

R-3

FILE#: R 84703

ASSIGNED

GLENN WESTBROOK
WESTBROOK, MARY
3022 UMATILLA PLACE
ALBANY, OR 97321

Application No. R-84703

Permit No. R-13367

Certificate No. 92112

SEE S-84702

Stream Index, Page No. _____

Date filed _____

Priority _____

Action suspended until C10

Return to applicant _____

Date of approval _____

CONSTRUCTION

Date for beginning _____

Date for completion _____

Extended to _____

Date for application of water 10-1-08

Extended to 10-1-10

PROSECUTION OF WORK

Form "A" filed _____

Form "B" filed _____

Form "C" filed _____

FINAL PROOF

Blank mailed _____

Proof received COBW 4/24/2014

Date Certificate issued FEB 10 2017

FEE PAID

Date	Amount	Receipt No.
3-27-01	\$722.00	43882
9/16/02	24.20	55212
4-11-06	15.00	80776
4-24-14	175.00	111848

Cert. Fee _____

FEE REFUNDED

Date	Amount	Check No.

ASSIGNMENTS

Date	To Whom	Address	Volume	Page
4/11/2006	Krautmann Family Nursery, LLC	4194 71st Ave. SE, Salem, OR 97301	97301	

REMARKS

SEE {
84702
84076
84037

R 13367 (cont. 107)



Oregon
Kate Brown, Governor

Water Resources Department
725 Summer St NE, Suite A
Salem, OR 97301
(503) 986-0900
Fax (503) 986-0904

DATE MAILED: February 10, 2017

NOTICE OF CERTIFICATE ISSUANCE

The attached certificate confirms the water right established under the terms of a permit issued by this Department. The water right is now appurtenant to the specific place where the use was established as described by the certificate. The water right is limited to a specific amount of water, but not more than can be beneficially used for the purposes stated within the certificate.

The certificate is a final order in other than a contested case. This order is subject to judicial review under ORS 183.484 and ORS 536.075. Any petition for judicial review must be filed within the 60-day time period specified by ORS 183.484(2). Pursuant to ORS 183.484, ORS 536.075 and OAR 137-004-0080, you may petition for judicial review and petition the Director for reconsideration of this order. A petition for reconsideration may be granted or denied by the Director, and if no action is taken within 60 days following the date the petition was filed, the petition shall be deemed denied. In addition, under ORS 537.260 any person with an application, permit or water right certificate subsequent in priority may jointly or severally contest the issuance of the certificate within three months after issuance of the certificate.

Oregon law does not allow the Director to reissue a certificate because of a change in the ownership of the appurtenant place of use. The water must be controlled and not wasted. To change the location of the point of diversion, the character of use, or the location of use requires the advance approval of the Water Resources Director.

If any portion of this water right is not used for five or more consecutive years that portion of the right may be subject to forfeiture according to ORS 540.610. Land enrolled in a Federal Reserve Program is not subject to forfeiture during the period of enrollment. Other exceptions to forfeiture are explained in ORS 540.610.

If you have any questions please contact Gerry Clark at 503-986-0811.

STATE OF OREGON
 COUNTY OF MARION
 CERTIFICATE OF WATER RIGHT

THIS CERTIFICATE ISSUED TO

KRAUTMANN FAMILY NURSERY LLC
 4199 75th AVE SE
 SALEM OR 97321

confirms the right to store water perfected under the terms of Permit R-13367. The amount of water used to which this right is entitled is limited to the amount used beneficially, and shall not exceed the amount specified, or its equivalent in the case of rotation, measured at the point of diversion from the source. The specific limits and conditions of the use are listed below.

APPLICATION FILE NUMBER: R-84703

SOURCE OF WATER: WEAVER GULCH AND AN UNNAMED STREAM, TRIBUTARIES OF MILLER CREEK

STORAGE FACILITY: WESTBROOK RESERVOIR

PURPOSE OR USE OF THE STORED WATER: TO BE APPROPRIATED UNDER APPLICATION S-84702, PERMIT S-53817, FOR IRRIGATION TO MAKE UP A DEFICIENCY IN RATE

MAXIMUM STORAGE VOLUME: 20.2 ACRE-FEET EACH YEAR

WATER MAY BE APPROPRIATED FOR STORAGE: NOVEMBER 1 THROUGH JUNE 30

DATE OF PRIORITY: MARCH 27, 2001

The dam outlet is located as follows:

Twp	Rng	Mer	Sec	Q-Q	DLC	Measured Distances
9 S	3 W	WM	14	NW SE	42	2100 FEET NORTH AND 1470 FEET WEST FROM SE CORNER, SECTION 14

The area submerged by this reservoir is as follows:

Twp	Rng	Mer	Sec	Q-Q	DLC
9 S	3 W	WM	14	SE NE	
9 S	3 W	WM	14	NE SE	
9 S	3 W	WM	14	NE SE	42
9 S	3 W	WM	14	NW SE	42

NOTICE OF RIGHT TO PETITION FOR RECONSIDERATION OR JUDICIAL REVIEW

This is an order in other than a contested case. This order is subject to judicial review under ORS 183.484 and ORS 536.075. Any petition for judicial review must be filed within the 60-day time period specified by ORS 183.484(2). Pursuant to ORS 183.484, ORS 536.075 and OAR 137-004-0080, you may petition for judicial review and petition the Director for reconsideration of this order. A petition for reconsideration may be granted or denied by the Director, and if no action is taken within 60 days following the date the petition was filed, the petition shall be deemed denied. In addition, under ORS 537.260 any person with an application, permit or water right certificate subsequent in priority may jointly or severally contest the issuance of the certificate within three months after issuance of the certificate.

Measurement, recording and reporting conditions:

- A. The water user shall maintain the meter or other suitable measuring device approved by the Director in good working order, shall keep a complete record of the amount of water used each month, and shall submit a report which includes the recorded water use measurements to the Department annually or more frequently as may be required by the Director. Further, the Director may require the water user to report general water-use information, including the place and nature of use of water under the right.
- B. The water user shall allow the watermaster access to the meter or measuring device; provided however, where the meter or measuring device is located within a private structure, the watermaster shall request access upon reasonable notice.

The use may be restricted if the quality of the source stream or downstream water decrease to the point that those waters no longer meet state or federal water quality standards due to reduced flows.

The outlet gate shall be cycled at least once each year and shall be fully operational at all times.

Routine maintenance of the dam, its spillway and all appurtenant structures shall be performed as necessary to remove trees, brush and debris, and to repair slumps, areas of erosion, or defective equipment.

The earthen dam, the resultant reservoir, and the emergency spillway, shall be maintained according to the approved plans and specifications on file with the Oregon Water Resources Dam Safety program.

The completed structure shall not be enlarged, modified, altered or otherwise changed without the prior written approval of the Director of the Water Resources Department or the Director's authorized representative. Except for routine repair and maintenance, plans and specifications prepared by an Oregon licensed engineer are required for any significant modification, alteration, or rehabilitation of the dam, spillway or appurtenant structures.

Use under this right is limited to the reservoir area. This right does not provide for the appropriation of water for maintaining the water level or maintaining a suitable fresh water condition.

The storage of water allowed herein is subject to the installation and maintenance of a fully functional conduit/gate assembly having a minimum diameter of 8 inches.

Failure to comply with any of the provisions of this right may result in action including, but not limited to, restrictions on the use, civil penalties, or cancellation of the right.

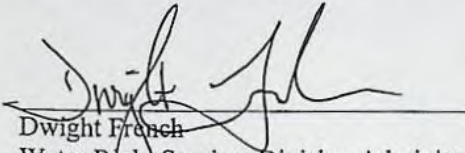
This right is for the beneficial use of water without waste. The water user is advised that new regulations may require the use of best practical technologies or conservation practices to achieve this end.

By law, the land use associated with this water use must be in compliance with statewide land-use goals and any local acknowledged land-use plan.

The use of water allowed herein may be made only at times when sufficient water is available to satisfy all prior rights, including prior rights for maintaining instream flows.

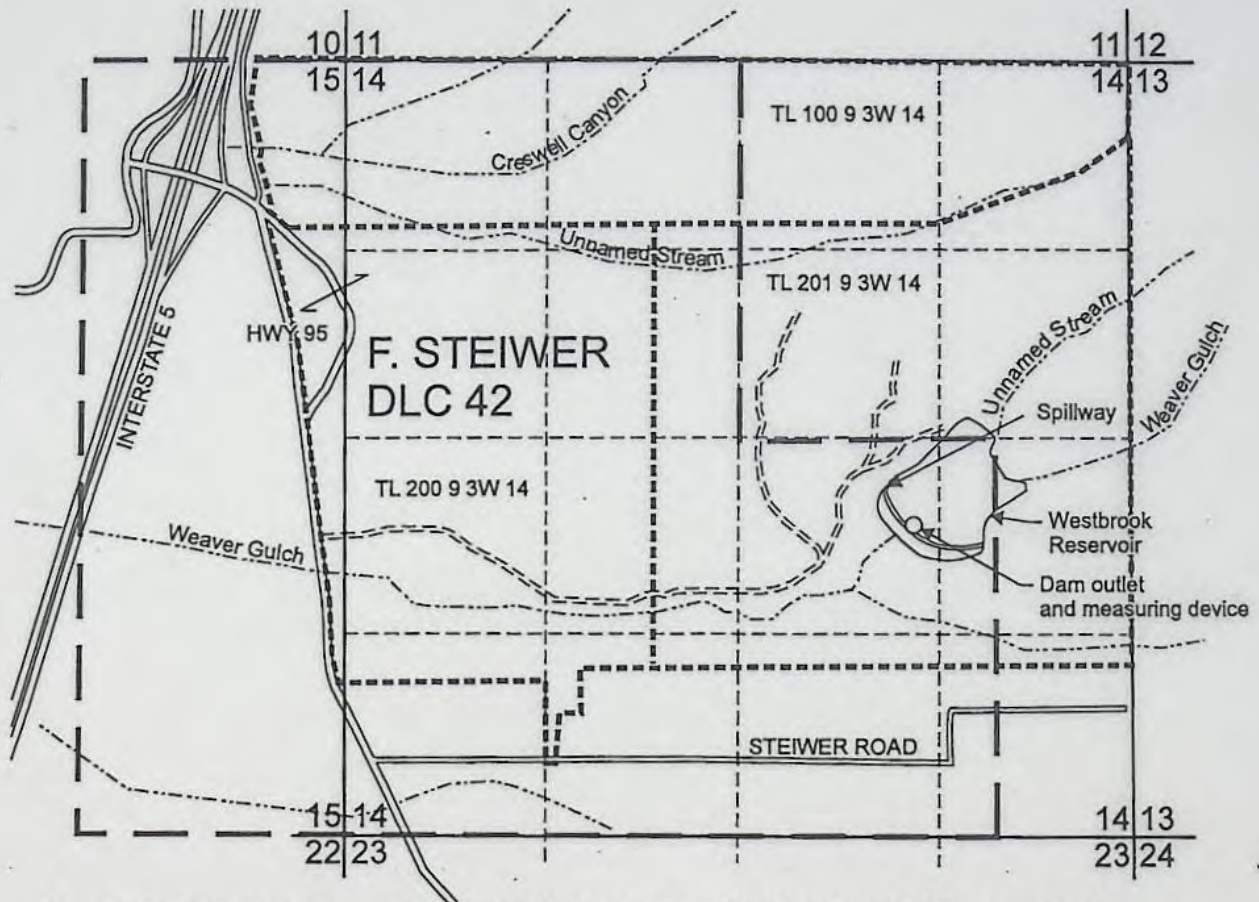
The right to store water for the above purpose is restricted to beneficial use at the place of use described.

Issued FEB 10 2017.



Dwight French
Water Right Services Division Administrator, for
Thomas M. Byler, Director
Oregon Water Resources Department

T.9S. R.3W. Section 14, W.M.



Dam outlet and measuring device - 2100 feet north and 1470 feet west of the southeast corner of Section 14

Westbrook Reservoir - 121.0 AF, Application R-84036, Permit R-12733, and 20.2 AF, Application R-84703, Permit R-13367

----- Tax lot boundary

RECEIVED

APR 24 2014

WATER RESOURCES DEPT
SALEM, OREGON

Scale: 1" = 1,320'



EXPIRATION DATE 6/30/15

This map was prepared for the purpose of identifying the location of a water right only and is not intended to provide legal dimensions or location of property ownership lines.

Claim of Beneficial Use Map
Application R-84036, Permit R-12733
Application R-84703, Permit R-13367

Krautmann Family Nursery LLC
Tax Lot 201 9 3W 14

Pacific Hydro-Geology Inc.

6/2011 - bgp

Mailing List for Certificate

Application: R-84703

Permit: R-13367

Certificate: 92112

Permit/Certificate Holder:

✓ KRAUTMANN FAMILY NURSERY LLC
4199 75th AVE SE
SALEM OR 97317

Copies Mailed	
by:	<u>VZ</u> (STAFF)
on:	<u>2/10/17</u> (DATE)

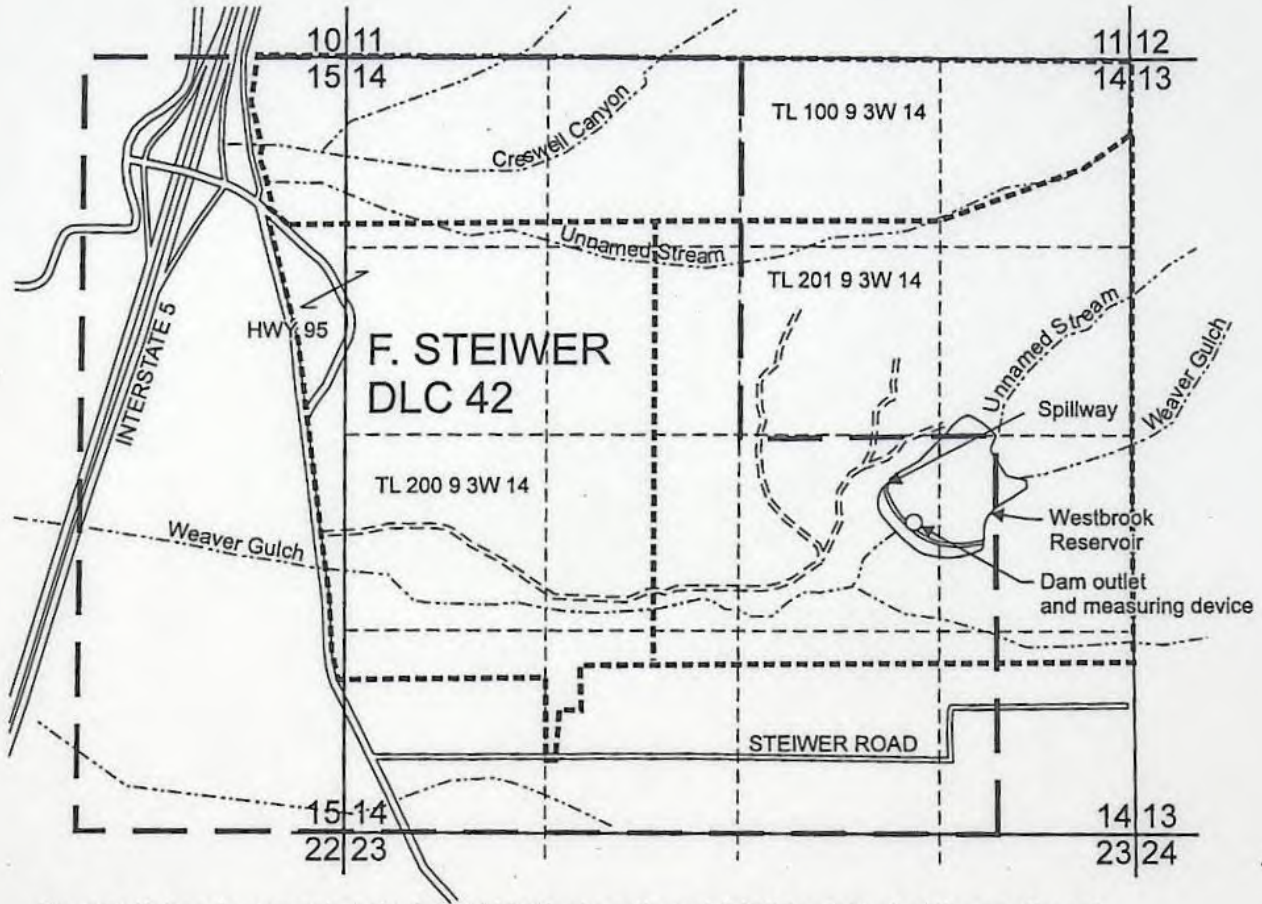
Copies of Final Certificate to be sent to:

- ✓ 1. Watermaster District #: 16
- ~~2. Data Center (include copy of map).~~
- ✓ 3. Water Availability
- ✓ 4. Vault
- ✓ 5. File

Other persons to receive copies: (include map):

- ✓ 1. MALIA KUPILLAS, CWRE, PACIFIC HYDRO-GEOLOGY INC

T.9S. R.3W. Section 14, W.M.



