

MAR 18 2025

Salem, OR

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

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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 Tyce Nelson for Duckcreek LLC, manager/owner		PHONE (HM) 503-910-1968	
PHONE (WK)	CELL 503-910-1968	FAX	
MAILING ADDRESS P.O. Box 80789			
CITY Portland	STATE Or	ZIP 97280	E-MAIL * ncr10@gmail.com

Organization

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

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.



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

Applicant Signature

Tyce W. Nelson, Owner of Duckcreek LLC

Print Name and Title if applicable

5/30/24

Date

Applicant Signature

Print Name and Title if applicable

Date

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SECTION 2: SOURCE OF WATER AND LOCATION OF RESERVOIR

Reservoir name:	Duckcreek Reservoir				
Source*:	Runoff from site	Tributary:	closest is Croisan creek		
County:	Marion County				
Quantity:	6.6575 Acre-Feet [length x width x depth / 43,560] 2/3 acre x 10' deep				
Reservoir Location:	Township (N or S)	Range (E or W)	Section	Quarter-Quarter	Tax Lot #
	8 south	3 West	8 5	NE	2400

Maximum Height of Dam: _____ feet. If excavated write "zero feet."
zero feet

* 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.

Rainwater runoff from crest of hill on the applicant's property

SECTION 3: WATER USE

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

NOTE: You may wish to consider filing for "Multipurpose use" for your reservoir. Multipurpose use does not limit the types of future uses for the stored water. Multipurpose covers all uses, which may include stock water, fish and wildlife, 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.)

List the names and mailing addresses of all affected landowners:

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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

If YES, how long has it been in place? _____ years.

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

If YES, how much? _____ miles.

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. NA

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 diversion will be within an existing low spot in the western half of the 23 acre property approximately 250 feet long east to west and 116 feet north to south. The reservoir will be filled by collected rain water runoff from a crest 300 to the west and its downward elevation 90 to site. The reservoir to be continuous 12 month operation with any overflows going into existing trough of land to the east of reservoir and additional electric pumps managed by property owner and discharged/diverted on owner's property. The construction of the reservoir will be existing contour with added excavation onto existing packed clay soil with HDPE liner. See Exhibit One

If the diversion involves a dam, use this space below (or attached pages) 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).

No dam

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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

NAME Tyce Nelson for Duckcreek LLC, manager/owner		PHONE 503-910-1968	
MAILING ADDRESS P.O. Box 80789			
CITY Portland	STATE Or	ZIP 97280	EMAIL ncr10@gmail.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:
8 south	3 west	25	NE	2400	Res/Agricult.	<input checked="" type="checkbox"/> Diverted <input type="checkbox"/> Conveyed <input type="checkbox"/> Used	multipurpose
						<input type="checkbox"/> Diverted <input type="checkbox"/> Conveyed <input type="checkbox"/> Used	
						<input type="checkbox"/> Diverted <input type="checkbox"/> Conveyed <input type="checkbox"/> Used	
						<input type="checkbox"/> Diverted <input type="checkbox"/> Conveyed <input type="checkbox"/> Used	

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

Marion County, City of Salem

NOTE: A separate Land Use Information Form must be completed and submitted for each county and city, as applicable.

B. Description of Proposed Use

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

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

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

Estimated quantity of water needed: 6.6575 ☐ 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 multipurpose

Briefly describe:

2/3rd acre of 23 acre property and filled with rain water runoff on same property. Use shall be for multipurpose, primarily including to support wildlife and fire suppression.

Note to applicant: For new water right applications only, if the Land Use Information Form cannot be completed while you wait, please have a local government representative sign the receipt on the bottom of page 4 and include it with the application filed with the Oregon Water Resources Department. Applicant will excavate and use currently contoured land within a packed clay soil low spot on See Page 4 →

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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 use(s), including proposed construction, are allowed outright or are not regulated by your comprehensive plan. Cite applicable ordinance section(s): See attached memo.
- ☐ Land uses to be served by the proposed water use(s), 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
	Received by OWRD	<input type="checkbox"/> Obtained <input type="checkbox"/> Denied	<input type="checkbox"/> Being Pursued <input type="checkbox"/> Not Being Pursued
	MAR 18 2025	<input type="checkbox"/> Obtained <input type="checkbox"/> Denied	<input type="checkbox"/> Being Pursued <input type="checkbox"/> Not Being Pursued
	Salem, OR	<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 Oregon Water Resources Department regarding this proposed use of water in the box below or on a separate sheet.

See attached memo.

