLEL WITH AND 60 FEET SOUTHERLY AND 90 FEET SOUTHERLY OF SAID CENTER LINE, WHICH CENTER LINE IS DESCRIBED AS FOLLOWS:

BEGINNING AT ENGINEER'S CENTER LINE STATION 244+00, SAID STATION BEING 1.29 FEET SOUTH AND 1383.18 FEET WEST OF THE SOUTHEAST CORNER OF SECTION 3, TOWNSHIP 2 SOUTH, RANGE 3 EAST, WILLAMETTE MERIDIAN;
THENCE SOUTH 89°13'30" EAST 1383 FEET;
THENCE SOUTH 89°06' EAST 2217 FEET TO ENGINEER'S CENTER LINE STATION 280+00.

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PARCEL VII:

A PART OF SECTION 10, TOWNSHIP 2 SOUTH, RANGE 3 EAST OF THE WILLAMETTE MERIDIAN, IN THE COUNTY OF CLACKAMAS AND STATE OF OREGON, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING 100 RODS NORTH AND 80 RODS WEST OF THE SOUTHEAST CORNER OF SAID SECTION 10;
THENCE NORTH 60 RODS TO THE LINE BETWEEN THE SOUTHEAST ONE-QUARTER AND THE NORTHEAST ONE-QUARTER OF SAID SECTION 10;
THENCE WEST 80 RODS TO THE NORTHWEST CORNER OF THE SOUTHEAST ONE-QUARTER OF SAID SECTION 10;
THENCE SOUTH 60 RODS;
THENCE EAST 80 RODS TO THE PLACE OF BEGINNING.

SAVE AND EXCEPT THAT PORTION SOLD TO DAMASCUS UNION SCHOOL DISTRICT NO. 26 DATED SEPTEMBER 25, 1973, RECORDED IN CLACKAMAS COUNTY DEED RECORDS UNDER FEE NO. 73030731.

ALSO SAVE AND EXCEPT THE FOLLOWING DESCRIBED PROPERTY:

A TRACT OF LAND SITUATED IN THE SOUTHEAST ONE-QUARTER OF SECTION 10, TOWNSHIP 2 SOUTH, RANGE 3 EAST OF THE WILLAMETTE MERIDIAN IN THE COUNTY OF CLACKAMAS AND STATE OF OREGON, DESCRIBED AS:

COMMENCING AT THE CENTER OF SAID SECTION 10;
THENCE NORTH 89°12'40" EAST ALONG THE NORTH LINE OF SAID LEGAL SUBDIVISION, A DISTANCE OF 30.00 FEET;
THENCE SOUTH 0°12'40" WEST 553.29 FEET ALONG THE EAST LINE OF SOUTHEAST 232ND DRIVE, TO THE POINT OF BEGINNING OF THE TRACT OF LAND HEREIN DESCRIBED;
THENCE NORTH 89°12'40" EAST ALONG SAID SCHOOL PROPERTY 546.00 FEET;
THENCE SOUTH 0°56'40" WEST 240.00 FEET;
THENCE SOUTH 89°12'40" WEST PARALLEL WITH THE NORTH LINE OF SAID PARCEL, 546.00 FEET;
THENCE NORTH 0°56'40" EAST ALONG THE EAST LINE OF SOUTHEAST 232ND DRIVE, 240.00 FEET TO THE POINT OF BEGINNING.

PARCEL VIII:

BEGINNING AT A POINT ON THE EAST LINE OF SECTION 10, TOWNSHIP 2 SOUTH, RANGE 3 EAST OF THE WILLAMETTE MERIDIAN, IN THE COUNTY OF CLACKAMAS AND STATE OF OREGON, SAID POINT OF BEGINNING BEING 40 RODS (660 FEET)+- NORTH OF THE SOUTHEAST CORNER OF SAID SECTION 10;
THENCE, TRACING SAID SECTION LINE, NORTH 60 RODS (990 FEET)+-;
THENCE WEST 160 RODS (2640 FEET)+- TO THE WEST LINE OF THE SOUTHEAST ONE-QUARTER OF SAID SECTION 10;
THENCE, TRACING SAID ONE-QUARTER SECTION LINE, SOUTH 60 RODS (990 FEET)+-;
THENCE EAST 160 RODS (2640 FEET)+- TO THE PLACE OF BEGINNING.

EXCEPTING THEREFROM THAT PORTION LYING WITHIN THE BOUNDARIES OF PUBLIC ROADS.