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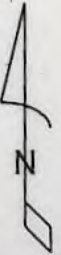
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Krautmann Family Nursery LLC
Tax Lot 201 9 3W 14

Krautmann Family Nursery LLC.cdr

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COUNTY OF MARION

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Issued _____.

Dwight French
Water Right Services Division Administrator, for
Thomas M. Byler, Director
Oregon Water Resources Department

MEMO -Proof to Satisfaction (March 17, 2014)

Application # R-84703	Permit # R-13367	Transfer #
WRD Reviewer Jessica Joyce	Date	11.28.16
WRD Peer Reviewer J Skatney	Date	11.29.16

Research

- Organize file in chronological order R-84037
- Pull CBU Report & Map(s), Application Map, relevant Permit, Certificate, or Transfer Order, most recent Assignments, Extension Orders, SWL Measurements, Fish Screen Certification Documents, Water Use Reports & Pump Tests
- Search for Water Right Location using Interactive Mapper. Identify Tax Lots & check for Area of Interest (AOI)
- Water Organization identified using AOI? No Yes
If "Yes" cc: _____ & Add to Mailing List
- Print Tax Lot Map from ormap.net for the original Place of Use, and confirm Current Ownership & Address with County Assessor
If there is a new owner, Add to Mailing List, including the owner(s) name & tax lot number
- Print Platcard & check for Place of Use Conflict? No Yes
If "Yes", provide copy of certificate & relevant map
- Print BLM Cadastral Survey
- Does Claim Map identify correct DLC, Gov't Lots, QQ's? No Yes
If "No", either _____ WRD amend map OR _____ prepare Order of Certification

Reviewing Claim

Have conditions on relevant permit, certificate, or transfer order been complied with? Yes, No, OR N/A

- N/A Fish Conditions Waived
- YES Meter/measuring device
- YES Water Use Reporting
- N/A Pump Test (post December 19, 1988)
- 1 Other Conditions _____
- 1 SWL
- YES C-Date 10.1.10

N/A Run Capacity Calculator and Print Findings (for pump, sprinklers, pipes, ditches, as appropriate)

NOTES:

enlargement of R-84037. Gerry ok'd to process.

Determination

I've determined that the permit/transfer was fully developed as authorized and that a **FINAL** Certificate should be issued. *full proof*

I've determined that the permit/transfer was not fully developed as authorized and that a **PROPOSED** Certificate should be issued. A proposed Certificate should be issued for the following reason(s):

I've determined that beneficial use was **NOT** made within the terms and conditions and that a **Proposed Order of Certification** (denial) should be issued. A proposed Order of Certification should be issued for the following reason(s):

Processing

Stamp PROPOSED or Assign CERT# _____ or ORDER OF CERTIFICATION (circle one)

Draft Certificates or Proposed Order of Certifications are available in the Application directory.

Prepare Mailing List. Include Applicant(s); Receiving Landowner(s); Current Owner(s); Water Organizations; CWRE. Indicate records to be marked.

<input type="checkbox"/> Record marking:	App _____	Permit _____	Cert _____
	App _____	Permit _____	Cert _____
	App _____	Permit _____	Cert _____
	App _____	Permit _____	Cert _____

NOTES:



Search

Identify Non-Water Right Features

Tax Lots

Tools

Layers

- Water Rights by Use
- Water Rights by Type
- Water Rights by Type-Use
- Water Rights by Prim./Suppl
- Irrigation Districts AOI
- Other Irrigation Districts
- Administrative Boundaries
- Rules
- Surface Water
- Hydrography
- Transportation
- Stream Gages
- Dams
- Exempt Use Wells (partial)
- PODs by Source Type
- Taxlots
 - Tax Lots - White
 - Tax Lot Roads
 - Tax Lots



Bookmarks

POD POU Irrigation Districts AOI WR By Time

All Fields Search...

#	ID (select)	WRIS	Zoom	Water Right	Water Type	First Name	Last Name	Company	Use Desc.	Priority Date	Supp. Duty	Rate cfs	Rate cfs Est.	Max Rate cfs	Acre ft	Acre ft Est	Max Rate
1	133714	(Details)	Map WR	Permit: R 13367 * ST	ST			KRAUTMANN FAMIL...	STORAGE	03/27/2001	-				10.1	Yes	
2	133715	(Details)	Map WR	Permit: R 13367 * ST	ST			KRAUTMANN FAMIL...	STORAGE	03/27/2001	-				10.1	Yes	
3	144377	(Details)	Map WR	Permit: R 13367 * ST	ST			KRAUTMANN FAMIL...	STORAGE	03/27/2001	-				10.1	Yes	

Search took 0 sec

09 3W 14

09 3W 14



MARION COUNTY, OREGON
 SEC 14 T9S R3W W.M.
 SCALE 1" = 400'

LEGEND

- LINE TYPES**
- Taxlot Boundary
 - Road Right-of-Way
 - Railroad Right-of-Way
 - Private Road ROW
 - Subdivision/Plat Bndry
 - Waterline - Taxlot Bndry
 - Historical Boundary
 - Easement
 - Railroad Centerline
 - Taxcode Line
 - Map Boundary
 - Waterline - Non Bndry

- SYMBOL TYPES**
- Survey Monument
 - Road Station
 - DLC Corner
 - 1/16TH Section Cor.
 - 1/4 Section Cor.
 - 16, 15 Section Corner
 - 21 22

NUMBERS
 Tax Code Number
000 00 00 0

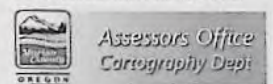
Acresage 025AC All acres listed are Net Acres, excluding any portions of the taxlot within public ROWs

NOTES
 Tick Marks: If a tick mark is indicated on the end of a line, then the dimension goes to the tick mark. This is used when dimensions extend into public rights-of-ways.



CANCELLED NUMBERS	
301	
1700	
2100	

DISCLAIMER: THIS MAP WAS PREPARED FOR ASSESSMENT PURPOSES ONLY



FOR ADDITIONAL MAPS VISIT OUR WEBSITE AT www.co.marion.or.us

PLOT DATE: 7/7/2016

09 3W 14

09 3W 14

Marion County Assessor's Property Records Property Summary

Property Identification

Account No.:	R332389	Manufactured Home ID:	
Situs Address:		Legal Description:	P.P. 2003-022, PARCEL 1, ACRES 227.13
Map Tax Lot:	093W14 00201		

Owner Information

Owner: KRAUTMANN FAMILY NURSERY LLC
4199 75TH AV SE
SALEM, OR 97317

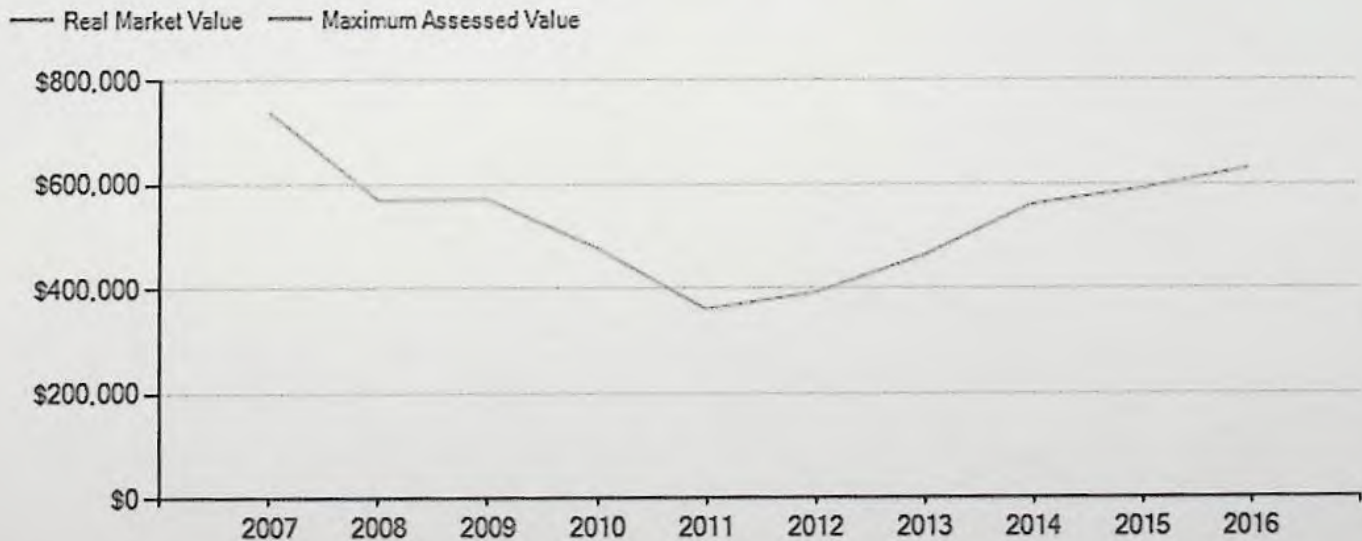
Property Details

Year Built:		Property Code:	A90
Living Area:		Property Class:	551
Bedrooms:		Levy Code Area:	81400130
Bathrooms:		Zoning:	Contact Local Jurisdiction
Legal Acreage:	227.13	Apex Sketches:	None Available

Value Information

RMV Land Market:	\$0		
RMV Land Spec. Assess.:	\$631,650		
RMV Structures:	\$0		
RMV Total:	\$631,650		
SAV:	\$263,790		
Exception RMV:	\$0		
Exemption RMV:	\$0	Exemption Description:	None
M5 Taxable:	\$263,790		
MAV:	\$0		
MSAV:	\$98,010		
AV:	\$98,010		

Graph shows tax roll Real Market Value and Maximum Assessed Value of this property for past 10 years. For a detailed explanation, please see definition of Assessed Value above (hover over the "i").



Tax Information

Taxes Levied 2016-17:	\$1,061.36	Tax Payoff Amount:	\$0.00
Tax Rate:	10.8292	Tax Statement:	Original 2016-17 Tax Statement

Sales Information

Sales Date:	10/15/2003	Deed Number:	22170276
Sales Price:	\$1,350,000	Deed Type:	WD
Sale Type:	27	Property IDs Included in Sale:	R332389 R36332



Search Criteria *NCR*

Meridian:
 Township:
 Range:
 Section:
 Records per Page:

[Platcards Maps!](#)
[Learn about](#) * [View Map](#)

NCR

Rel. file

NCR

Water Right	Changing Xfers	Priority	Use	Use Status	DLC	Gov't Lot	qq(40):	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	Unkown		
							q(160):	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	QQ		
Select App: P 82611 *		1/31/1997	LIVESTOCK							*										*			*			
Additional Info: ROBERT L RIEMENSCHNEIDER App: P82611																										
Select Permit: R 12733 *		1/7/1999	STORAGE		42															*	*					
Additional Info: KRAUTMANN FAMILY NURSERY LLC App: R84036 Permit: R12733																										
Select Permit: R 12733 *		1/7/1999	RECREATION		42															*	*					
Additional Info: KRAUTMANN FAMILY NURSERY LLC App: R84036 Permit: R12733																										
Select Permit: S 53603 *		1/15/1999	IRRIGATION					14.5	7.2	40	40	7.4	7.6	40	40	37	37.1	4	2	31.8	25.7			2.7		
Additional Info: KRAUTMANN FAMILY NURSERY LLC App: S84037 Permit: S53603																										
Select Permit: S 53603 *		1/15/1999	SUPPLEMENTAL IRRIGATION (Suppl'mtl)													2.9	2.9	1.2	2.7	2.5	6.8	2.6	0.8			
Additional Info: KRAUTMANN FAMILY NURSERY LLC App: S84037 Permit: S53603																										
Select Cert:14533 OR *		6/27/1941	DOMESTIC		42															*						
Additional Info: KARL STEIWER App: S19385 Permit: S14992 Cert: 14533																										
Select Cert:23305 OR *		11/18/1947	DOMESTIC		42															*	*					
Additional Info: JANET GREY STEIWER App: S22916																										

STATE OF OREGON

COUNTY OF MARION

PERMIT TO CONSTRUCT A RESERVOIR AND STORE THE PUBLIC WATERS

THIS PERMIT IS HEREBY ISSUED TO

~~GLENN & MARY WESTBROOK~~ KRAUTMANN FAMILY NURSERY LLC
3022 ~~UMATILLA PLACE~~ 4199 75TH AV SE
ALBANY, OREGON 97321 SALEM OR 97321

(541) 928-8293

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

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STORAGE FACILITY: WESTBROOK RESERVOIR

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MAXIMUM VOLUME: 20.2[✓] ACRE FEET EACH YEAR

WATER MAY BE APPROPRIATED FOR STORAGE: NOVEMBER 1 THROUGH JUNE 30

DATE OF PRIORITY: MARCH 27, 2001

The area submerged by the reservoir, when full, will be 11.2 acres and the maximum depth of water will be 23.34 feet. The maximum height of the dam shall not exceed 26.0 feet.

DAM LOCATION: NW 1/4 SE 1/4, SECTION 14, T9S, R3W, W.M.; 2100²¹⁰⁰ FEET NORTH AND 1510¹⁴⁷⁰ FEET WEST FROM THE SE CORNER SECTION 14

THE AREA TO BE SUBMERGED BY THE RESERVOIR IS LOCATED AS FOLLOWS:

ADD → SE 1/4 NE 1/4

NE 1/4 SE 1/4[✓]

NW 1/4 SE 1/4[✓]

SECTION 14

TOWNSHIP 9 SOUTH, RANGE 3 WEST, W.M.

Measurement, recording and reporting conditions:

- yes A. Before water use may begin under this permit, the permittee shall install a meter or other suitable measuring device as approved by the Director. The permittee shall maintain the

Application R-84703 Water Resources Department

PERMIT R-13367

meter or measuring device in good working order, shall keep a complete record of the amount of water used each month and shall submit a report which includes the recorded water use measurements to the Department annually or more frequently as may be required by the Director. Further, the Director may require the permittee to report general water use information, including the place and nature of use of water under the permit. *meter-OK 10.1999*

- B. The permittee shall allow the watermaster access to the meter or measuring device; provided however, where the meter or measuring device is located within a private structure, the watermaster shall request access upon reasonable notice.

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.

The use may be restricted if the quality of the source stream or downstream water decrease to the point that those waters no longer meet state or federal water quality standards due to reduced flows.

The permittee shall install, maintain, and operate fish screening to prevent fish from entering the proposed diversion. The permittee shall also install a fishway at the obstruction that will provide adequate upstream and downstream passage for fish. The permittee may submit evidence that the Oregon Department of Fish and Wildlife (ODFW) has determined screens and/or fishways are not necessary. The required screens and fishways are to be in place, functional, and approved by ODFW before diversion of any water.

Waived under R-84036 R-12733

The outlet gate shall be cycled at least once each year and shall be fully operational at all times.

Routine maintenance of the dam, its spillway and all appurtenant structures shall be performed as necessary to remove trees, brush and debris, and to repair slumps, areas of erosion, or defective equipment.

The earthen dam, the resultant reservoir, and the emergency spillway, shall be constructed and maintained according to the approved plans and specifications on file with the Oregon Water Resources Dam Safety program.

Any significant change in the approved design prior to or during construction shall be documented by the project engineer in a letter to Dam Safety. All construction shall be performed under the supervision of a registered professional engineer licensed in Oregon.

No fill shall be placed until preparation of the foundation and excavation of the core trench has been completed and examined in entirety by the engineer of record, or by the Water Resources Dam Safety Engineer, or both.

No water shall be stored until the Water Resources Department receives written certification from the engineer of record that construction has been completed in accordance with the approved plans and specifications. If construction deviates from the approved design a set reproducible asbuilt drawings, including a revised reservoir capacity graph/table, must accompany the engineer's written certification of completion. *OK*

The completed structure shall not be enlarged, modified, altered or otherwise changed without the prior written approval of the Director of the Water Resources Department or the Director's authorized representative. Except for routine repair and maintenance, plans and specifications prepared by an Oregon licensed engineer are required for any significant modification, alteration, or rehabilitation of the dam, spillway or appurtenant structures.