Name: Peter Domine Title: Planner II

Signature:  Date: March 5, 2025

Governmental Entity: City of Salem Phone: 503-540-2311

Receipt Acknowledging Request for Land Use Information	
Note to Local Government Representative: Please complete this form and return it to the applicant. For new water right applications <u>only</u> , if you are unable to complete this form while the applicant waits, you may complete this receipt and return it to the applicant. If you sign the receipt, you will have 30 days from the date of OWRD's Public Notice of the application to submit the completed Land Use Information Form to Oregon Water Resources Department. Please note while OWRD can accept a signed receipt as part of intake for an application for a new permit to use or store water, a completed Land Use Information Form is required for all other applications.	
Applicant Name: _____	
Staff Name: _____	Title: _____
Staff Signature: _____	Date: _____
Governmental Entity: _____	Phone: _____
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MEMORANDUM

COMMUNITY DEVELOPMENT AND PLANNING DEPARTMENT

TO: Oregon Water Resources Department
FROM: Peter Domine, PLANNER II
pdomine@cityofsalem.net / 503-540-2311
DATE: March 5, 2025
APPLICATION NO.: 25-104271-PLN
SUBJECT: Application for a Permit to Store Water in a Reservoir

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The property subject to the proposed approval is located at 4118 Homestead Rd S (Marion Co. Tax Lot No. 083W05C / 2400). The Salem Area Comprehensive Plan Map designation and zoning for the property are as follows:

Comprehensive Plan Designation	RA
Zoning	Residential Agriculture
Overlay Zone	None

Under the Salem Revised Code Sec 510.005 and per site plan review, permit no. 25-102736-PLN (attached), the subject property has been approved of an agricultural use, including the storing of water. The City of Salem Development Services Division and Fire Department have reviewed the request and provided comments, summarized below.

- Development Services has no objection to the use of the water reservoir for personal fire suppression, wildlife, and agriculture. The water reservoir is not permitted to be used for residential development on the property. Per SRC 802.015 all new development shall be served by City Utilities, and as such, the water reservoir would **not be permitted** to be utilized for construction of any new structures on the subject property.
- As indicated on the application form, the source of water for the reservoir will be "runoff from site" and "rainwater". City of Salem public water shall not be used to fill the reservoir.
- Regarding construction of the reservoir, City of Salem Grading and Erosion Control permits will be required (SRC 82.030 and SRC 75.050) prior to any ground disturbing activity on the site. Engineered construction drawings and geotechnical engineering will be required for construction of this reservoir. There is an existing City of Salem owned public water main on the subject property in an easement. The water reservoir is not permitted to be located within the City of Salem's easement for public water mains. The location of the reservoir shall be reviewed at time of Plan Review for required permits to construct the reservoir.
- The proposed reservoir and water storage is for the purposes of private use only and does not meet any Fire Department standards for Fire Department access or withdrawal of the water. Any future development will be reviewed at time of permit application.

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NOTICE OF DECISION

PLANNING DIVISION
555 LIBERTY ST. SE, RM 305
SALEM, OREGON 97301
PHONE: 503-588-6173
FAX: 503-588-6005



Si necesita ayuda para comprender esta información, por favor llame 503-588-6173

DECISION OF THE PLANNING ADMINISTRATOR

CLASS 1 SITE PLAN REVIEW

APPLICATION NO.: 25-102736-PLN

NOTICE OF DECISION DATE: February 14, 2025

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REQUEST: A Class 1 Site Plan Review to establish an agricultural use for a water reservoir. The subject property is 13.41-acres in size, zoned RA (Residential Agriculture) and located at 4118 Homestead Road S (Marion County Assessor Map and Lot Number 083W05C / 2400).

APPLICANT: Tyce Nelson

LOCATION: 4118 Homestead Road S - 97302

FINDINGS: The findings are in the attached Decision dated February 14, 2025.

DECISION: The Planning Administrator **APPROVED** the application based upon the submitted materials and the findings as presented in the decision.

The rights granted by the attached decision, which are effective as of the date of this decision, must be exercised by February 14, 2029, or this approval shall be null and void.

Case Manager: Peter Domine, Planner II, pdomine@cityofsalem.net, 503-540-2311

This decision is final; there is no local appeal process. Any person with standing may appeal this decision by filing a "Notice of Intent to Appeal" with the Land Use Board of Appeals, 775 Summer St NE, Suite 330, Salem OR 97301, **not later than 21 days after February 14, 2025**. Anyone with questions regarding filing an appeal with the Oregon Land Use Board of Appeals should contact an attorney.

The following items are submitted to the record: 1) All materials and evidence submitted by the applicant, including any applicable professional studies; and 2) All materials, evidence, and comments from City Departments and public agencies. The application materials are available on the City's online Permit Application Center at <https://permits.cityofsalem.net>. To view the materials without registering, you may use the search function and enter the permit number listed here: 25-102736.