PARCEL IX:

THE EAST ONE-HALF OF THE EAST ONE-HALF OF THE NORTHEAST ONE-QUARTER OF THE NORTHEAST ONE-QUARTER

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OF SECTION 10, TOWNSHIP 2 SOUTH, RANGE 3 EAST OF THE WILLAMETTE MERIDIAN, CLACKAMAS COUNTY, OREGON.

EXCEPTING THEREFROM THAT PART SOLD TO WILLIAM G. HART, ET UX, IN DEED BOOK 671, PAGE 778, DESCRIBED AS FOLLOWS:

BEGINNING AT THE NORTHWEST CORNER OF A PARCEL OF LAND DEEDED TO WILLIAM HOLLAND LENNON AND GERTRUDE LENNON BY DEED BOOK 588, PAGE 364, CLACKAMAS COUNTY DEED RECORDS, WHICH NORTHWEST CORNER IS IN THE CENTER OF THE COUNTY ROAD; THENCE SOUTHERLY ALONG THE WEST LINE OF THE SAID LENNON TRACT TO ITS INTERSECTION WITH THE SOUTHERLY LINE OF THE COUNTY ROAD AND THE TRUE POINT OF BEGINNING OF THE TRACT HEREIN TO BE DESCRIBED; THENCE CONTINUING SOUTH ALONG THE WEST LINE OF SAID LENNON TRACT 400 FEET TO A POINT; THENCE EASTERLY PARALLEL WITH THE SOUTHERLY LINE OF THE COUNTY ROAD 125 FEET TO A POINT; THENCE NORTHERLY PARALLEL WITH THE WESTERLY LINE OF SAID LENNON TRACT 400 FEET TO A POINT ON THE SOUTHERLY LINE OF THE COUNTY ROAD; THENCE WESTERLY TRACING THE SOUTHERLY LINE OF THE COUNTY ROAD 125 FEET TO THE TRUE POINT OF BEGINNING.

ALSO EXCEPTING THEREFROM THAT PORTION DEEDED TO CLACKAMAS COUNTY BY INSTRUMENT RECORDED SEPTEMBER 20, 1972 AS RECORDING NO. 72028460.

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PARCEL X:

A TRACT OF LAND SITUATED IN THE EAST ONE-HALF OF THE EAST ONE-HALF OF THE NORTHEAST ONE-QUARTER OF THE NORTHEAST ONE-QUARTER OF SECTION 10, TOWNSHIP 2 SOUTH, RANGE 3 EAST OF THE WILLAMETTE MERIDIAN, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE NORTHWEST CORNER OF A PARCEL OF LAND DEEDED TO WILLIAM HOLLAND LENNON AND GERTRUDE LENNON BY DEED BOOK 588, PAGE 364, CLACKAMAS COUNTY DEED RECORDS, WHICH NORTHWEST CORNER IS IN THE CENTER OF THE COUNTRY ROAD; THENCE SOUTHERLY ALONG THE WEST LINE OF THE SAID LENNON TRACT TO ITS INTERSECTION WITH THE SOUTHERLY LINE OF THE COUNTY ROAD AS IT EXISTED AS OF OCTOBER 19, 1972 AND THE TRUE POINT OF BEGINNING OF THE TRACT HEREIN TO BE DESCRIBED; THENCE CONTINUING SOUTH ALONG THE WEST LINE OF SAID LENNON TRACT, 400 FEET TO A POINT; THENCE EASTERLY PARALLEL WITH THE SOUTHERLY LINE OF THE COUNTY ROAD, 125 FEET TO A POINT; THENCE NORTHERLY PARALLEL WITH THE WESTERLY LINE OF SAID LENNON TRACT, 400 FEET TO A POINT ON THE SOUTHERLY LINE OF THE COUNTY ROAD AS IT EXISTED AS OF OCTOBER 19, 1972; THENCE WESTERLY TRACING THE SOUTHERLY LINE OF THE COUNTRY ROAD, 125 FEET TO THE TRUE POINT OF BEGINNING.

EXCEPTING THEREFROM THAT PORTION CONVEYED TO CLACKAMAS COUNTY BY DEED RECORDED NOVEMBER 1, 1972 AS RECORDING NO. 72033334.

PARCEL XI:

THE WEST ONE-HALF OF THE EAST ONE-HALF OF THE NORTHEAST ONE-QUARTER OF THE NORTHEAST ONE-QUARTER OF SECTION 10, TOWNSHIP 2 SOUTH, RANGE 3 EAST OF THE WILLAMETTE MERIDIAN, CLACKAMAS COUNTY, OREGON.