STANDARD CONDITIONS

Use under this permit is limited to the reservoir area. This permit does not provide for the appropriation of water for maintaining the water level or maintaining a suitable fresh water condition.

The storage of water allowed herein is subject to the installation and maintenance of a fully functional conduit/gate assembly having a minimum diameter of 8 inches.

Failure to comply with any of the provisions of this permit may result in action including, but not limited to, restrictions on the use, civil penalties, or cancellation of the permit.

This permit is for the beneficial use of water without waste. The water user is advised that new regulations may require the use of best practical technologies or conservation practices to achieve this end.

By law, the land use associated with this water use must be in compliance with statewide land-use goals and any local acknowledged land-use plan.

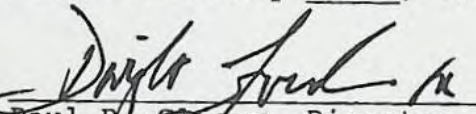
The use of water allowed herein may be made only at times when sufficient water is available to satisfy all prior rights, including prior rights for maintaining instream flows.

The Director finds that the proposed use(s) of water described by this permit, as conditioned, will not impair or be detrimental to the public interest.

The reservoir shall be filled and complete application of the water to the use shall be made on or before October 1, 2008. If the water is not completely applied before this date, and the permittee wishes to continue development under the permit, the permittee must submit an application for extension of time, which may be approved based upon the merit of the application.

Within one year after complete application of water to the proposed use, the permittee shall submit a claim of beneficial use, which includes a map and report, prepared by a Certified Water Rights Examiner (CWRE).

Issued February 19, 2004


Paul R. Cleary, Director
Water Resources Department

REAL ESTATE TRANSACTIONS: Pursuant to ORS 537.330, in any transaction for the conveyance of real estate that includes any portion of the lands described in this permit, the seller of the real estate shall, upon accepting an offer to purchase that real estate, also inform the purchaser in writing whether any permit, transfer approval order, or certificate evidencing the water right is available and that the seller will deliver any permit, transfer approval order or certificate to the purchaser at closing, if the permit, transfer approval order or certificate is available.

CULTURAL RESOURCES PROTECTION LAWS: Permittees involved in ground-disturbing activities should be aware of federal and state cultural resources protection laws. ORS 358.920 prohibits the excavation, injury, destruction or alteration of an archeological site or object, or removal of archeological objects from public and private lands without an archeological permit issued by the State Historic Preservation Office. 16 USC 470, Section 106, National Historic Preservation Act of 1966 requires a federal agency, prior to any undertaking to take into account the effect of the undertaking that is included on or eligible for inclusion in the National Register. For further information, contact the State Historic Preservation Office at 503-378-4168, extension 232.

Water Use Report Based on Water Right



Permit: R 13367 *

KRAUTMANN FAMILY NURSERY LLC 4194 71ST AVE SE SALEM, OR 97301

Records per page:

Acre-feet (AF) of Water Used

<u>Water Year*</u>	<u>Report ID</u>	<u>Facility</u>	<u>Oct</u>	<u>Nov</u>	<u>Dec</u>	<u>Jan</u>	<u>Feb</u>	<u>Mar</u>	<u>Apr</u>	<u>May</u>	<u>Jun</u>	<u>Jul</u>	<u>Aug</u>	<u>Sep</u>	<u>Total Water Used</u>	<u>Irrigated Acres</u>
2015	<u>62654</u>	WESTBROOK RES STORAGE	100.00	115.00	126.00	126.00	115.00	115.00	115.00	115.00	115.00	115.00	100.00	115.00	126.00	
2014	<u>62654</u>	WESTBROOK RES STORAGE	110.00	110.00	110.00	128.00	128.00	128.00	110.00	110.00	110.00	108.00	108.00	107.00	128.00	
2013	<u>62654</u>	WESTBROOK RES STORAGE	103.00	103.00	126.00	126.00	103.00	103.00	103.00	103.00	103.00	103.00	103.00	103.00	126.00	
2012	<u>62654</u>	WESTBROOK RES STORAGE	99.00	105.00	126.00	131.00	130.00	116.00	116.00	115.00	110.00	110.00	110.00	110.00	131.00	
2011	<u>62654</u>	WESTBROOK RES STORAGE	100.00	115.00	126.00	126.00	115.00	115.00	115.00	115.00	115.00	115.00	110.00	126.00	126.00	
2010	<u>62654</u>	WESTBROOK RES STORAGE	103.00	112.00	135.00	132.00	130.00	130.00	125.00	125.00	125.00	110.00	110.00	102.00	135.00	
2009	<u>62654</u>	WESTBROOK RES STORAGE	112.00	112.00	112.00	112.00	112.00	112.00	112.00	112.00	103.00	103.00	103.00	103.00	112.00	

*The water year is named for the calendar year in which it ends. Example: the 2014 water year begins Oct. 1, 2013 and ends Sep. 30, 2014.

- Water use is reported by point of diversion (POD), rather than by water right.
- If a POD is shared with multiple water rights, it is not feasible to separate out the amount used under the water right being queried from water used by other rights using this same POD.
- Monthly amounts indicate:
 - For diverted rights, the total amount diverted during the month;
 - For storage rights, the amount generally stored in the reservoir/pond during the month, as represented by the volume of water impounded on approximately the same day each month.
- Water Use amounts have all been converted to "acre-feet" (AF), regardless of the original measurement unit reported. One AF is the volume of water that will cover an acre of ground one foot deep = 325,850 gallons.
- Zeroes indicate that a report was received, stating that no water was used during those months; if a year is not listed, no report of water use was received for that year.

Checklist for Claims of Beneficial Use Received At Customer Service Counter

Date Received 4/24/14 CWRE MARIA KUPILLAS

File Marked yes

By Scott - CSG

Claim Logged yes

Application # R-84703 \$175.00 Fee

Transfer # _____ \$175.00 Fee if priority date is after July 9, 1987.

Map Review:

- Map on polyester film (OAR 690-014-0170(1) & 310-0050(1)(b))
- Application & permit #: or transfer # (OAR 690-014-0100(1))
- Disclaimer (OAR 690-014-0170(5))
- North arrow (OAR 690-310-0050(2)(c))
- CWRE stamp and signature (OAR 690-014 & 310-0050)
- Appropriate scale (1" = 1320', 1" = 400', or the original full-size scale of the county assessor map) (014 & 310)
- Township, range, section, and tax lot numbers (OAR 690-310-0050(4))

Report Review:

- On form or format provided by the Department (OAR 690-014-0100(1))
- Application & permit #: or transfer # (OAR 690-014)
- Ownership information (OAR 690-014)
- Date of survey (OAR 690-014)
- Person interviewed (OAR 690-014)
- County (OAR 690-014)
- CWRE stamp and signature (OAR 690-014-0100)
- Signature(s) of permittee or transfer holder (OAR 690-014-0100)

**CLAIM OF
BENEFICIAL USE
for Reservoir Permits by
CWRE's (not self-certified)**



Oregon Water Resources Department
725 Summer Street NE, Suite A
Salem, Oregon 97301-1266
(503) 986-0900
www.wrd.state.or.us

**A fee of \$175 must accompany this form for permits
with priority dates after July 8, 1987.**

A separate form shall be completed for each permit.

In cases where a permit has been amended through the permit amendment process, a separate claim for the permit amendment is not required. Incorporate the permit amendment into the claim for the permit.

This form is subject to revision. **Begin each new claim** by checking for a new version of this form at:
http://www.oregon.gov/owrd/pages/wr/cwre_info.aspx

The completion of this form is required by OAR 690-014-0100(1) and 690-014-0110(4).

Please type or print in dark ink. If this form is found to contain errors or omissions, it may be returned to you. **Every item must have a response.** If any requested information does not apply to the claim, insert "NA." **Do not delete or alter any section of this form unless directed by the form.** The Department may require the submittal of additional information from any water user or authorized agent.

"Section 8" of this form is intended to aid in the completion of this form and should not be submitted.

If you have questions regarding the completion of this form, please call 503-986-0900 and ask for the Certificate Section.

The Department has a program that allows it to enter into a voluntary agreement with an applicant for expedited services. Under such an agreement, the applicant pays the cost to hire additional staff that would not otherwise be available. This program means a certificate may be issued in about a month. For more information on this program see:

http://www.oregon.gov/owrd/pages/mgmt_reimbursement_authority.aspx

**SECTION 1
GENERAL INFORMATION**

1. File Information

APPLICATION # R-84703	PERMIT # (IF APPLICABLE) R-13367	PERMIT AMENDMENT # (IF APPLICABLE) NA
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2. Property Owner (current owner information)

APPLICANT/BUSINESS NAME Krautmann Family Nursery, LLC.		PHONE NO. 503-585-9835	ADDITIONAL CONTACT NO.
ADDRESS 4194 71st Ave SE			
CITY Salem	STATE OR	ZIP 97301	E-MAIL

If the current property owner is not the permit holder of record, it is recommended that an assignment be filed with the Department. *Each permit holder of record must sign this form.*

3. Permit holder of record (this may, or may not, be the current property owner)

APPLICANT/BUSINESS NAME Krautmann Family Nursery LLC		PHONE NO. 503-585-9835	ADDITIONAL CONTACT NO.
ADDRESS 4194 71st Ave SE			
CITY Salem	STATE OR	ZIP 97301	E-MAIL

4. Date of Site Inspection:

5. Person(s) interviewed and description of their association with the project:

NAME	DATE	ASSOCIATION WITH THE PROJECT
Lynda Boyer	March 3, 2009	Employee of Heritage Seedlings
Mark Krautmann	March 3, 2009	Owner of Heritage Seedlings and permit holder.

6. County:

7. If any property described in the place of use of the permit final order is excluded from this report, identify the owner of record for that property (ORS 537.230(4)):

OWNER OF RECORD NA		
ADDRESS		
CITY	STATE	ZIP

Add additional tables for owners of record as needed

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**SECTION 2
SIGNATURES**

CWRE Statement, Seal and Signature

The facts contained in this Claim of Beneficial Use are true and correct to the best of my knowledge.



CWRE NAME MALIA KUPILLAS / PACIFIC HYDRO-GEOLOGY INC.		PHONE NO. 503-632-5016	ADDITIONAL CONTACT NO. 503-310-5553 (cell)
ADDRESS 18487 S VALLEY VISTA ROAD			
CITY Mulino	STATE OR	ZIP 97042-8741	E-MAIL PHG@BCTONLINE

Permit Holder's of Record Signature or Acknowledgement

Each permit or transfer holder of record must sign this form in the space provided below.

The facts contained in this Claim of Beneficial Use are true and correct to the best of my knowledge. I request that the Department issue a water right certificate.

SIGNATURE	PRINT OR TYPE NAME	TITLE	DATE
<i>Mark Krautman, Pres. Krautman Family Nursery LLC</i>	Mark Krautman Pres. Krautman Family Nursery, LLC	President.	3/26/14

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**SECTION 3
CLAIM DESCRIPTION**

1. Reservoir source and, if from surface water, the tributary:

RESERVOIR NAME OR NUMBER	SOURCE	TRIBUTARY
Westbrook Reservoir	Weaver Gulch	Miller Creek
Westbrook Reservoir	An Unnamed Stream	Miller Creek

2. Developed use(s), period of use, and rate for each use:

RESERVOIR NAME OR NUMBER	USES	SEASON OR MONTHS WHEN WATER WAS APPROPRIATED FOR STORAGE	VOLUME STORED (AF)
Westbrook Reservoir	Storage for Irrigation Use	November 1 through June 30	20.2
Total Quantity of Water Stored			20.2

3. Provide a general narrative description of the distribution works. This description must trace the water system from **each** point of diversion to the reservoir:

The reservoir is located in channel. Two first-order drainages (Weaver Gulch and an unnamed stream) discharge directly into the reservoir.

Reminder: The map associated with this claim must identify the location of the point(s) of diversion, Donation Land Claims (DLC), Government Lots (GLot), and Quarter-Quarters (QQ).

4. Variations:

Was the use developed differently from what was authorized by the permit, permit amendment final order, or extension final order? If yes, describe below.

YES

Permit R-12733 allowed for storage of 121.0 AF but the constructed reservoir had the capacity for 141.2 AF. This COBU is for Permit R-13367 for the additional 20.2 AF.

5. Claim Summary:

RESERVOIR NAME OR #	MAXIMUM STORAGE AUTHORIZED BY PERMIT (AF)	MAXIMUM STORAGE DEVELOPED (AF)
Westbrook Reservoir	20.2	20.2

**SECTION 4
SYSTEM DESCRIPTION**

Are there multiple reservoirs?

NO

Reservoir Name or Number this section describes (only needed if there is more than one):

Westbrook Reservoir

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A. Reservoir Location

1. Is the reservoir on-channel? YES2.

Provide dam outlet location and/or point of diversion(s).

TWP	RNG	MER	SEC	QQ	GLOT	DLC	MEASURED DISTANCES
9S	3W	WM	14	NW SE		42	Dam outlet is 2,100 feet north and 1,470 feet west of the southeast corner of Section 14

Reminder: The map associated with this claim must identify Donation Land Claims (DLC), Government Lots (GLOT), and Quarter-Quarters (QQ).

B. Diversion and Delivery System Information

Provide the following information concerning the diversion and delivery system. Information provided must describe the equipment used to transport the water from the point(s) of diversion to the reservoir.

1. Is a pump used? NO

6. Additional notes or comments related to the system:

None.

C. Gravity Flow Pipe

(THE DEPARTMENT TYPICALLY USES THE HAZEN-WILLIAM'S FORMULA FOR A GRAVITY FLOW PIPE SYSTEM)

1. Does the system involve a gravity flow pipe? NO

D. Gravity Flow Canal or Ditch

(THE DEPARTMENT TYPICALLY USES MANNING'S FORMULA FOR CANALS AND DITCHES)

1. Is a gravity flow canal or ditch used to convey the water as part of the distribution system? NO

E. Reservoir

1. Does the reservoir require the submittal of as-built plans and specifications? YES

2. Complete the table:

HAVE THE DOCUMENTS BEEN SUBMITTED? YES OR NO	WHEN WERE THE DOCUMENTS SUBMITTED?	HAVE THEY BEEN APPROVED BY THE DEPARTMENT?	NUMBER OF ACRE FEET STORED
Yes	Drawings are dated October 29, 1999 but are not date-stamped.	Yes	20.2 AF (Permit R-13367) 121 AF (Permit R-12733) 141.2 AF (total)

3. If the reservoir stores less than 9.2 acre-feet of water or if the dam is less than 10 feet in height, and as-built plans and specifications are not required, complete the table and items 4 through 8.

MAXIMUM DEPTH	AVERAGE DEPTH	SURFACE AREA (IN ACRES)	VOLUME (IN ACRE FEET)
NA	NA	NA	NA

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4. Provide reservoir volume calculations:

Volumes are shown on graph of area-maximum capacity on as-built. Maximum capacity is 141.2 AF. Water surface elevation is 359.34 feet.

5. Provide the following information concerning the physical characteristics of the dam:

CREST WIDTH (W)	DAM HEIGHT AT CENTERLINE (H)	DISTANCE FROM DOWNSTREAM TOP OF DAM TO DOWNSTREAM TOE (L)	DISTANCE FROM UPSTREAM TOP OF DAM TO UPSTREAM TOE (U)	WATER LEVEL AT INSPECTION	DOWN-STREAM SLOPE	UP-STREAM SLOPE
12 feet	31.32 feet	78.6 feet	110.4 feet	358.24 feet*	3:1	3:1

*Measured on March 3, 2009 from top of concrete inflow box.

6. Provide a drawing showing the cross section of the dam at the maximum section indicating details and dimensions. The drawing should be drawn at a standard even scale.

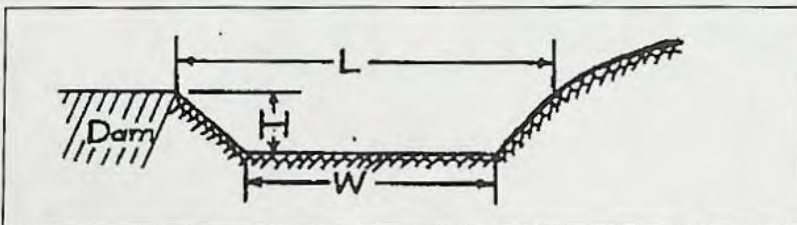
See as-built in file.