<http://www.cityofsalem.net/planning>

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25-102736-PLN Decision
February 14, 2025
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BEFORE THE PLANNING ADMINISTRATOR OF THE CITY OF SALEM

DECISION

IN THE MATTER OF APPROVAL OF) FINDINGS & ORDER
CLASS 1 SITE PLAN REVIEW)
25-102736-PLN)
4118 HOMESTEAD RD S) FEBRUARY 14, 2025

In the matter of the application for a Class 1 Site Plan Review, the Planning Administrator, having received and reviewed the evidence and application materials, makes the following findings and adopts the following order as set forth herein.

REQUEST

A Class 1 Site Plan Review to establish an agricultural use for a water reservoir. The subject property is 13.41-acres in size, zoned RA (Residential Agriculture) and located at 4118 Homestead Road S (Marion County Assessor Map and Lot Number 083W05C / 2400).

PROCEDURAL FINDINGS

1. On January 27, 2025, an application for a Class 1 Site Plan Review was submitted for the subject property. The application was deemed complete February 11, 2025.

SUBSTANTIVE FINDINGS

1. Proposal

The proposed Class 1 Site Plan Review to establish an agricultural use for a water reservoir on property located at 4118 Homestead Road S. A vicinity map is included as **Attachment A**. The applicant's site plan is included as **Attachment B**.

DECISION CRITERIA FINDINGS

2. Analysis of Class 1 Site Plan Review Approval Criteria

The purpose of Site plan review is to provide a unified, consistent, and efficient means to review for development activity that requires a building permit, to ensure that such development meets all applicable standards of the UDC, including, but not limited to, standards related to access, pedestrian connectivity, setbacks, parking areas, external refuse storage areas, open areas, landscaping, and transportation and utility infrastructure.

Pursuant to SRC 220.005(b)(1), Class 1 Site Plan Review is required for any development that requires a building permit, that does not involve a land use decision or limited land use decision, as those terms are defined in ORS 197.015, and that involves a change of use or change of occupancy where only construction or improvements to the interior of the building or structure are required.

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SRC 220.005(f)(1) provides that an application for Class 1 Site Plan Review shall be granted if:

(a) The application involves only a change of use or a change of occupancy, and there is no pending application for an associated land use decision or limited land use decision;

Finding: The applicant is requesting to establish an agricultural use for installation of a water reservoir on a vacant parcel of land. There are no associated land use or limited land use decisions with this request.

(b) Only construction or improvements to the interior of the building or structure will be made;

Finding: The scope of work includes a change of use only.

(c) The new use or occupancy will not require exterior improvements to the building or structure or alteration to existing parking, landscaping, or buffer yards.

Finding: Modification to the exterior of the site is not in the scope of work for the proposed change of use.

(d) Only clear and objective standards which do not require the exercise of discretion or legal judgment are applicable to the site plan review application; and

Finding: Only clear and objective standards apply to the proposed development. Complete findings are included in section (e) below.

(e) The application meets all applicable standards of the SRC.

Finding: The subject property is zoned RA (Residential Agriculture). Development of the property is therefore subject to the use and development standards of the RA zone (SRC Chapter 510) and all other applicable standards of the UDC. The proposal conforms to SRC Chapter 510 and all other applicable development standards of the UDC as follows:

Development Standards – IG (Industrial General) Zone:

SRC 510.005(a) – Uses

The permitted (P), special (S), conditional (C), and prohibited (N) uses in the Industrial Commercial zone are set forth in Tables 510-1.

Finding: The applicant is requesting to establish an agricultural use for installation of a water reservoir, which, per SRC 400.120, is classified as an *Agriculture* use. Per SRC Chapter 510, Table 510-1, the proposed use is permitted within RA zone.

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Off-Street Parking and Driveways

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SRC 806.015 – Amount Off-Street Parking

(a) Maximum Off-Street Parking. Except as otherwise provided in this section, and unless otherwise provided under the UDC, off-street parking shall not exceed the amounts set

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forth in Table 806-1. For the purposes of calculating the maximum amount of off-street parking allowed, driveways shall not be considered off-street parking spaces.

Finding: The proposal includes establishment of a new use only. The allowed maximum amount of off-street parking spaces for an *Agriculture* use is seven spaces when retail sales are involved. The property is a vacant parcel, and no off-street parking spaces are proposed. This standard is met.

Bicycle Parking

SRC 806.045 – General Applicability

- (a) Bicycle parking shall be provided as required under this chapter for each proposed new use or activity, any change of use or activity, or any intensification, expansion, or enlargement of a use or activity.
- (b) *Applicability to change of use of existing building in Central Business District (CB) zone.* Notwithstanding any other provision of this chapter, the bicycle parking requirements for a change of use of an existing building within the CB zone shall be met if there are a minimum of eight bicycle parking spaces located within the public right-of-way of the block face adjacent to the primary entrance of the building. If the minimum number of required bicycle parking spaces are not present within the block face, the applicant shall be required to obtain a permit to have the required number of spaces installed. For purposes of this subsection, "block face" means the area within the public street right-of-way located along one side of a block, from intersecting street to intersecting street.
- (c) *Applicability to nonconforming bicycle parking area.* When bicycle parking is required to be added to an existing bicycle parking area that has a nonconforming number of spaces, the number of spaces required under this chapter for any new use or activity, any change of use or activity, or any intensification, expansion, or enlargement of a use or activity shall be provided, in addition to the number of spaces required to remedy the existing deficiency.