EXCEPTING THEREFROM THAT PORTION OF THE ABOVE DESCRIBED PROPERTY DEEDED TO CLACKAMAS COUNTY IN DEED RECORDED NOVEMBER 1, 1972 AS RECORDING NO. 72033333, CLACKAMAS COUNTY RECORDS, STATE OF OREGON.

ALSO:

THE SOUTHEAST ONE-QUARTER OF THE NORTHEAST ONE-QUARTER OF SECTION 10, TOWNSHIP 2 SOUTH, RANGE 3 EAST OF THE WILLAMETTE MERIDIAN, CLACKAMAS COUNTY, OREGON.

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September 19, 2022

Oregon Water Resources Department
725 Summer Street NE, Suite A
Salem, Oregon 97301-1271

Subject: Application for a Permanent to Store Water in a Reservoir (Alternate Review)
Recovery Pond
T&K Sester Family LLC

Dear Application Caseworker,

On behalf of the applicant, T&K Sester Family, LLC, please find enclosed an Application for a Permit to Store Water in a Reservoir (Alternate Review) accompanied by the required fee of \$3,140 (a fee tally for the application is enclosed). The proposed reservoir facility associated with this application is Recovery Pond.

If you have any questions regarding the enclosed application, you can reach me at 503-701-4535. Please copy me on any correspondence regarding this application.

Respectfully submitted,

Theodore Ressler, RG, CWRE
Summit Water Resources LLC

Cc: Ted Sester – Sester Family, LLC

Enclosures:

Application for a Permanent to Store Water in a Reservoir
Check #3531 in the amount of \$3,140

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Oregon Water Resources Department Alternate Reservoir Application

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For impoundments less than 10 feet in height or storing less than 9.2 acre feet of water.

Today's Date: Thursday, September 15, 2022 **Recovery Pond**

Base Application Fee.		\$480.00
Proposed Dam Height in feet.	2	
Proposed Reservoir volume in Acre Feet.	50	\$2,050.00
Subtotal:		\$2,530.00
Permit Recording Fee. ***		\$610.00
*** the Permit Recording Fee is not required when the application is submitted but, must be paid before a permit will be issued. It is fully refundable if a permit is not issued. If the recording fee is not paid prior to issuance of the Final Order, permit issuance will be delayed.	<input type="button" value="Recalculate"/>	
Estimated cost of Permit Application		\$3,140.00

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Application Completeness Checklist

Applicants are encouraged to use this checklist before submitting a complete application to the Department.

1. Landowner name, mailing address and telephone number provided
2. Application signed – All parties noted as applicants must sign the application
3. Source and tributary listed.
4. Reservoir Location. TRSQQ and tax lot provided.
5. Dam Berm height indicated, if applicable
6. Property ownership completed
7. **NA** If applicant does not own all the land, is the affected landowner's name and mailing address listed?
8. Environmental impact section completed?
9. **Completed Watermaster review sheet**, signed and dated. Note: Must be completed within last 6 months.
 - Will the reservoir injure an existing water right? YES NO
 - If YES, can conditions be applied to mitigate injury? YES NO

If NO, return the application.
10. **Completed ODFW review sheet**, signed and dated. Note: Must be completed within last 6 months.
 - Will the reservoir pose a significant detrimental impact to an existing fishery resource? YES NO
 - If YES, can conditions be applied to mitigate the impact? YES NO N/A

If NO, return the application.
11. **Completed Land-Use Form** or receipt signed by the appropriate planning department official enclosed?
Note: Does the use on land-use form match the proposed use on the application? Must be completed within the last 12 months.
12. **Include a copy of a Legal Description** of all the property involved with this application. A copy of a deed, land sales contract, or title insurance to meet this requirement.
13. **Acceptable Map**. Note: Requirements set forth by the Commission; causes fatal flaw if not provided by the applicant.
 - Reservoir Location - noting Township, Range, Section, 1/4 1/4 and Tax Lot number(s)
 - Scale of the Map, even scale such as 1" = 400', 1" = 1000', or 1" = 1320'
 - Reference corner on map
 - North directional symbol
 - ¼'s clearly identified
 - Reservoir clearly identified **
 - ~~Dam location identified, with measured distances from survey corner.~~ If no dam, use coordinates to the center of reservoir.
 - If diverting water from a river or stream to a reservoir located off-channel, include measured distances from survey corner

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14. **Fees:** Are the appropriate fees included? Use this fee calculator to determine the application fees:

https://apps.wrd.state.or.us/apps/misc/wrd_fee_calculator/Permit_for_AltRes.aspx

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