7. Describe the outlet works (size and type of the outlet conduit and location):

Outlet consists of a trickle pipe: 42-inch diameter; 16-gage, zinc-coated corrugated pipe topped with a concrete outflow box that is open at the top. The box is 4.2 feet high; the inner width of the square box is 6 feet 8 inches and the outer width is 8 feet and the bottom thickness is 8 inches. The elevation of the box at maximum capacity is 359.34 feet and the elevation at the lip is at 359.68 feet. See as-built in file for location.

8. Describe the emergency spillway (dimensions and location):

BOTTOM WIDTH (W)	TOP WIDTH (L)	SPILLWAY DEPTH (H)
16 feet	22 feet	3 feet



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SECTION 5 CONDITIONS

All conditions contained in the permit, permit amendment, or any extension final order shall be addressed. Reports that do not address all performance related conditions will be returned.

1. Time Limits:

Permits and any extension final orders contain any or all of the following dates; the date when the actual construction work was to begin, the date when the construction was to be completed, and the date when the complete application of water to the proposed was to be completed. These dates may be referred to as ABC dates. Describe how the water user has complied with each of the development timelines established in the permit or extension final order:

	DATE FROM PERMIT	DATE ACCOMPLISHED*	DESCRIPTION OF ACTIONS TAKEN BY WATER USER TO COMPLY WITH THE TIME LIMITS
ISSUANCE DATE	Feb. 19, 2004		
BEGIN CONSTRUCTION (A)	July 30, 1999	July 30, 1999	NA
COMPLETE CONSTRUCTION (B)	Oct. 1, 2008	October 29, 1999	NA
COMPLETE APPLICATION OF WATER (C)	October 1, 2008 extended to October 1, 2010	October 2009	Complete application of water to beneficial use was complete by October 2009.

* MUST BE WITHIN PERIOD BETWEEN PERMIT OR ANY EXTENSION FINAL ORDER ISSUANCE AND THE DATE TO COMPLETELY APPLY WATER

2. Is there an extension final order(s)? YES

3. Measurement Conditions:

a. Does the permit, permit amendment, or any extension final order require the installation of a meter or approved measuring device? YES

Reminder: If a meter or approved measuring device was required, the COBU map must indicate the location of the device in relation to the point of diversion or appropriation.

b. Has a meter been installed? NO

c. Meter Information

POD/POA NAME OR #	MANUFACTURER	SERIAL #	CONDITION (WORKING OR NOT)	CURRENT METER READING	DATE INSTALLED
NA					

If a meter has been installed, items 6d through 6g relating to this section may be deleted.

d. If a meter has not been installed, has a suitable measuring device been installed and approved by the Department? YES

e. If "YES", provide a copy of the letter approving the device, if available. If the letter is not available provide the name and title of the Water Resources Department employee approving the measuring device, and the approximate date of the approval:

NAME	TITLE	APPROXIMATE DATE
Mike McCord	Watermaster	April 2009

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f. Measurement Device Description

DEVICE DESCRIPTION	CONDITION (WORKING OR NOT)	DATE INSTALLED
Measure from top of concrete outflow box, known elevation is 359.34 feet	Working	October 1999

4. Recording and reporting conditions

a. Is the water user required to report the water use to the Department? **YES**

If "NO", item 4b relating to this section may be deleted.

b. Have the reports been submitted? **YES**

METHOD OF SUBMITTING REPORT (PAPER OR ELECTRONIC)	WATER USER REPORTING ID
Electronic	62654

If the reports have not been submitted, attach a copy of the reports if available.

5. Fish Screening

a. Are any points of diversion required to be screened to prevent fish from entering the point of diversion? **MAYBE**

b. Has the fish screening been installed? **NO**

c. When was the fish screening installed? **See attached letter from ODFW that fish screen is not needed.**

DATE	BY WHOM
NA	NA

Reminder: If the permit or transfer final order was issued on or after February 1, 2011, the fish screen is required to be approved by the Oregon Department of Fish and Wildlife regardless of the rate of diversion.

d. If the diversion **involves a pump and** the total diversion rate of all rights at the point of diversion is less than 225 gpm (0.5 cfs):

- Has the self-certification form previously been submitted to the Department? **NA**
- If not, go to <http://www.oregon.gov/owrd/Pages/pubs/forms.aspx>, complete and attach a copy of the self-certification form to this claim, and send a copy of it to the Oregon Department of Fish and Wildlife (ODFW).

Reminder: Failure to submit evidence of a timely installed fish screen may result in an unfavorable determination. The ODFW self certification form needs to have been previously submitted or be attached to this form.

e. If the diversion does **not involve a pump or** the total diversion rate of all rights at the point of diversion is 225 gpm (0.5 cfs) or greater:

- Has the ODFW approval been previously submitted? **NA**
- If not, contact and work with ODFW to ensure compliance. To demonstrate compliance, provide signed documentation from ODFW. A form is available at <http://www.oregon.gov/owrd/Pages/pubs/forms.aspx>

Reminder: Failure to submit evidence of a timely installed fish screen may result in an unfavorable determination. In order to receive a favorable approval, the ODFW/WRD "Fish Screen Inspection" form needs to have been previously submitted or be attached to this form.

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SALEM, OREGON

6. By-pass Devices

- a. Are any points of diversion required to have a by-pass device to prevent fish from entering the point of diversion? NO
- b. Have by-pass device been installed? NO
- c. Describe the diversion works as related to whether a by-pass device is installed or unnecessary:
 (Provide a letter from ODFW indicating the device is approved or is unnecessary. If there is no letter from ODFW, explain whether or not a by-pass device is necessary.)

DESCRIPTION (E.G. "ODFW HAS APPROVED THE BY-PASS DEVICE" OR "NO BY-PASS DEVICE IS NECESSARY BECAUSE THERE IS A DIRECT DIVERSION FROM THE STREAM VIA A PUMP ON RIVER LEFT STREAM BANK WITH FOOT VALVE DESCENDING DIRECTLY INTO NATURAL POOL.") IN ADDITION, YOU MAY ATTACH PHOTOS TO THIS CLAIM.	IF INSTALLED (DATE)	IF INSTALLED, BY WHOM
NA		

A fish screen was required in the permit application but the permit holder received a waiver from the ODFW. See attached letter.

- 7. Other conditions required by permit, permit amendment final order, or extension final order
 - a. Was the water user required to restore the riparian area if it was disturbed? YES
 - b. Was a fishway required? MAYBE
 - c. Was submittal of a letter from an engineer required prior to storage of water? YES
 - d. Was submittal of a water management and conservation plan required? NO
 - e. Other conditions? YES

If "YES" to any of the above, identify the condition and describe the water user's actions to comply with the condition(s):

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- a. Riparian area was in good conditions at time of site visit.
- b. ODFW waved the fish screen and fish way requirements.
- c. Letter attached showing approval by OWRD of the reservoir as-built plans submitted by Martin Boatwright on March 7, 2001. WATER RESOURCES DEPT
DAM SAFETY
DAMSAFETY@ODFW.ORG
- e. Other conditions:
 1. "The outlet gate shall be cycled at least once each year and shall be fully operational at all time." *Operational on March 3, 2009 site visit.*
 2. "Routine maintenance of the dam, its spillway and all appurtenant structures shall be performed as necessary to remove trees, brush and debris, and to repair slumps, areas of erosion, or defective equipment." *Maintained at the time of the March 3, 2009 site visit.*
 3. "The earthen dam, the resultant reservoir, and the emergency spillway, shall be constructed and maintained according to the approved plans and specifications on file with the Oregon Water Resources Dam Safety program." *See as-built.*
 4. "Any significant change in the approved design prior to or during construction shall be documented by the project engineer in a letter to Dam Safety. All construction shall be performed under the supervision of a registered professional engineer licensed in Oregon." *See as-built.*

5. "No fill shall be placed until preparation of the foundation and excavation of the core trench has been completed and examined in entirety by the engineer of record, or by the Water Resources Dam Safety Engineer." *See as-built.*

6. No water shall be stored until the Water Resources Department receives written certification from the engineer of record that construction has been completed in accordance with the approved plans and specifications. If construction deviates from the approved design a set of reproducible as-built drawings, including a revised reservoir capacity graph/table must accompany the engineer's written certificate of completion. *The actual reservoir capacity exceeded the permitted reservoir capacity. The OWRD issued a letter to the project engineer on March 7, 2001 acknowledging receipt of the as-built plans and the reservoir capacity graph. See attached letter.*

7. "The completed structure shall not be enlarged, modified, altered or otherwise changed without the prior written approval of the Director of the Water Resources Department or the Director's authorized representative. Except for routine repair and maintenance, plans any significant modification, alteration, or rehabilitation of the dam, spillway or appentent structure." *Reservoir capacity exceeded volume authorized by Permit R-12733. This COBU (Permit R-13367) is for an additional 20.2 acre feet.*

SECTION 6

ATTACHMENTS

Provide a list of any additional documents you are attaching to this report:

ATTACHMENT NAME	DESCRIPTION
ODFW letter	Letter from the ODFW waiving the fish screen and fish by-pass requirement.
OWRD letter	March 7, 2001 letter from the Department to the project engineer acknowledging receipt of the as-built plans

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SALEM, OREGON

SECTION 7

CLAIM OF BENEFICIAL USE MAP

The Claim of Beneficial Use Map must be submitted with this claim. Claims submitted without the Claim of Beneficial Use map will be returned. The map shall be submitted on poly film at a scale of 1" = 1320 feet, 1" = 400 feet, or the original full-size scale of the county assessor map for the location.

Provide a general description of the survey method used to prepare the map. Examples of possible methods include, but are not limited to, a traverse survey, GPS, or the use of aerial photos. If the basis of the survey is an aerial photo, provide the source, date, series and the aerial photo identification number.

Submerged area, dam and other features were traced using Arc GIS from an aerial photograph obtained from Oregon State University's Oregon Imagery Explorer website (<http://oe.oregonexplorer.info/imagery/index.aspx>). The 2005 aerial photograph has 0.5 meter resolution.

Map Checklist

Please be sure that the map you submit includes ALL the items listed below.

(Reminder: Incomplete maps and/or claims may be returned.)

- Map on polyester film.
- Appropriate scale (1" = 400 feet, 1" = 1320 feet, or the original full-size scale of the county assessor map)
- Township, Range, Section, Donation Land Claims, and Government Lots
- If irrigation, number of acres irrigated within each projected Donation Land Claims, Government Lots, Quarter-Quarters
- Locations of fish screens, fish by-pass devices, meters and measuring devices in relationship to point of diversion or appropriation.
- Conveyance structures illustrated (pumps, reservoirs, pipelines, ditches, etc.)
- Point(s) of diversion or appropriation (illustrated and coordinates)
- Tax lot boundaries and numbers
- Source illustrated if surface water
- Disclaimer ("This map is not intended to provide legal dimensions or locations of property ownership lines")
- Application and permit number or transfer number
- North arrow
- Legend
- CWRE stamp and signature

RECEIVED

APR 24 2014

WATER RESOURCES DEPT
SALEM, OREGON



Oregon

John A. Kitzhaber, M.D., Governor

March 7, 2001

Water Resources Department

Commerce Building
158 12th Street NE
Salem, OR 97301-4172
(503) 378-3739
FAX (503) 378-8130

Martin G. Boatwright, P.E.
Boatwright Engineering, Inc.
2613 12th Street SE
Salem, OR 97302

Re: Westbrook Dam, (File W-36)
Reservoir Application R-84036, Permit R-12733

RECEIVED

JUL 07 2011

WATER RESOURCES DEPT
SALEM, OREGON

Dear Mr. Boatwright:

Thank you for submitting asbuilt drawings and your accompanying letter certifying completion of the referenced project located in **Section 14, T9S, R3W, Marion County**. Our receipt of these items satisfies the dam safety requirements for construction of the dam and acknowledges the impoundment of water in an amount equal to 141.2 acre-feet @ elevation 359.34', which corresponds to the top of the vertical riser *with the flashboards installed*. Please be advised that Permit R-12733 allows for 121 acre-feet reservoir storage.

Based on the asbuilt drawings, the following physical data was assembled:

Crest primary spillway (vertical riser w/o flashboards)	356.98'
Crest emergency spillway	357.48'
Maximum storage (w/flashboards)	359.34'
Top of dam	362.0'

The height of the embankment at maximum centerline section is approximately 25 feet above natural ground surface. We understand all elevations shown on the asbuilts are NGVD.

We understand all waters used to fill the reservoir originate from a combination of springs and natural runoff. Because the size of the dam and reservoir exceed the established limits for exempt structures (greater than or equal to 10 feet height and 9.2 acre-feet storage), this project has been added to the state inventory of dams and reservoirs. As required by statute, the dam will be inspected on a regular basis for purposes of public safety by one or more employees of the Water Resources Department. We have tentatively scheduled the next inspection of this dam for autumn, 2001.

Thank you for your cooperation. We appreciate your efforts to achieve a good quality project. If you have any questions, please do not hesitate to let me know.

Sincerely,

John Falk, PE
Safety of Dams

c: Glen D. Westbrook
OWRD Water Rights Section
Bill Ferber - Watermaster Dist. #16

RECEIVED

APR 24 2014

WATER RESOURCES DEPT
SALEM, OREGON



84037 & 84036

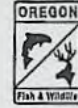
RECEIVED

Oregon

Aug. 12, 1999

AUG 13 1999

WATER RESOURCES DEPT.
SALEM, OREGON



DEPARTMENT OF
FISH AND
WILDLIFE

Salem District Office

Water Rights Section
Water Resources Department
158 12th Street NE
Salem, OR 97310

Re: Permit No. 53603 and R-12733
Westbrook, Glen and Mary
Marion County
Weaver Gulch > Miller Creek; 121 acre feet

ODFW inventoried the site of this proposed reservoir for the presence of fish resources on April 12, 1999. No fish species were present in the north branch of Weaver Gulch, where the reservoir will be located, and existing habitat does not appear to be suitable for supporting trout. Therefore, neither fish passage nor screening will be required at this impoundment.

Sincerely,

Wayne L. Hunt

Wayne Hunt
Fish Biologist

C: Boatwright Engineering
Glen and Mary Westbrook
Zarnowitz, HD

RECEIVED

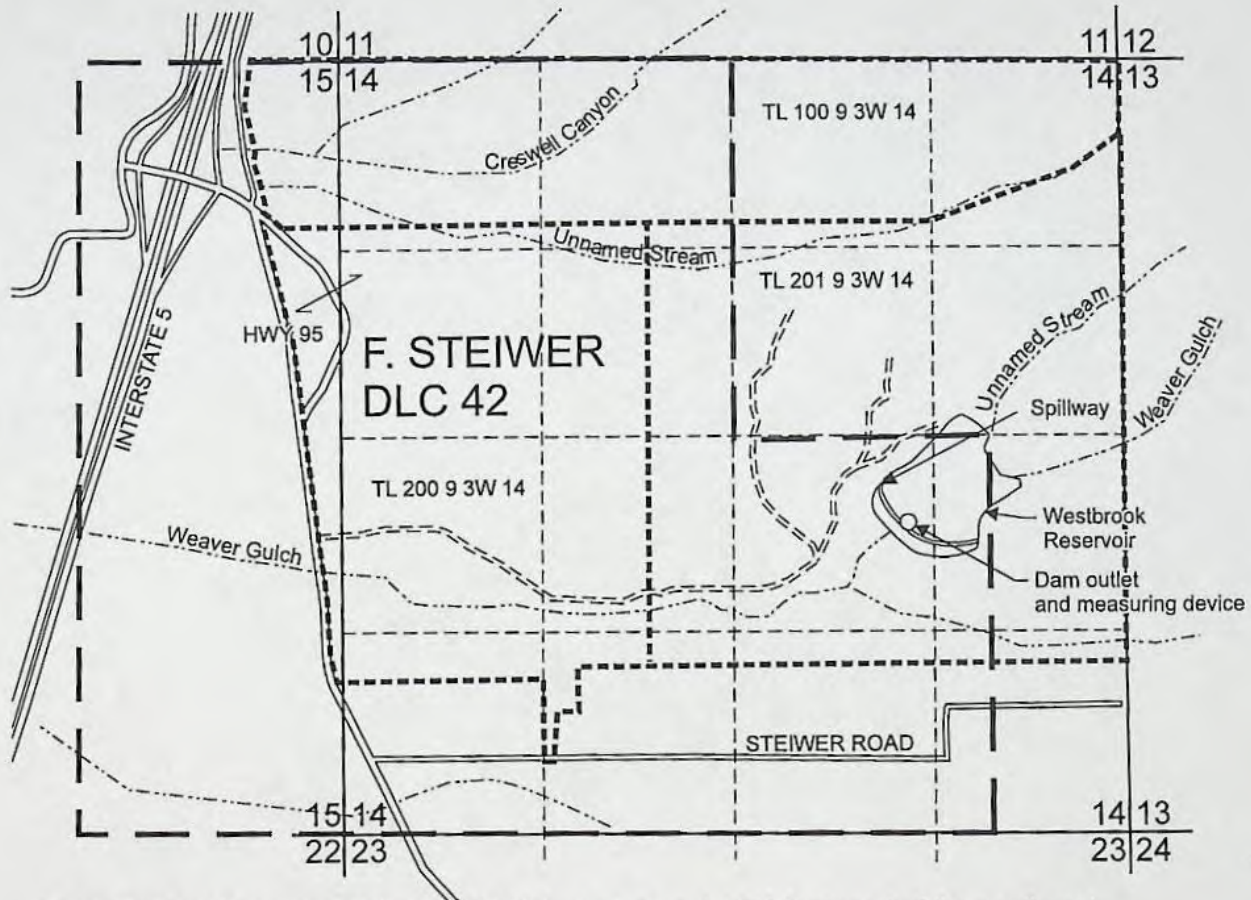
APR 24 2016

WATER RESOURCES DEPT
SALEM, OREGON



4412 Silverton Road NE
Salem, OR 97305
(503) 378-6925
FAX (503) 378-6233

T.9S. R.3W. Section 14, W.M.