Finding: The proposal includes establishment of a new use only. The required minimum amount of bicycle parking spaces for an *Agriculture* use is two spaces when retail sales are involved. No retail sales are proposed; therefore, this standard is not applicable.

Off-Street Loading Areas

SRC 806.065 – General Applicability

Off-street loading areas shall be provided and maintained for each proposed new use or activity; any change of use or activity, when such change of use or activity results in a greater number of required off-street loading spaces than the previous use or activity; or any intensification, expansion, or enlargement of a use or activity.

SRC 806.070 – Proximity of Off-Street Loading Areas to use or Activity Served

Off-street loading shall be located on the same development site as the use or activity it serves.

SRC 806.075 – Amount of Off-Street Loading

Unless otherwise provided under the UDC, off-street loading shall be provided in amounts not less than those set forth in Table 806-11.

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Finding: Per Table 806-11, an *Agriculture* use does not require an off-street loading space; therefore, this standard is not applicable.

Historic Property Status

The subject property is not listed as a historic resource.

Previous Land Use Actions

SUB06-01: A subdivision to divide approximately 42.21 acres into three tracts and four lots with Lot 1 approximately 12.29 acres, Lot 2 approximately 10.55 acres, Lot 3 approximately 13.18 acres and Lot 4 approximately 3.95 acres, Tract A 1.57 acres, Tract B 0.09 acres, and Tract C 0.58 acres in size, for property in a RA (Residential Agriculture) and located in the 3800 and 3900 block of Croisan Mountain Drive.

3. Conclusion

Based on the conformance with the preceding requirements the Planning Administrator certifies that the proposed Class 1 Site Plan Review is in conformance with the UDC and the approval criteria provided in SRC 220.005(f)(1), provided compliance occurs with any applicable items noted above.

If a building permit application has not already been submitted for this project, please submit a copy of this decision with your building permit application for the work proposed.

IT IS HEREBY ORDERED

The proposed Class 1 Site Plan Review is consistent with the provisions of SRC Chapter 220 and is hereby **APPROVED** subject to the applicable standards of the Salem Revised Code and the findings contained herein.



Peter Domine, Planner II, on behalf of
Lisa Anderson-Ogilvie, AICP
Planning Administrator

Attachments: A. Vicinity Map
 B. Site Plan

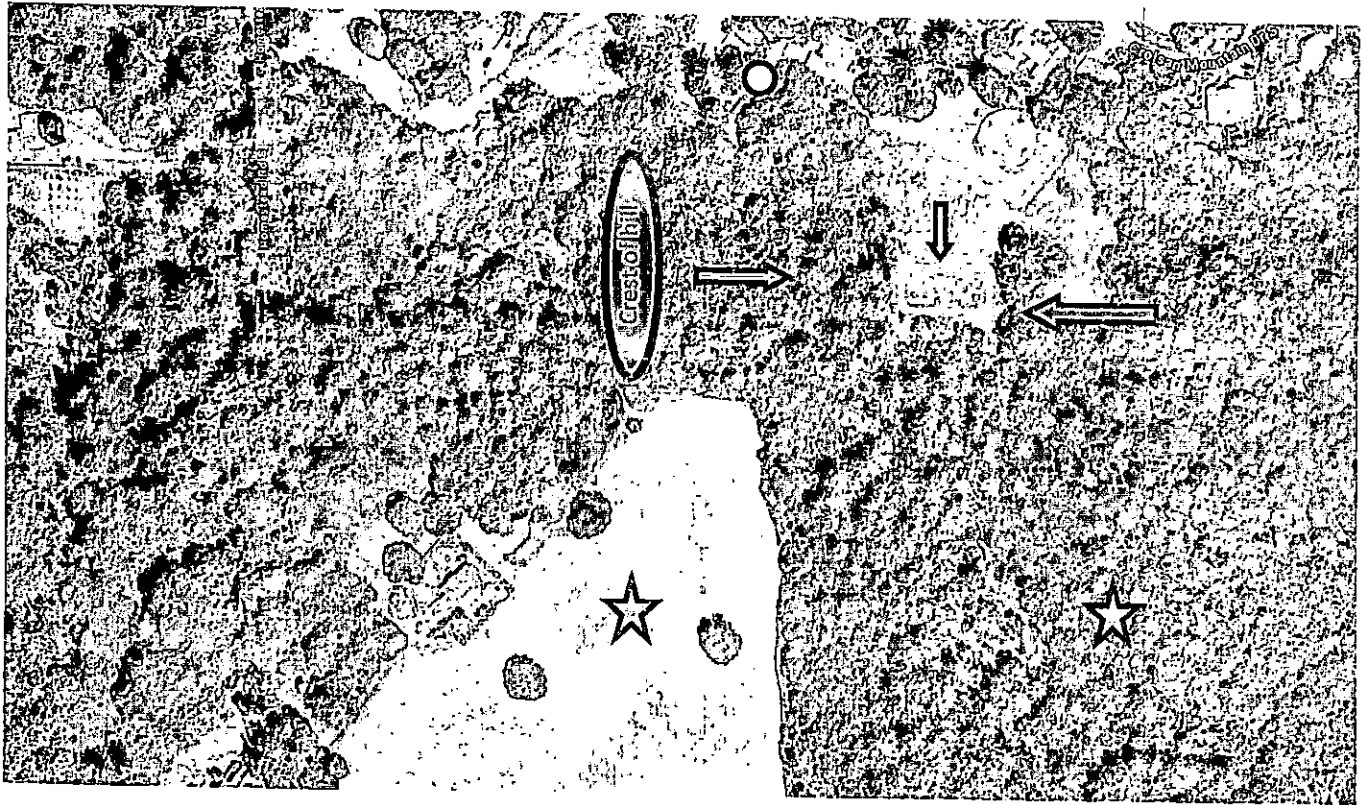
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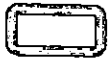