Dam outlet and measuring device - 2100 feet north and 1470 feet west of the southeast corner of Section 14

Westbrook Reservoir - 121.0 AF, Application R-84036, Permit R-12733, and 20.2 AF, Application R-84703, Permit R-13367

----- Tax lot boundary

RECEIVED

APR 24 2014

WATER RESOURCES DEPT
SALEM, OREGON

Scale: 1" = 1,320'



EXPIRATION DATE 6/30/15

This map was prepared for the purpose of identifying the location of a water right only and is not intended to provide legal dimensions or location of property ownership lines.

Claim of Beneficial Use Map
Application R-84036, Permit R-12733
Application R-84703, Permit R-13367

Krautmann Family Nursery LLC
Tax Lot 201 9 3W 14

Pacific Hydro-Geology Inc.

6/2011 - bgp

RECEIVED

MAY 02 2006

REQUEST FOR ASSIGNMENT

WATER RESOURCES DEPT SALEM, OREGON BY PROOF OF OWNERSHIP (IF PERMIT/TRANSFER HOLDER IS NOT AVAILABLE)

SALEM, OREGON, Inc/Mark and Jolly Krautmann Krautmann Family Nursery, LLC
(Name of Party Requesting Assignment)

4194 71st Ave. SE Salem OR 97301 503.585.9853
(Mailing address) (City) (State) (Zip) (Phone #)

RECEIVED

APR 11 2006

WATER RESOURCES DEPT SALEM, OREGON

CHECK ONE

- ...hereby request assignment in and to application/permit/transfer;
- ...hereby request assignment in and to a portion of application/permit/transfer;

(You must include a map showing the portion of the application/permit/transfer to be assigned.)

- ...I have attached proof of ownership that may include but not be limited to: a copy of the deed to the land, a copy of a land sales contract, a court order or decree, documentation of survivorship of property held jointly;
(Remember to include \$5 for each additional page.)

Application # S-84702; R-84703, Permit # S-53817; R13367, Transfer # _____

-OR-

GR Statement # _____, GR Certificate of Registration # _____

Glenn and Mary Westbrook
(Name of Permit/Transfer Holder of Record)

3022 Umatilla Place Albany OR 97321 541.928.8293
(Mailing address) (City) (State) (Zip) (Phone #)

NOTE: If there are other owners of the property described in this Application, Permit, Transfer or Certificate of Ground Water Registration, you must provide a list of all other owners' names and mailing addresses and attach it to this form.

I hereby certify that I have notified all other owners of the property described in this Application, Permit or Certificate of Registration of this request for assignment.

Witness my hand this 17th day of April, 2006.

Party Requesting Assignment Mark Krautmann, Pres. Krautmann Family Nursery, LLC
Party Requesting Assignment _____

OK Assignment by Design
J. Sauter 4/11/2006

DO NOT WRITE IN THIS BOX

- This certifies assignment and record change at Oregon Water Resources Department effective 8:00a.m. on date of receipt at Salem, Oregon.
- Fee receipt # 80776
- For Director by Jerry Sauter, Program Analyst in Water Rights Division

Jerry Sauter

The completed "Request for Assignment" form must be submitted to the Department along with the appropriate recording fees:

- ◆ \$25 for the first page, and
- ◆ \$5 for each additional page.
[as required by ORS 536.050(1)(d)]

WATER RESOURCES DEPARTMENT
725 SUMMER STREET NE, SUITE A
SALEM, OREGON 97301-1271



Oregon

Theodore R. Kulongoski, Governor

Water Resources Department
North Mall Office Building
725 Summer Street NE, Suite A
Salem, OR 97301-1271
503-986-0900
FAX 503-986-0904

May 2, 2006

Heritage Seedlings, Inc.
4194 71st. Avenue S.E.
Salem, Oregon 97301

Reference: Application S-84702, Permit S-53817
Application R-84703, Permit R-13367

The assignment by deed from Glenn Westbrook and Mary Westbrook to Krautmann Family Nursery, LLC, has been recorded in the records of the Water Resources Department.

Our records have been changed accordingly and the original request is enclosed. Receipt number 80776 covering the recording fee of \$30.00 has already been given to you.

Sincerely,

Jerry Sauter
Water Rights Program Analyst

Enclosure: Original request

cc: Watermaster 16
Glenn Westbrook and Mary Westbrook
Data Center, OWRD
Water Availability
File

Oregon Water Resources Department
Water Rights Division

Water Rights Application
Number R-84703

Final Order
Extension of Time for Permit Number R-13367
Permit Holder: Krautmann Family Nursery, LLC.

Appeal Rights

This is a final order in other than a contested case. This order is subject to judicial review under ORS 183.484. A request for judicial review must be filed within the 60 day time period specified by ORS 183.484(2). Pursuant to ORS 536.075 and OAR 137-004-0080 you may either file for judicial review, or petition the Director for reconsideration of this order. A petition for reconsideration may be granted or denied by the Director, and if no action is taken within 60 days following the date the petition was filed, the petition shall be deemed denied.

Application History

Permit R-13367 was issued by the Department on February 19, 2004. The permit called for complete application of water to beneficial use by October 1, 2008. On June 30, 2009, Kraftmann Family Nursery, LLC submitted to the Department an Application for Extension of Time for Permit R-13367. In accordance with OAR 690-315-0050(2), on November 23, 2010, the Department issued a Proposed Final Order proposing to extend the time to apply water to full beneficial use to October 1, 2010. The protest period closed January 7, 2011, in accordance with OAR 690-315-0060(1). No protest was filed.

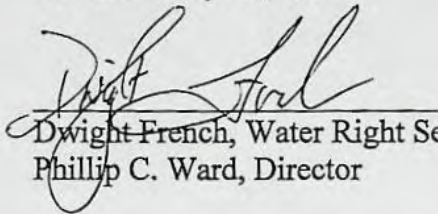
At time of issuance of the Proposed Final Order the Department concluded that, based on the factors demonstrated by the applicant, the permit may be extended subject to no additional conditions.

The applicant has demonstrated good cause for the permit extension pursuant to ORS 537.230, 539.010(5) and OAR 690-315-0040(2).

Order

The extension of time for Application R-84703, Permit R-13367, therefore, is approved. The deadline for applying water to full beneficial use is extended to October 1, 2010.

DATED: May 27, 2011



Dwight French, Water Right Services Division Administrator, for
Phillip C. Ward, Director

-
- If you have any questions about statements contained in this document, please contact Jerry Gainey at (503) 986-0812.
 - If you have other questions about the Department or any of its programs, please contact our Water Resources Customer Service Group at (503) 986-0900
-



Oregon

John A. Kitzhaber, MD, Governor

Water Resources Department
North Mall Office Building
725 Summer Street NE, Suite A
Salem, OR 97301-1271
503-986-0900
FAX 503-986-0904

May 1, 2014

KRAUTMANN FAMILY NURSERY, LLC
4194 71ST AVE SE
SALEM OR 97301

On April 24, 2014 the Water Resources Department received the Claim of Beneficial Use (COBU) for the following file(s):

Application R-84703 Permit R-13367

The COBU included a report and map. In the future the Department will review your submittal. At that time we will review these items and provide a final certificate, proposed certificate, or a request for additional information.

If you are interested in having your COBU reviewed sooner, you may pay to have your file processed immediately, using the Reimbursement Authority program, which is described at: http://www.wrd.state.or.us/OWRD/mgmt_reimbursement_authority.shtml

Customer Service phone: (503) 986-0801

If you sell the property, please contact the Department, or have the new owners contact the Department about the need to file an assignment.

Your receipt was given to your agent.

Cc: file

2005

APP 916140

Oregon Water Resources Department
October 2005 through September 2006
Annual Water Use - Monthly Quantities Form

APP 5-577042

USER-ID 217074

2006

Facility Report ID →	CRAVO WELL 63034 ✓	RANNEY COLLECTOR 52297 (Nov-April; Nursery Use) ✓			
October - 2005	104,674				
November - 2005	104,674	2,684,583			
December - 2005	104,674	2,684,583			
January - 2006	104,674	2,684,583			
February - 2006	104,674	2,684,583			
March - 2006	104,674	2,684,583			
April - 2006	104,674	2,684,583			
May - 2006	104,674				
June - 2006	104,674				
July - 2006	104,674				
August - 2006	104,674				
September - 2006	104,674				
TOTAL	1,256,090 G	16,107,500 G			

* Describe the units of measurement as G (gallons), KG (thousand gallons), MG (million gallons), CF (cubic feet), MCF (million cubic feet), or AF (acre-feet)

Describe the method of measurement used: (meter) If used for irrigation, total number of acres irrigated: (11.2)

I certify this information is true and accurate to the best of my knowledge.

Lynda Boyer; Data Manager; 12-31-08
4194 71st Ave SE, Salem OR 97317, 503-585-9835 (ph)

Please complete and mail to: Oregon Water Resources Department; Water Use Reporting Program;
725 Summer Street NE, Suite A; Salem, OR 97301-1266.

RECEIVED

JAN 07 2009

WATER USE REPORT

2004

APP 5-12501

Oregon Water Resources Department
October 2004 through September 2005
Annual Water Use - Monthly Quantities Form

APP 5-53892

USER-ID 27709

2005

Facility Report ID →	OLD FIELD 61454 ✓	RANNEY COLLECTOR 52297 (Nov-April; Nursery Use) ✓			
October - 2004	964,050				
November - 2004	0	1,655,083			
December - 2004	0	1,655,083			
January - 2005	0	1,655,083			
February - 2005	0	1,655,083			
March - 2005	0	1,655,083			
April - 2005	320,493	1,655,083			
May - 2005	320,493				
June - 2005	320,493				
July - 2005	320,493				
August - 2005	320,493				
September - 2005	320,493				
TOTAL	2,887,007 G	9,930,500 G			

* Describe the units of measurement as G (gallons), KG (thousand gallons), MG (million gallons), CF (cubic feet), MCF (million cubic feet), or AF (acre-feet)

Describe the method of measurement used: (meter) If used for irrigation, total number of acres irrigated: (11.2)

I certify this information is true and accurate to the best of my knowledge.

Lynda Boyer; Data Manager; 12-31-08
4194 71st Ave SE, Salem OR 97317, 503-585-9835 (ph)

RECEIVED

JAN 07 2009

Please complete and mail to: Oregon Water Resources Department; Water Use Reporting Program;
725 Summer Street NE, Suite A; Salem, OR 97301-1266.

WATER USE REPORT

Mailing List for Extension FO Copies

Note: Include a copy of the "Important Notice" document along with the original copy of the Final Order being sent to the permit holder.

FO Date: May 27, 2011

Copies Mailed

Application R-84703
Permit R-13367

By: MS
On: 5/27/11

Original mailed to permit holder

Kraftmann Family Nursery, LLC
4194 71st Avenue SE
Salem, OR 97301

Copies sent to:

1. WRD - App. File R-84703/ Permit R-13367
- ~~2. WRD Support Staff, Salem...Permit record update~~

Fee paid as specified under ORS 536.050 to receive copy:

3. None

Receiving via e-mail (10 AM day of signature date)

4. WRD – Water Master District 16 – Mike McCord, Salem

Done by JWG Date 6-2-11

CASEWORKER: JWG

ACRONYM QUICK REFERENCE

Department – Oregon Department of Water Resources
PFO – Proposed Final Order

Units of Measure

cfs – cubic feet per second
gpm – gallons per minute
AF – acre-feet

AUTHORITY

Generally, see ORS 537.230 and OAR Chapter 690 Division 315.

ORS 537.230(3) provide in pertinent part that the Oregon Water Resources Department (Department) may, for good cause shown, order an extension of time within which irrigation or other works shall be completed or the right perfected. In determining the extension, the Department shall give due weight to the considerations described under ORS 539.010(5) and to whether other governmental requirements relating to the project have significantly delayed completion of construction or perfection of the right.

ORS 539.010(5) provides in pertinent part that the Water Resources Director, for good cause shown, may extend the time within which the full amount of the water appropriated shall be applied to a beneficial use. This statute instructs the Director to consider: the cost of the appropriation and application of the water to a beneficial purpose; the good faith of the appropriator; the market for water or power to be supplied; the present demands therefore; and the income or use that may be required to provide fair and reasonable returns upon the investment.

OAR 690-315-0040 provides in pertinent part that the Water Resources Department shall make findings to determine if an extension of time may be approved to complete construction and/or apply water to full beneficial use.

FINDINGS OF FACT

Background

1. Permit R-13367 was granted by the Department on February 19, 2004. The permit authorizes the storage of up to 20.2 AF of water in Westbrook Reservoir from Weaver Gulch and an unnamed stream, tributaries of Miller Creek, appropriated under Application S-84702, Permit 53817, for irrigation to make up a deficiency in rate. The permit specified the reservoir shall be filled and complete application of water was to be made on or before October 1, 2008.
2. No prior permit extensions have been granted for Permit R-13367.

3. The permit holder submitted an "Application for Extension of Time" to the Department on June 30, 2009 requesting the time to complete construction and the time to apply water to full beneficial use under the terms of Permit R-13367 be extended from October 1, 2008 to October 1, 2010. This is the first permit extension requested for Permit R-13367.
4. Notification of the Application for Extension of Time for Permit R-13367 was published in the Department's Public Notice dated July 7, 2009. No public comments were received regarding the extension application.

Review Criteria [OAR 690-315-0040]

The time limits to complete construction and/or apply water to full beneficial use may be extended if the Department finds that the permit holder has met the requirements set forth under OAR 690-315-0040. This determination shall consider the applicable requirements of ORS 537.230¹, 537.248² and/or 539.010(5)³.

Complete Extension of Time Application [OAR 690-315-0040(1)(a)]

5. On June 30, 2009, the Department received a completed Application for Extension of Time and the fee specified in ORS 536.050 from the permit holder.

Start of Construction [OAR 690-315-0040(1)(b) and 690-315-0040(5)]

6. Senate Bill 300 (1999 legislation) eliminates the requirement that holders of new surface water and ground water permits start construction on water projects within one year after the Department issues the permit. Senate Bill 300 applies to any application for a permit filed after October 23, 1999.

Duration of Extension [OAR 690-315-0040(1)(c)]

Under OAR 690-315-0040(1)(c), in order to approve an extension of time for water use permits the Department must find that the time requested is reasonable and the applicant can complete the project within the time requested.

7. As of June 30, 2009, the remaining work to be completed of installing a suitable measuring device, submitting annual report of monthly water use, and applying water to full beneficial use.
8. Given the amount of development left to occur, the Department has determined that the permit holder's request to have until October 1, 2010, to accomplish the application of water to beneficial use under the terms and conditions of Permit R-13367 is both reasonable and necessary.

¹ORS 537.230 applies to surface water permits only.

²ORS 537.248 applies to reservoir permits only.

³ORS 539.010(5) applies to surface water and ground water permits.

Good Cause [OAR 690-315-0040(1)(d)]

The Department's determination of good cause shall consider the requirements set forth under OAR 690-315-0040(2).