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EXHIBIT ONE ~ Ty Nelson Reservoir Application

4000 Homestead Rd Salem Oregon ~ "Duckburg Reservoir", red pin



-  = Proposed reservoir location on existing low spot of tax lot 2400
-  = Existing trough on east side of proposed reservoir for any overflow
-  = Crest of hill 300' west of proposed reservoir and 90' elevation . Source of surface water runoff
-  = Directional rainfall runoff towards proposed reservoir at existing low spot
-  = Neighboring tax lots also owned by Applicant under "Dorchester Properties and Duckcreek LLC"
-  = Closest existing City of Salem water and hydrant/fire suppression location for tax lot 2400

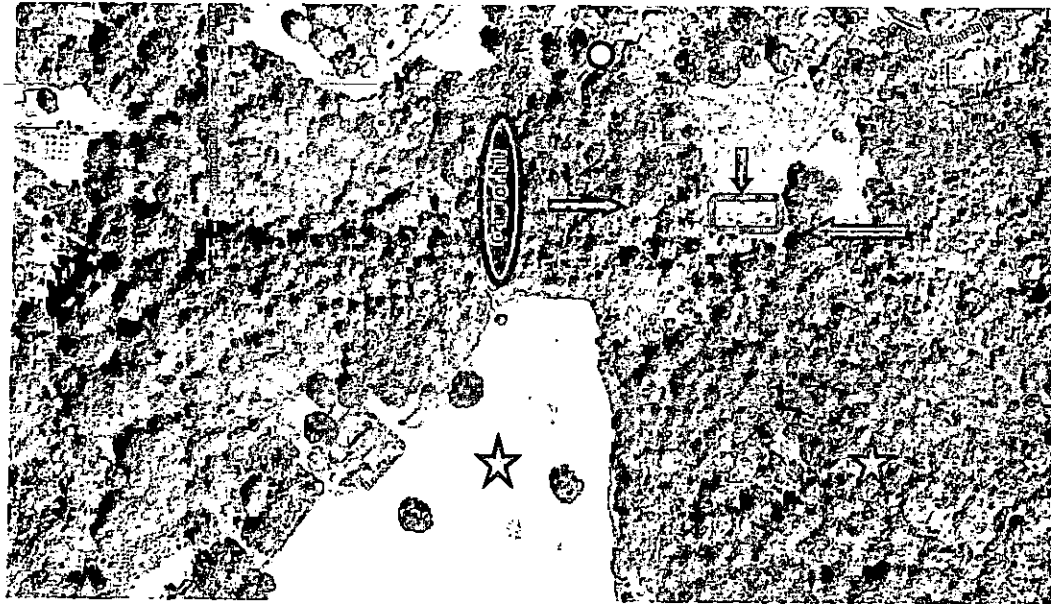
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Tyce Nelson for Duckcreek LLC regarding proposed reservoir. 503-910-1968 and NCRE10@gmail.com

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EXHIBIT ONE ~ Ty Nelson Reservoir Application