Reasonable Diligence of the Appropriator [OAR 690-315-0040(2)(a)]

The Department's determination of reasonable diligence shall consider the requirements set forth under OAR 690-315-0040(3)(a-d). In accordance with OAR 690-315-0040(3), the Department shall consider, but is not limited to, the following factors when determining whether the applicant has demonstrated reasonable diligence in previous performance under the permit:

Amount of Construction [OAR 690-315-0040(3)(a)]

9. Work was accomplished within the time allowed in the permit or previous extension as follows:
 - a. Construction of the water system began prior to October 1, 2008.
 - b. Work was completed during the original development time frame under Permit R-13367.

Beneficial Use of Water [OAR 690-315-0040(3)(b)]

10. The following beneficial use was made of the water during the permit or previous extension time limits:
 - a. Delay of full beneficial use of water under Permit R-13367 was due, in part, to the permit holder failing to install a meter, measuring water levels monthly and submitting annual reports to the Department, required by the permit.

Compliance with Conditions [OAR 690-315-0040(3)(c)]

11. The water right permit holder's conformance with the permit or previous extension conditions.
 - a. The Department has considered the permit holder's compliance with conditions, and has identified the following concerns: (1) the record does not show that a suitable measuring device has been installed, and (2) the record does not show that annual reports of the amount of water used each month have been received by the Department.
 - b. Failure to comply with permit conditions constitutes illegal storage of water. In order to legally perfect the storage of water under this permit, the permit holder must demonstrate that all conditions of the permit have been satisfied.

Financial Investments [OAR 690-315-0040(3)(d)]

12. Financial investments made toward developing the beneficial water use.
 - a. As of June 30, 2009, the permit holder has invested approximately \$100,200.00, of the total projected cost for complete development of this project. The permit holder anticipates an additional \$200.00 investment is needed for the completion of this project.

Cost to Appropriate and Apply Water to a Beneficial Purpose [OAR 690-315-0040(2)(b)]

13. As of June 30, 2009, the permit holder has invested approximately \$100,200.00 of the total projected cost for complete development of this project. The permit holder anticipates an additional \$200.00 investment is needed for the completion of this project.

Good Faith of the Appropriator [OAR 690-315-0040(2)(c)]

14. The Department has found good faith of the appropriator under Permit R-13367.

The Market and Present Demands for Water [OAR 690-315-0040(2)(d-e)]

The Department's determinations of market and present demand for water or power to be supplied shall consider the requirements set forth under OAR 690-315-0040(4)(a-f). In accordance with OAR 690-315-0040(4), the Department shall consider, but is not limited to, the following factors when determining the market and the present demand for water or power to be supplied:

15. The amount of water available to satisfy other affected water rights and scenic waterway flows; special water use designations established since permit issuance, including but not limited to state scenic waterways, federal wild and scenic rivers, serious water management problem areas or water quality limited sources established under 33 U.S.C. 1313(d); or the habitat needs of sensitive, threatened or endangered species, in consultation with the Oregon Department of Fish and Wildlife [OAR 690-315-0040(4)(a-c)].
 - a. The amount of water available to satisfy other affected water rights and scenic waterway flows was determined at the time of issuance of Permit R-13367; furthermore, water availability for other affected water rights and scenic waterway flows after the permit was issued is determined at such time that such application for a new water right is submitted. The points of diversion are located on Weaver Gulch and an unnamed stream, tributaries of Miller Creek. Weaver Gulch and an unnamed stream, tributaries of Miller Creek are located within or above any state or federal scenic waterway, however it is located within an area ranked "low" for stream flow restoration needs as determined by the Department in consultation with the Oregon Department of Fish and Wildlife, and is located within a Sensitive, Threatened or Endangered Fish Species Area as identified by the Department in consultation with Oregon Department of Fish and Wildlife.

Weaver Gulch and an unnamed stream, tributaries of Miller Creek listed by the Department of Environmental Quality as a water quality limited stream.

16. Economic investment in the project to date [OAR 690-315-0040(4)(d)].
 - a. As of June 30, 2009, the permit holder has invested approximately \$100,200.
17. Other economic interests dependent on completion of the project [OAR 690-315-0040(4)(e)].
 - a. None have been identified.
18. Other factors relevant to the determination of the market and present demand for water and power [OAR 690-315-0040(4)(f)].
 - a. None have been identified.

Fair Return Upon Investment [OAR 690-315-0040(2)(f)]

19. Use and income from the permitted water development results in reasonable returns upon the investment made to date.

Other Governmental Requirements [OAR 690-315-0040(2)(g)]

20. Delay in the development of this project was not caused by any other governmental requirements.

Unforeseen Events [OAR 690-315-0040(2)(h)]

21. None have been identified.

CONCLUSIONS OF LAW

1. The applicant is entitled to apply for an extension of time to complete construction and/or completely apply water to the full beneficial use pursuant to ORS 537.230(3).
2. The applicant has submitted a complete extension application form and the fee specified in ORS 536.050, as required by OAR 690-315-0040(1)(a).
3. The applicant complied with begin actual construction timeline requirements pursuant to ORS 537.230 as required by OAR 690-315-0040(1)(b) and OAR 690-315-0040(5).
4. Completion of construction and full application of water to beneficial use can be accomplished by October 1, 2010⁴, as required by OAR 690-315-0040(1)(c).

⁴Pursuant to ORS 537.230(3), upon the completion of beneficial use of water allowed under the permit, the permittee shall hire a certified water rights examiner to survey the appropriation. Within one year after the complete application of water to a beneficial use (or by the date allowed for the complete application of


5. The Department has considered the reasonable diligence and good faith of the appropriator, the cost to appropriate and apply water to a beneficial purpose, the market and present demands for water to be supplied, the financial investment made and fair and reasonable return upon the investment, the requirements of other governmental agencies, and unforeseen events over which the permit holder had no control, whether denial of the extension will result in undue hardship to the applicant and whether there are no other reasonable alternatives for meeting water use needs, any other factors relevant to a determination of good cause, and has determined that the applicant has shown that good cause exists for an extension of time to apply water to full beneficial use pursuant to OAR 690-315-0040(1)(d).

Proposed Order

Based upon the foregoing Findings of Fact and Conclusions of Law, the Department proposes to issue an order to:

Extend the time to apply water to beneficial use under Permit R-13367 from October 1, 2008 to October 1, 2010.

DATED: November 23, 2010


Dwight French
Administrator
Water Rights & Adjudications Division

*If you have any questions,
please check the information
box on the last page for the
appropriate names and
phone numbers.*

Proposed Final Order Hearing Rights

1. Under the provisions of OAR 690-315-0100(1) and 690-315-0060, the applicant or any other person adversely affected or aggrieved by the proposed final order may submit a written protest to the proposed final order. The written protest must be received by the Water Resources Department no later than **January 7, 2011**, being 45 days from the date of publication of the proposed final order in the Department's weekly notice.
2. A written protest shall include:
 - a. The name, address and telephone number of the petitioner;
 - b. A description of the petitioner's interest in the proposed final order and if the protestant claims to represent the public interest, a precise statement of the public interest represented;

water to a beneficial use), the permittee shall submit a map of the survey and a new or revised claim of beneficial use as deemed appropriate by the Department.

- c. A detailed description of how the action proposed in the proposed final order would adversely affect or aggrieve the petitioner's interest;
 - d. A detailed description of how the proposed final order is in error or deficient and how to correct the alleged error or deficiency;
 - e. Any citation of legal authority supporting the petitioner, if known;
 - f. Proof of service of the protest upon the water right permit holder, if petitioner is other than the water right permit holder; and
 - g. The applicant or non-applicant protest fee required under ORS 536.050.
3. Within 60 days after the close of the period for requesting a contested case hearing, the Director shall:
- a. Issue a final order on the extension request; or
 - b. Schedule a contested case hearing if a protest has been submitted, and:
 - 1) Upon review of the issues, the Director finds there are significant disputes related to the proposed agency action; or
 - 2) The applicant submits a written request for a contested case hearing within 30 days after the close of the period for submitting protests.

-
- If you have any questions about statements contained in this document, please contact Jerry Gainey at 503-986-0812.
 - If you have questions about how to file a protest or if you have previously filed a protest and you want to know the status, please contact Patricia McCarty at 503-986-0820.
 - If you have any questions about the Department or any of its programs, please contact our Water Resources Customer Service Group at 503-986-0801.
 - Address any correspondence to : Water Rights and Adjudications Division
725 Summer St NE, Suite A
Salem, OR 97301-1266
- Fax: 503-986-0901
-

STATE OF OREGON

COUNTY OF MARION

PERMIT TO CONSTRUCT A RESERVOIR AND STORE THE PUBLIC WATERS

THIS PERMIT IS HEREBY ISSUED TO

GLENN & MARY WESTBROOK
3022 UMATILLA PLACE
ALBANY, OREGON 97321

(541) 928-8293

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

APPLICATION FILE NUMBER: R-84703

SOURCE OF WATER: WEAVER GULCH AND AN UNNAMED STREAM, TRIBUTARIES OF MILLER CREEK

STORAGE FACILITY: WESTBROOK RESERVOIR

PURPOSE OR USE OF THE STORED WATER: TO BE APPROPRIATED UNDER APPLICATION S-84702, PERMIT 53817, FOR IRRIGATION TO MAKE UP A DEFICIENCY IN RATE

MAXIMUM VOLUME: 20.2 ACRE FEET EACH YEAR

WATER MAY BE APPROPRIATED FOR STORAGE: NOVEMBER 1 THROUGH JUNE 30

DATE OF PRIORITY: MARCH 27, 2001

The area submerged by the reservoir, when full, will be 11.2 acres and the maximum depth of water will be 23.34 feet. The maximum height of the dam shall not exceed 26.0 feet.

DAM LOCATION: NW 1/4 SE 1/4, SECTION 14, T9S, R3W, W.M.; 2030 FEET NORTH AND 1510 FEET WEST FROM THE SE CORNER SECTION 14

THE AREA TO BE SUBMERGED BY THE RESERVOIR IS LOCATED AS FOLLOWS:

NE 1/4 SE 1/4
NW 1/4 SE 1/4
SECTION 14
TOWNSHIP 9 SOUTH, RANGE 3 WEST, W.M.

Measurement, recording and reporting conditions:

- A. Before water use may begin under this permit, the permittee shall install a meter or other suitable measuring device as approved by the Director. The permittee shall maintain the

Application R-84703 Water Resources Department

PERMIT R-13367

meter or measuring device in good working order, shall keep a complete record of the amount of water used each month and shall submit a report which includes the recorded water use measurements to the Department annually or more frequently as may be required by the Director. Further, the Director may require the permittee to report general water use information, including the place and nature of use of water under the permit.

- B. The permittee shall allow the watermaster access to the meter or measuring device; provided however, where the meter or measuring device is located within a private structure, the watermaster shall request access upon reasonable notice.

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.

The use may be restricted if the quality of the source stream or downstream water decrease to the point that those waters no longer meet state or federal water quality standards due to reduced flows.

The permittee shall install, maintain, and operate fish screening to prevent fish from entering the proposed diversion. The permittee shall also install a fishway at the obstruction that will provide adequate upstream and downstream passage for fish. The permittee may submit evidence that the Oregon Department of Fish and Wildlife (ODFW) has determined screens and/or fishways are not necessary. The required screens and fishways are to be in place, functional, and approved by ODFW before diversion of any water.

The outlet gate shall be cycled at least once each year and shall be fully operational at all times.

Routine maintenance of the dam, its spillway and all appurtenant structures shall be performed as necessary to remove trees, brush and debris, and to repair slumps, areas of erosion, or defective equipment.

The earthen dam, the resultant reservoir, and the emergency spillway, shall be constructed and maintained according to the approved plans and specifications on file with the Oregon Water Resources Dam Safety program.

Any significant change in the approved design prior to or during construction shall be documented by the project engineer in a letter to Dam Safety. All construction shall be performed under the supervision of a registered professional engineer licensed in Oregon.

No fill shall be placed until preparation of the foundation and excavation of the core trench has been completed and examined in entirety by the engineer of record, or by the Water Resources Dam Safety Engineer, or both.

No water shall be stored until the Water Resources Department receives written certification from the engineer of record that construction has been completed in accordance with the approved plans and specifications. If construction deviates from the approved design a set reproducible asbuilt drawings, including a revised reservoir capacity graph/table, must accompany the engineer's written certification of completion.

The completed structure shall not be enlarged, modified, altered or otherwise changed without the prior written approval of the Director of the Water Resources Department or the Director's authorized representative. Except for routine repair and maintenance, plans and specifications prepared by an Oregon licensed engineer are required for any significant modification, alteration, or rehabilitation of the dam, spillway or appurtenant structures.

STANDARD CONDITIONS

Use under this permit is limited to the reservoir area. This permit does not provide for the appropriation of water for maintaining the water level or maintaining a suitable fresh water condition.

The storage of water allowed herein is subject to the installation and maintenance of a fully functional conduit/gate assembly having a minimum diameter of 8 inches.

Failure to comply with any of the provisions of this permit may result in action including, but not limited to, restrictions on the use, civil penalties, or cancellation of the permit.

This permit is for the beneficial use of water without waste. The water user is advised that new regulations may require the use of best practical technologies or conservation practices to achieve this end.

By law, the land use associated with this water use must be in compliance with statewide land-use goals and any local acknowledged land-use plan.

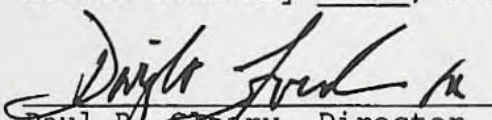
The use of water allowed herein may be made only at times when sufficient water is available to satisfy all prior rights, including prior rights for maintaining instream flows.

The Director finds that the proposed use(s) of water described by this permit, as conditioned, will not impair or be detrimental to the public interest.

The reservoir shall be filled and complete application of the water to the use shall be made on or before October 1, 2008. If the water is not completely applied before this date, and the permittee wishes to continue development under the permit, the permittee must submit an application for extension of time, which may be approved based upon the merit of the application.

Within one year after complete application of water to the proposed use, the permittee shall submit a claim of beneficial use, which includes a map and report, prepared by a Certified Water Rights Examiner (CWRE).

Issued February 19, 2004


Paul R. Greary, Director
Water Resources Department

REAL ESTATE TRANSACTIONS: Pursuant to ORS 537.330, in any transaction for the conveyance of real estate that includes any portion of the lands described in this permit, the seller of the real estate shall, upon accepting an offer to purchase that real estate, also inform the purchaser in writing whether any permit, transfer approval order, or certificate evidencing the water right is available and that the seller will deliver any permit, transfer approval order or certificate to the purchaser at closing, if the permit, transfer approval order or certificate is available.

CULTURAL RESOURCES PROTECTION LAWS: Permittees involved in ground-disturbing activities should be aware of federal and state cultural resources protection laws. ORS 358.920 prohibits the excavation, injury, destruction or alteration of an archeological site or object, or removal of archeological objects from public and private lands without an archeological permit issued by the State Historic Preservation Office. 16 USC 470, Section 106, National Historic Preservation Act of 1966 requires a federal agency, prior to any undertaking to take into account the effect of the undertaking that is included on or eligible for inclusion in the National Register. For further information, contact the State Historic Preservation Office at 503-378-4168, extension 232.

Mailing List for Extension PFO Copies

PFO Date: November 23, 2010

Copies Mailed

**Application R-84703
Permit R-13367**

By: LA
On: 11-19-10

Original mailed to Applicant:

✓ Kraftmann Family Nursery, LLC
4194 71st Avenue SE
Salem, OR 97301

Copies sent to:

- ✓ 1. WRD - App. File R-84703/ Permit R-13367
- ✓ 2. WRD - Watermaster District 16, Mike McCord
- ~~3. Agents or CWRE's representing the Permit Holder ?~~

Fee paid as specified under ORS 536.050 to receive copy:

4. None

Receiving via e-mail (10 AM Tuesday of signature date)

5. PFO: WRD – Watermaster District 16 – Mike McCord, Salem
Done by _____ Date _____

CASEWORKER: JWG



Oregon Water Resources Department
 725 Summer Street NE, Suite A
 Salem Oregon 97301
 (503) 986-0900
 www.wrd.state.or.us

Application for Extension of Time for a Water Right Permit

(Non-Municipal/Non-Quasi-municipal Water Use)

TO THE DIRECTOR OF THE OREGON WATER RESOURCES DEPARTMENT

*A separate extension application must be submitted for each permit as per
 OAR 690-315-0020(2).*

*This application and a summary of review criteria and procedures that are generally applicable to this
 application are available at <http://www.wrd.state.or.us/OWRD/PUBS/forms.shtml>.*

I, Mark Krautman
FIRST NAME OF PERMIT HOLDER LAST NAME OF PERMIT HOLDER [OAR 690-315-0020(1) and (3)(a)]

4194 71st Avenue SE
ADDRESS

Salem OR 97301
CITY STATE ZIP

503-585-9835
PHONE EMAIL ADDRESS

the permit holder of: Application Number R - 84703
 Permit Number R - 13367

do hereby request that the time in which to:

complete construction (of diversion/appropriation works and/or purchase and installation of the
 equipment necessary to the use of water), which time now expires on October 1, 2008 , be
 extended to October 1, 2010 ,

and/or the time in which to:

apply water to full beneficial use under the terms and conditions of the permit, which time now
 expires on October 1, 2008 , be extended to October 1, 2010 .

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 WATER RESOURCES DEPT
 SALEM, OREGON

Before submitting your Application for Extension of Time, make sure the following items are included:

- This completed Application for Extension of Time.
- Statutory fee of \$350.
- Signature page (last page of this Application for Extension of Time).
- All supporting documentation and/or evidence referenced in the Application for Extension of Time.

MAIL COMPLETED APPLICATION

along with the \$350

STATUTORY FEE TO:

**Water Resources Department
Attn: Water Right Permit Extensions
725 Summer Street NE, Suite A
Salem, Oregon 97301**



GENERAL TIPS:

- Permit holders of municipal or quasi-municipal water use permits DO NOT use this form. The correct form is *Application for Extension of Time for Municipal and Quasi-Municipal Water Use Permits*, available at the following link:
http://www1.wrd.state.or.us/pdfs/muni_quasi_ext_app_form_6_20_08.pdf
- Request the reasonable amount of time necessary to fully complete the water construction project and/or to fully use the permitted quantity of water under the terms and conditions of your permit. Should this request be approved, it will be OWRD's expectation that you will complete your project within the new time period allowed. Future extensions may not be granted.
- A separate Application for Extension of Time must be submitted for each permit. OAR 690-315-0020(2).
- An instruction sheet (Instructions for Filling Out Extension of Time Application for Permits) provides details that will help you answer each question on the application. Permit extensions are evaluated under OAR Chapter 690, Division 315. These rules may be viewed at:
<http://www.wrd.state.or.us/OWRD/LAW/index.shtml> .

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**WATER RESOURCES DEPT
SALEM, OREGON**

Application for Extension of Time for a Water Right Permit
Page 2 of 9

Last Revised 9/19/2008

- You may provide OWRD with any additional information or evidence that will aid us in making our decision. Please note that OWRD may require other information that is necessary to evaluate the application. OAR 315-0020(3)(n).
- After careful review of the Application for Extension of Time, you may contact OWRD at (503) 986-0900, to ask questions and request assistance from a Permit Extensions Specialist in the Water Rights and Adjudications Division.
- Once an Application for Extension of Time is received by OWRD, it will be reviewed for completeness. OWRD will return any incomplete or deficient applications to the applicant. OAR 690-315-0040(1)(a).

Reference Materials Needed to Complete this Application:

- The water right permit. If needed, a copy of the water right permit can be downloaded from the Department's Website at <http://www.wrd.state.or.us> (find the link to the Water Rights Information System (WRIS)). Or, a copy of the permit (or other documents) may be requested by water right application number from the Water Rights Division at 503-986-0900 (copy fees will apply).
- Documentation which demonstrates compliance with permit conditions (for example, well construction logs; static water level measurement reports; annual water use reports; ODFW fish screen certification; a plan to monitor the effect of water use on ground water aquifers utilized under the permit; etc.).

Answer the Following Questions to Complete this Application for Extension of Time

- [OAR 690-315-0020(3)(d)]
1. Did the actual construction of the water system/well drilling begin within the time specified in the permit? Yes No



TIP: Not all permits specify a date by which construction was to begin.

Date construction began is: Aug 1999

Details of construction:

See as-built drawings.

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**WATER RESOURCES DEPT
SALEM, OREGON**

[OAR 690-315-0020(3)(e)(A)]

2. Permits typically contain standard or special conditions that must be satisfied to lawfully develop and use permitted water. In the development of this water right, have you satisfied the conditions contained in your permit? [yes/no]

A) Describe how you have complied with each condition contained in the original permit [and, if applicable, each condition contained in any order approving a permit amendment and/or a final order approving a prior extension of time]. Include the date when the condition was satisfied.



TIP: The instruction sheet for the Application for Extension of Time provides an explanation of the typical conditions that must be addressed in this question.

CHART-A

Condition No.**	Date Satisfied	Describe How Permit Condition Has Been Satisfied
1. B.	10-29-99	No restriction has been placed on water master access.
2	10-29-99	No riparian areas were disturbed.
3	10-29-99	The ODFW exempted the fish screen requirement for the reservoir (ODFW letter 8/12/99).
4	10-29-99	The March 3, 2009 site inspection by the CWRE showed the outlet gate to be in good condition.
5	10-29-99	The March 3, 2009 site inspection by the CWRE showed no trees or brush on the dam, and no erosion.
6, 7, 8, 9, 10	10-29-99	The as built drawings show that the dam construction complies with state regulations for safety and water storage.

** Condition No: Hand-number each condition on a copy of your permit (and, if applicable, permit amendment and prior extension).

B) If you have NOT complied with all applicable conditions, explain the reasons why and indicate with a date certain (in the near future) when compliance will occur.

CHART-B

Condition No.**	Date Will Comply	Explain Why Each Permit Condition Has NOT Been Satisfied
1. A.	July 1, 2009	

** Condition No: Hand-number each condition on a copy of your permit (and, if applicable, permit amendment and prior extension).

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WATER RESOURCES DEPT
SALEM, OREGON

Application for Extension of Time for a Water Right Permit
Page 4 of 9

[OAR 690-315-0020(3)(e)]

Last Revised 9/19/2008

- B) If this is not your 1st Application for Extension of Time request, fill out CHART-D below (in addition to CHART-C above). Use chronological order.

CHART-D

DATE	WORK ACCOMPLISHED DURING THE LAST EXTENSION PERIOD <i>List all work done during the last authorized extension period.</i>	COST*
10/1/____	"Extended From" date for complete application of water used in the 1st (or the most recent) Application for Extension of Time.	
10/1/____	"Extended To" date for complete application of water resulting from the 1st (or the most recent) Application for Extension of Time.	

CHART-D (Continued)

DATE	WORK ACCOMPLISHED AFTER THE LAST EXTENSION PERIOD EXPIRED <i>List all work done after the last authorized date for complete application of water up to the date of this Application for Extension of Time.</i>	COST*
Total Cost of Chart-D		

* If exact cost is not known, you must provide your best estimate.

[OAR 690-315-0020(3)(f)]

4. Cost of project to date: \$100,200
 (The total combined cost from CHART-C and CHART-D)

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Application for Extension of Time for a Water Right Permit

Last Revised 9/19/2008

Page 6 of 9

WATER RESOURCES DEPT
 SALEM, OREGON

5. Provide the maximum rate, or duty, of water diverted for beneficial use under this permit, made to date.



TIP: Report the rate in the same units of measurement as specified in the permit, being cfs (cubic feet per second), gpm (gallons per minute) or AF (acre-feet - usually only specified on a reservoir water right). Do not provide daily, monthly or annual water volume totals.

Maximum rate used to date = NA cfs (cubic feet per second) or,

Maximum rate used to date = NA gpm (gallons per minute) or,

Acre-feet to date = NA AF

6. Provide the total number of acres irrigated to date under this permit (if applicable).

Total acres irrigated to date: NA

7. Provide a summary of your future plans and schedule to complete the construction of the water system, and/or apply water to full beneficial use under the terms and conditions of the permit.

CHART-E

APPROXIMATE DATE RANGE (projected)	WORK OR ACTION TO BE ACCOMPLISHED (projected)	ESTIMATED COST (projected)
7/1/09 - 10/1/10	Measure water-levels monthly in the reservoir and submit an annual report to the OWRD.	\$200
Year: 2009	Intend to apply water to full beneficial use under the terms and conditions of this permit.	
Total Cost		\$200

8. Estimated remaining cost to complete the project: \$200
 (The total cost from CHART-E)

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9. List the reasons why the project was not constructed, and/or water was not beneficially used within permit time limits. *Provide supporting information for the reason(s) that best fits your circumstances (A, B, C or D).*

A) The project is of a size and scope that was originally planned to be phased in over a time frame longer than the one allowed in the permit.

not applicable

B) The financial resources needed to develop the project precluded completion of the project within authorized time frames.

not applicable

C) Good faith attempts to comply with permit conditions and/or acquire permits from other agencies, or otherwise comply with government regulations, delayed completion of the project.

The wording of the permit condition requiring the installation of a meter or other suitable measuring devise was unclear. The permittee misunderstood the condition to mean that he was to measure water pumped for irrigation. The OWRD clarified that the intent of the condition was for the permittee to take monthly water-level measurements in the reservoir via email on 5-15-09.

- D) Acts of God or other unforeseen events delayed full development of the water system and use of water within the authorized time frames.

none

[OAR 690-315-0020(3)(k)]

10. Justify the time requested to complete the project and/or apply the water to full beneficial use. Your justification should combine information from your answers from Questions 2, 3-A, 3-B, 7 and 9 of this Application for Extension of Time, and should also include any other information or evidence to establish that the requested amount of time is sufficient and that you will be able to complete the project within the amount of time requested.

The extension of one year will allow the permittee the time to collect a year's worth of monthly water-level measurements and submit an annual water-level report to the OWRD.

11. Provide any other information you wish OWRD to consider while evaluating your Extension of Time Application.

The language in the permit condition was unclear. The condition should clearly state that the permittee is to install a staff gage to measure water-level elevations in the reservoir.

I am the permit holder, or have authorization from the permit holder, to apply for an extension of time under this permit. I understand that false or misleading statements in this extension application are grounds for OWRD to suspend processing of the request and/or reason to deny the extension.

Signature

Mark Krout

Date

June 30 '09

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Application for Extension of Time for a Water Right Permit
Page 9 of 9

Last Revised 9/19/2008

JUN 30 2009

WATER RESOURCES DEP.
SALEM, OREGON

Application # R-84703 Permit # R-13367

Public Notice Route Slip ... New Application Extension of Time
per Division 315 Rules... (Extensions received on July 1, 2001 or after)

◆ WRIG...

Money Received on: 6/30/09

◆ Extension Specialist...

Added to tracking spreadsheet

After fee is receipted and app is added to spreadsheet, route to...

◆ Jonnine Skaug...

Publish on Public Notice (initial 30-day comment): Date of notice 7/7/09 JS

Update WRIS Database

In the "PNotice Date" field... Enter the date the Extension Application was published on the Public Notice.

In the "Ext Filed" field... Enter the date the Extension Application was received.

Yes or No.

Return file to Extension Specialist after PN

Extension PFO Checklist for Other than Muni or Quasi-Municipal

Water Use Permits
(OAR 690-315-0010 through OAR 690-315-0060)

Application: R- 84703 Permit: R- 13367 Permit Amendment? No Yes T- _____ pending approved

Permit Holder's Name: Mark Krautman

Permit Holder's Mailing Address: 4194 71st Ave Salem, OR 97031 email _____

Phone Number: 503-585-9835

POD Location: Township 9 SOUTH Range 3 WEST Section 14 $\frac{1}{4}$ $\frac{1}{4}$ NWSE

Drainage Basin: 2 County: Marion Watermaster District: 16 Watermaster: Mike McCord

Date Permit was issued: 2/19/2004

Priority Date: 3/27/2001

Date of PN: 7/7/2009

Source: Weaver Gulch and an unnamed stream, tributaries of Miller Creek

Use: To be appropriated under application S-84702, Permit S-53817, for irrigation to make up a deficiency in rate

"Q": 20.2 AF each Year

Orig "A" Date: _____

Orig "B" Date: 10/1/ _____

Orig "C" Date: 10/1/2008

Extension request rec'd: 6/30/2009

Last Authorized "B" Date: 10/1/ _____

Last Authorized "C" Date: 10/1/2008

Request Number (1, 2, 3...): 1

Proposed "B" Date: 10/1/ _____

Proposed C Date: 10/1/2010

Conditions of Permit:

Condition Met?	Condition Not Met?	Permit Condition
<input type="checkbox"/>	<input checked="" type="checkbox"/>	Install Meter
<input type="checkbox"/>	<input checked="" type="checkbox"/>	Submit annual water use records
<input checked="" type="checkbox"/>	<input type="checkbox"/>	riparian areas undistrurbed
<input checked="" type="checkbox"/>	<input type="checkbox"/>	Fish screen exemption from ODFW
<input checked="" type="checkbox"/>	<input type="checkbox"/>	Outlet gate and routine maintenance in good order

Factors to consider in determining "Reasonable Diligence" [OAR 690-315-0040(3)]:

Yes No

- Work was accomplished within the time allowed in the permit or previous extension
- Water right permit holder conformed with the permit or previous extension conditions
- Financial investments were made toward developing the beneficial water use.
 - Amount Invested to date: \$100,200 Estimated Remaining Cost: \$200
- Beneficial use made of the water during the permit or previous extension time limits
 - Permit holder has beneficially used 0 cfs gpm af of the total permitted quantity of water on 0 acres

Has the applicant pursued perfection of the right in good faith and with reasonable diligence? Yes No

Application: - _____ Permit: - _____ Township _____ Range _____ Section _____

Determination of the market and the present demand for water or power to be supplied:

Identify the closest surface water or localized water basin. _____
Ground Water Permits: Is the POA located...
Surface Water Permits: Is the POD located...

- Yes No**
- above a state scenic waterway? Name _____ Source: OWRD "Areas Above State Scenic Waterways" Map
 - within a stream segment designated as a federal wild and scenic river? Source: www.rivers.gov/wildriverslist.html
 - within a sensitive, threatened or endangered species area Source: "/gisdata/dev/projects/salmon/div33map.aml"
 - within a critical or limited Ground Water Area? Name of area _____
 - within a Withdrawn Area? Name of area _____
 - in a waterbody listed on the DEQ Section 303(d) List of Water Quality Limited Areas? Date added to list _____
 - within an area ranking low / moderate / high / highest for stream flow restoration needs Source: OWRD "Streamflow Restoration Needs" Maps (by region)

Based on the written record, can the Department make a finding of "Good Cause" to approve the extension request?

Yes... "Good Cause" can be found. Approval of Extension Request
No ... "Good Cause" cannot be found. Denial of Extension Request

Conditions to be included in Extension PFO (if applicable)? Yes No

(NOTE: Check the file record for documentation to add a condition(s) at the extension stage.)

- 5-year Progress Report Checkpoints (Years: _____)
- Other: _____

Footnote regarding Claim of Beneficial Use. Choose the appropriate language below and insert as a footnote in the PFO:

- COBU Requirement - Surface/Ground Water - on or prior to July 9, 1987**
"For permits applied for or received on or before July 9, 1987, upon complete development of the permit, you must notify the Department that the work has been completed and either: (1) Hire a water right examiner certified under ORS 537.798 to conduct a survey, the original to be submitted as required by the Water Resources Department, for issuance of a water right certificate; or (2) Continue to appropriate water under the water right permit until the Water Resources Department conducts a survey and issues a water right certificate under ORS 537.250 or 537.625."
- COBU Requirement - Surface Water - post July 9, 1987**
"Pursuant to ORS 537.230(4), upon the completion of beneficial use of water allowed under the permit, the permit holder shall hire a certified water rights examiner to survey the appropriation. Within one year after the complete application of water to a beneficial use (or by the date allowed for the complete application of water to a beneficial use), the permit holder shall submit a map of the survey and the claim of beneficial use."
- COBU Requirement - Ground Water - post July 9, 1987**
"Pursuant to ORS 537.630(4), upon the completion of beneficial use of water allowed under the permit, the permit holder shall hire a certified water rights examiner to survey the appropriation. Within one year after the complete application of water to a beneficial use (or by the date allowed for the complete application of water to a beneficial use), the permit holder shall submit a map of the survey and the claim of beneficial use."

NOTES:

Extension "PFO" Dates
Mailing / Issuance Date: _____ Protest Deadline Date: _____

Reviewer's Name: _____ Date: _____

**STATE OF OREGON
WATER RESOURCES DEPARTMENT**

RECEIPT # **96993**

725 Summer St. N.E. Ste. A
SALEM, OR 97301-4172
(503) 986-0900 / (503) 986-0904 (fax)

INVOICE # _____

2-84036

RECEIVED FROM: Heritage Seedlings Inc.