4000 Homestead Rd Salem Oregon ~ "Duckburg Reservoir", red pin



= Proposed reservoir location on existing low spot of tax lot 2400



= Existing trough on east side of proposed reservoir for any overflow



= Crest of hill 300' west of proposed reservoir and 90' elevation. Source of surface water runoff



= Directional rainfall runoff towards proposed reservoir at existing low spot



= Neighboring tax lots also owned by Applicant under "Dorchester Properties and Duckcreek LLC



= Closest existing City of Salem water and hydrant/fire suppression location for tax lot 2400

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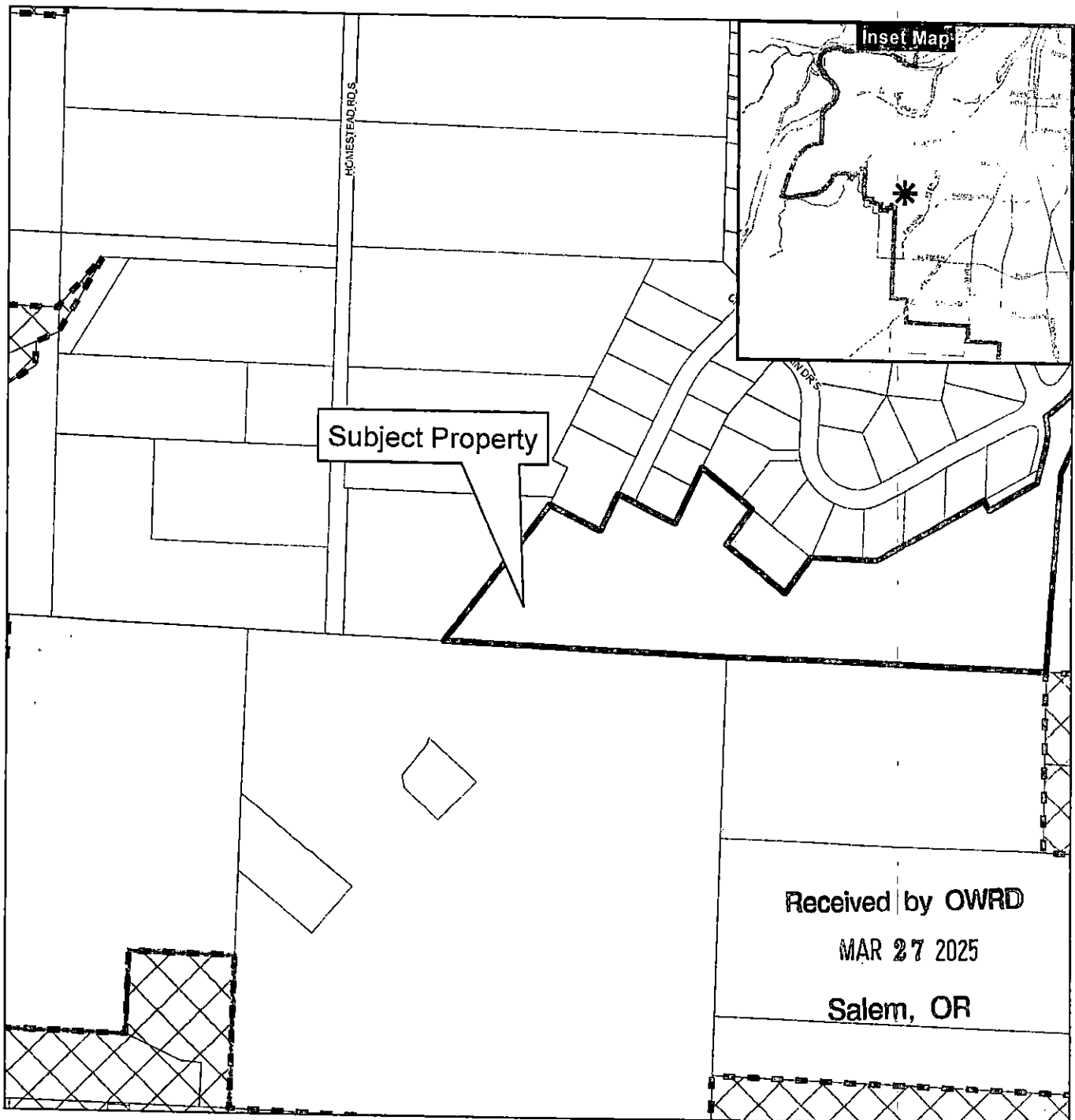
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Vicinity Map 4118 Homestead Road S



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Legend

- | | |
|-----------------------|---------------------------|
| Taxlots | Outside Salem City Limits |
| Urban Growth Boundary | Historic District |
| City Limits | Schools |

Parks

CITY OF Salem
AT YOUR SERVICE
Community Planning and Development

0 100 200 400 Feet



This product is provided as is, without warranty. In no event is the City of Salem liable for damages from the use of this product. This product is subject to license and copyright limitations and further distribution or resale is prohibited.

Reservoir Location

Address:

4118 Homestead Rd, Salem Oregon 97302

Duckcreek LLC / Tyce Nelson

Location		Public Land Survey (TRSQQ)	
Latitude/Longitude:	44.89876, - 123.0859	Meridian:	WM
OR Lambert X,Y:	642467.8, 1158286	Township/Range/Section:	8.00S-3.00W-5
		Quarter/Quarter:	SE-SW

Political Features

County:	Marion	DEQ Region:	n/a
OWRD Region:	NW	ODFW Region:	Northwest Region
Watermaster District:	16	ODFW District:	Mid Willamette District

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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 type="checkbox"/> YES <input checked="" type="checkbox"/> NO Explain:		
2. Can conditions be applied to mitigate the potential injury to existing water rights? <input type="checkbox"/> YES <input type="checkbox"/> NO Explain: <i>n/a</i>		
3. Is water available for the proposed reservoir? <input checked="" type="checkbox"/> YES <input type="checkbox"/> NO		
4. If yes, during what period? Beginning: _____ End: <i>year round</i> 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		
Name:	Agency:	Date:
Name:	Agency:	Date:

Watermaster Name: *Greg Wacker*

Watermaster Signature: *[Signature]*

Date: *5/30/2024*

NOTE: This completed form must be returned to the applicant

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ODFW Alternate Reservoir Application Review Sheet

This portion to be completed by the Applicant					
Applicant Tyce Nelson for Duckcreek LLC, Manager			Phone No. 503-910-1968		Email. ncr10@gmail.com
Mailing Address P.O. Box 80789			City Portland	State Or	Zip 97280
Reservoir Name: Duckcreek		Source: runoff		Volume (AF): 6.6575 AF	
Township (N or S)	Range (E or W)	Section	Quarter/ Quarter	Basin Name:	<input type="checkbox"/> in-channel <input checked="" type="checkbox"/> off-channel
8 south	3 west	8	NE	willamette	

This portion to be completed by Oregon Department of Fish and Wildlife (ODFW).	
1) Is the proposed project and AO ¹ off channel? (If yes then proceed to #4; if no then proceed to #2) <input type="checkbox"/> YES <input type="checkbox"/> NO	
2) Is the proposed project or AO located where NMF ² are or were historically present? (If yes then proceed to #3; if no then proceed to #4) <input type="checkbox"/> YES <input type="checkbox"/> NO	
3) If NMF are or were historically present:	
a. Is there an ODFW – approved fish passage plan? <input type="checkbox"/> YES <input type="checkbox"/> NO	
b. Is there an ODFW-approved fish-passage waiver or exemption? <input type="checkbox"/> YES <input type="checkbox"/> 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: <input type="checkbox"/> YES <input type="checkbox"/> NO <i>Explain below (for example, list STE species or other existing fishery resources that would be impacted negatively.)</i>	
<input type="checkbox"/> Any diversion or appropriation of water for storage during the period _____ through _____ 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.) 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.	
<input type="checkbox"/> 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.	
If YES, can conditions be applied to mitigate the significant detrimental impact to an existing fishery resource? <input type="checkbox"/> YES (Select from Menu of Conditions on next page) <input type="checkbox"/> NO (explain)	

ODFW Signature: _____ Printed Name: _____

ODFW Title: _____ Date: _____

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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)

ODFW Alternate Reservoir Application Review Sheet

This portion to be completed by the applicant		
Applicant Name: <u>Tyce Nelson for Duckcreek, LLC</u> Address: <u>PO Box 80789, Portland, OR 97280</u> Phone/Email: <u>ncre10@gmail.com</u> Reservoir Name: <u>Duckcreek Reservoir</u> Source: <u>Runoff to Croisan Creek</u> Basin Name: <u>Willamette</u> Twp Rng Sec QQ: <u>8S-3W-8NE</u>	Received by OWRD MAR 18 2025 Salem, OR	Received by OWRI MAR 27 2025 Salem, OR
Volume (AF): <u>6.6575</u> <input type="checkbox"/> in-channel <input checked="" type="checkbox"/> off-channel		
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 April 1 through October 31 poses a significant detrimental impact to existing fishery resources. (For example, if diversion of water for storage

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)

Applicant Name: Tyce Nelson for Duckcreek, LLC

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Review Date: 6/5/2024

during a certain time period would cause a significant detrimental impact to an existing fishery resource, then ODFW should recommend conditions or limitations.) 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 (Coho, spring Chinook, summer steelhead, winter steelhead, fall Chinook, chum) and sensitive species (Pacific Lamprey, coastal Cutthroat) are present in Croisan Creek and/or the Willamette River during the period of impact. ODFW currently does not have an identified biological flow target for any nearby stream. However, based on parameters assessed by ODFW for the Willamette River, instream flows to fulfill MF182 for aquatic life are being met wholly during the period of impact..

In addition, ODFW reviewed available information (<https://www.oregon.gov/deq/wq/tmdls/Pages/TMDLs-Willamette-Basin.aspx>) 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 during April 1 through October 31.

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 (select from Menu of Conditions on next page)

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

Jorden Smith

Digitally signed by Jorden
Smith
Date: 2024.06.05 16:16:02
-07'00'

ODFW Signature: _____

Print Name: Jorden Smith

ODFW Title: East Region Hydro & Water Rights Coordinator

Date: 6/5/2024

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Revised 10/4/12; reformatted 5/12/20

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MENU OF CONDITIONS FOR WRD, ODFW, DEQ AND ODA

Revised May 12, 2020, March 25, 2021

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

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- ☒ **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 November 1 through March 31.
- ☐ **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.
- ☐ **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.
- ☐ **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.
- ☐ **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

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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 live fish in Oregon shall have a Fish Transport Permit (FTP) issued by the Oregon Department of Fish and Wildlife (ODFW). The permittee shall not stock fish in the reservoir without an FTP approved by ODFW. As part of the FTP permitting process, the permittee may be required to screen the inlet and outlet of the reservoir to ensure that fish cannot escape into public waters and/or to keep wild fish from entering the reservoir.
- ☐ **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 Work:** Any in-water work related to construction, development, or maintenance of the proposed use shall be conducted during the preferred work period of type here 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.
- ☐ **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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EXHIBIT "A"
LEGAL DESCRIPTION

Parcel 1:

Lot 80, CROISAN MOUNTAIN PHASE 4, recorded June 29, 2007 in Volume H46, Page 37, Record of Town Plats, in the City of Salem, Marion County, Oregon.

Parcel 2:

A portion of Lots 13 and 14, Sunnyside Fruit Farms, as recorded in the City of Salem, Marion County Book of Town Plats Volume 02, Page 05 further described as follows:

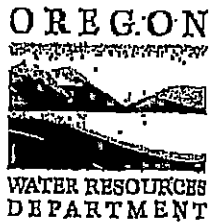
Beginning at the Northwest corner of Lot 13 said Sunnyside Fruit Farms, said point also being the 1/4 corner common to Sections 5 and 8, Township 8 South, Range 3 West, Willamette Meridian; thence along the North boundary of said Lot North 89° 24' 15" East 879.78 feet to a point at the Northwest corner of that tract of land described in Reel 859, Page 35, Marion County Deed Records; thence South 01° 01' 39" East a distance of 495.23 feet to a point at the Southwest corner of that tract of land described in Volume 1382, Page 784, Marion County Deed Records; thence South 89° 24' 15" West, a distance of 879.78 feet to a point on the West line of Lot 14, said Sunnyside Fruit Farms; thence along the West boundary of said Sunnyside Fruit Farms, North 01° 01' 39" West, a distance of 495.23 feet to the point of beginning.

The above-described tract of land is located in the Northeast quarter of Section 8, Township 8 South, Range 3 West, Willamette Meridian, City of Salem, Marion County, Oregon.

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Date Received (Date Stamp Here)

OWRD Over-the-Counter Submission Receipt

Applicant Name(s) & Address: Tyce Nelson for Duckcreek LLC
P.O. Box 80789 Portland OR 97280

Transaction Type: App

Fees Received: \$ 767.00

☐ Cash, ☒ Check; Check No. 168

Name(s) on Check: Aaron Court LLC

Thank you for your submission. Oregon Water Resources Department (Department) staff will review your submittal as soon as possible.

If your submission is determined to be complete, you will receive a receipt for the fees paid and an acknowledgement letter stating your submittal is complete.

If determined to be incomplete, your submission and the accompanying fees will be returned with an explanation of deficiencies that must be addressed in order for the submittal to be accepted.

If you have any questions, please feel free to contact the Department's Customer Service staff at 503-986-0801 or 503-986-0810.

Sincerely,

OWRD Customer Service Staff

Submission received by: Nick Reece
(Name of OWRD staff)

Instructions for OWRD staff:

- Complete this Submission Receipt and make two (2) copies. Place one copy with the check/cash; and place the other copy with the submission (i.e., the application or other document).
- Date-stamp all pages. (NOTE: Do not stamp check.)
- Give this original Submission Receipt to the applicant.
- Record Submission Receipt information on the "RECEIVED OVER THE COUNTER" log sheet.
- Fold and put one copy of the Submission Receipt with check/cash into the Safe slot. Place the other copy of the Submission Receipt with submission (application/other document) in the top drawer of filing cabinet.