APPLICATION	<u>R-84703</u>
PERMIT	
TRANSFER	

BY: _____

CASH: CHECK:# 5670 OTHER: (IDENTIFY) _____

TOTAL REC'D \$ 700.00

1083 TREASURY 4170 WRD MISC CASH ACCT

0407 COPIES		\$
OTHER: (IDENTIFY)		\$
0243 I/S Lease	0244 Muni Water Mgmt. Plan	0245 Cons. Water

4270 WRD OPERATING ACCT

MISCELLANEOUS			
0407 COPY & TAPE FEES		\$	
0410 RESEARCH FEES		\$	
0408 MISC REVENUE: (IDENTIFY)		\$	
TC162 DEPOSIT LIAB. (IDENTIFY)		\$	
0240 EXTENSION OF TIME		\$	<u>700.00</u>
WATER RIGHTS:			
0201 SURFACE WATER	EXAM FEE	\$	0202 RECORD FEE
0203 GROUND WATER		\$	0204
0205 TRANSFER		\$	
WELL CONSTRUCTION			
0218 WELL DRILL CONSTRUCTOR	EXAM FEE	\$	0219 LICENSE FEE
LANDOWNER'S PERMIT		\$	0220
OTHER (IDENTIFY)			

46111 350 x 2
**RECEIVED
OVER THE COUNTER**

0536 TREASURY 0437 WELL CONST. START FEE

0211 WELL CONST START FEE	\$	CARD #	
0210 MONITORING WELLS	\$	CARD #	
OTHER (IDENTIFY)			

0607 TREASURY 0467 HYDRO ACTIVITY LIC NUMBER

0233 POWER LICENSE FEE (FW/WRD)		\$
0231 HYDRO LICENSE FEE (FW/WRD)		\$
HYDRO APPLICATION		\$

TREASURY OTHER / RDX

FUND	TITLE	
OBJ. CODE	VENDOR #	
DESCRIPTION		\$

RECEIPT: **96993**

DATED: 6-30-09 BY: L. Bell



Oregon

Theodore R. Kulongoski, Governor

Water Resources Department
North Mall Office Building
725 Summer Street NE, Suite A
Salem, OR 97301-1271
503-986-0900
FAX 503-986-0904

July 7, 2009

REFERENCE: Application for Extension of Time

Dear Extension of Time Applicant:

The Water Rights Section has received your application for an extension of time for **APPLICATION FILE#: R-84703 (PERMIT#: R-13367)**. Your application will be reviewed in the near future. Following the review, you will receive a Proposed Final Order either approving or rejecting the extension of time request. A 45-day protest period begins upon issuance of the Proposed Final Order. After the protest period closes, a Final Order is issued.

If you have questions concerning your extension of time application, please contact Scott Kudlemyer at (503) 986-0813. For general information about the Water Resources Department, you may contact the Water Resources' Customer Service Group at (503) 986-0801 or you may access the Department's Internet home page at: "www.wrd.state.or.us".



After recording return to:
The Krautmann Family Nursery LLC
4199 75th Ave. SE
Salem, Oregon 97301-9242

Until a change is requested all tax statements
shall be sent to the following address:
The Krautmann Family Nursery, LLC
4199 75th Ave. SE
Salem, Oregon 97301-9242

File No.: 7081-260567 (DSS)
Date: October 13, 2003

THIS SPACE RESERVED FOR RECORDER'S USE

READ AND APPROVED

By: Mark E. Kraut

Jeff Y. Kraut

STATUTORY WARRANTY DEED

Glenn D. Westbrook, as to an undivided 54% and Glenn D. Westbrook, Trustee of the Mary L. Westbrook Credit Shelter Trust dated September 8, 2003, Grantor, conveys and warrants to The Krautmann Family Nursery LLC Limited Liability Company, the following described real property free of liens and encumbrances, except as specifically set forth herein:

Parcel 1 and Parcel 2 of PARTITION PLAT NO. 2003-22, recorded April 17, 2003, Record of Partition Plats and in Reel 2105, Page 453, Deed Records, Marion County, Oregon.

This property is free from liens and encumbrances, EXCEPT: The assessment roll and the tax roll disclose that the within described premises were specially zoned or classified for farm use. If the land has become or becomes disqualified for such use under the statute, an additional tax or penalty may be imposed; Rights of the public and of governmental bodies in and to that portion of the premises herein described lying below the high water mark of Miller Creek; Rights of the public and of governmental bodies in and to that portion of the premises herein described lying below the high water mark of Unnamed Creek; Easement recorded 3/1/48 in Reel 348, Page 280, Marion County, Oregon; Limited access provisions contained in Deed to the State of Oregon, by and through its State Highway Commission recorded 9/5/56 in Book 494, Page 617, Marion County, Oregon; Easement recorded 5/10/62 in Bok 558, Page 210, Marion County, Oregon; Oil and Gas Lease recorded 6/22/76 in Reel 48, Page 887, Marion County, Oregon; Reservation of utilities in vacated street area and the right to maintain the same as set forth a copy of which was recorded 11/6/00 in Reel 1730, Page 370, Marion County, Oregon. (Affects Parcel 2)

- 1. Covenants, conditions, restrictions, reservations, easements for public utilities, districts, water companies, alleys and streets, rights and rights of way of record, if any; also exceptions of oil, gas, minerals an hydrocarbons, and/or lease, if any, without the right of surface entry.

THIS INSTRUMENT WILL NOT ALLOW USE OF THE PROPERTY DESCRIBED IN THIS INSTRUMENT IN VIOLATION OF APPLICABLE LAND USE LAWS AND REGULATIONS. BEFORE SIGNING OR ACCEPTING THIS INSTRUMENT, THE PERSON ACQUIRING FEE TITLE TO THE PROPERTY SHOULD CHECK WITH THE APPROPRIATE CITY OR COUNTY PLANNING DEPARTMENT TO VERIFY APPROVED USES AND TO DETERMINE ANY LIMITS ON LAWSUITS AGAINST FARMING OR FOREST PRACTICES AS DEFINED IN ORS 30.930.

The true consideration for this conveyance is **\$1,350,000.00**. (Here comply with requirements of ORS 93.030)

Glenn D. Westbrook

Mary L.
Westbrook
Credit
Shelter
Trust

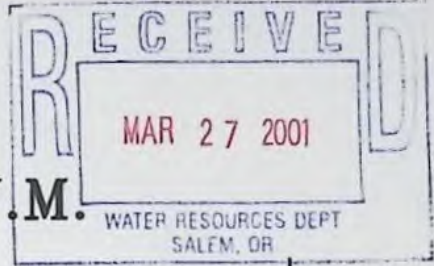
By: _____
Glenn D. Westbrook, Trustee

STATE OF Oregon)
)ss.
County of Marion)

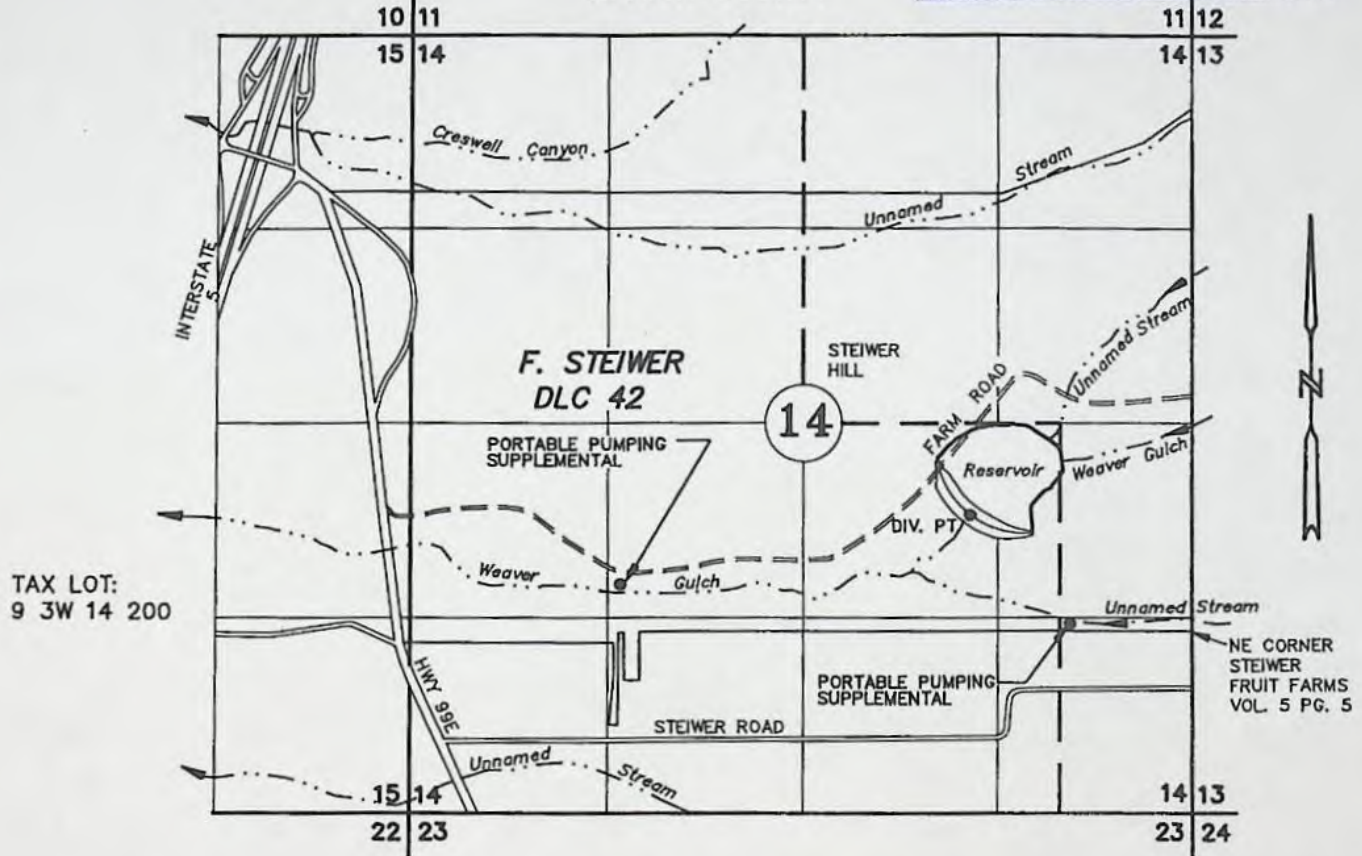
This instrument was acknowledged before me on this _____ day of _____, 20____
by **Glenn D. Westbrook and Mary L. Westbrook Credit Shelter Trust.**

Notary Public for Oregon

My commission expires:



T.9S. R.3W. W.M.
MARION COUNTY



TAX LOT:
9 3W 14 200

DIV. PT. LOCATION (PUMP): NW 1/4 SE 1/4, SEC. 14;
785' N AND 1510' WEST OF NE COR. STEIWER FRUIT FARMS

APPLICATION TO CONSTRUCT A RESERVOIR

R-22915
22916
R-84036
S-84037

R-916
18066
R-12733
53603

Application No. _____

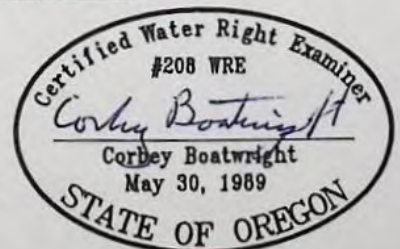
Permit No. _____

GLENN AND MARY WESTBROOK

MARCH 06, 2001
SCALE 1" = 1320'

NOTE: This map is for the purpose of identifying the location of water rights and has no intent to dimension or locate property ownership lines.

Application No. *R84703*
Permit No. *#13367*



Oregon Water Resources Department
Water Rights Division

Water Rights Application
Number R-84703

Final Order

Application History

On MARCH 27, 2001, GLENN & MARY WESTBROOK submitted an application to the Department for a water use permit. The Department issued a Proposed Final Order on April 23, 2002. The protest period closed June 7, 2002, and no protest was filed.

The proposed use would not impair or be detrimental to the public interest.

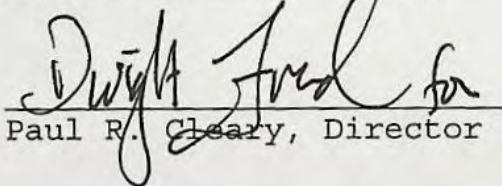
Order

Upon payment of outstanding permit recording fees, Application R-84703 shall be approved as proposed by the Proposed Final Order and as provided on the attached draft permit.

Permit recording fees are required in the amount of \$ 174.20. Said fees are due and payable no later than 60 days from the date of this Final Order. Failure to pay the required permit recording fees within 60 days from the date of this Final Order may result in the proposed rejection of Application R-84703.

If you need to request additional time to submit the required fees, the written request should be received in the Salem office of the Department by the deadline above. The Department will evaluate the request and determine whether or not the request may be granted.

DATED August 27, 2002


Paul R. Cleary, Director

This is a final order in other than a contested case. This order is subject to judicial review under ORS 183.484. Any petition for judicial review of this order must be filed within the 60 day time period specified by ORS 183.484(2).

This statement of judicial review rights does not create a right to judicial review of this order, if judicial review is otherwise precluded by law. Where no changes have been made to a Proposed Final Order on a water right application and no protests have been filed during the protest period, the final order is not subject to judicial review.

This document was prepared by Russell W. Klassen. If you have any questions about any of the statements contained in this document I am the most likely the best person to answer your questions. You can reach me at 1-503-378-8455 extension 266.

If you have questions about how to file a protest or if you have previously filed a protest and want to know the status, please contact Renee Moulun. Her extension number is 239.

If you have other questions about the Department or any of its programs please contact our Water Rights Information Group at extension 201. Address all other correspondence to: Water Rights Section, Oregon Water Resources Department, 158 12th ST. NE Salem, OR 97301-4172, Fax: (503)378-2496

STATE OF OREGON

COUNTY OF MARION

DRAFT PERMIT TO CONSTRUCT A RESERVOIR AND STORE THE PUBLIC WATERS

THIS DRAFT PERMIT IS HEREBY ISSUED TO

GLENN & MARY WESTBROOK
3022 UMATILLA PLACE
ALBANY, OREGON 97321

(541) 928-8293

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

APPLICATION FILE NUMBER: R-84703

SOURCE OF WATER: WEAVER GULCH AND AN UNNAMED STREAM, TRIBUTARIES OF MILLER CREEK

STORAGE FACILITY: WESTBROOK RESERVOIR

PURPOSE OR USE OF THE STORED WATER: TO BE APPROPRIATED UNDER APPLICATION S-84702, PERMIT #####, FOR SUPPLEMENTAL IRRIGATION

MAXIMUM VOLUME: 20.2 ACRE FEET EACH YEAR

WATER MAY BE APPROPRIATED FOR STORAGE: NOVEMBER 1 THROUGH JUNE 30

DATE OF PRIORITY: MARCH 27, 2001

The area submerged by the reservoir, when full, will be 11.2 acres and the maximum depth of water will be 23.34 feet. The maximum height of the dam shall not exceed 26.0 feet.

DAM LOCATION: NW 1/4 SE 1/4, SECTION 14, T9S, R3W, W.M.; 2030 FEET NORTH AND 1510 FEET WEST FROM THE SE CORNER SECTION 14

THE AREA TO BE SUBMERGED BY THE RESERVOIR IS LOCATED AS FOLLOWS:

NE ¼ SE ¼

NW ¼ SE ¼

SECTION 14

TOWNSHIP 9 SOUTH, RANGE 3 WEST, W.M.

Measurement, recording and reporting conditions:

- A. Before water use may begin under this permit, the permittee shall install a meter or other suitable measuring device as

approved by the Director. The permittee shall maintain the meter or measuring device in good working order, shall keep a complete record of the amount of water used each month and shall submit a report which includes the recorded water use measurements to the Department annually or more frequently as may be required by the Director. Further, the Director may require the permittee to report general water use information, including the place and nature of use of water under the permit.

- B. The permittee shall allow the watermaster access to the meter or measuring device; provided however, where the meter or measuring device is located within a private structure, the watermaster shall request access upon reasonable notice.

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.

The use may be restricted if the quality of the source stream or downstream water decrease to the point that those waters no longer meet state or federal water quality standards due to reduced flows.

The permittee shall install, maintain, and operate fish screening to prevent fish from entering the proposed diversion. The permittee shall also install a fishway at the obstruction that will provide adequate upstream and downstream passage for fish. The permittee may submit evidence that the Oregon Department of Fish and Wildlife (ODFW) has determined screens and/or fishways are not necessary. The required screens and fishways are to be in place, functional, and approved by ODFW before diversion of any water.

The outlet gate shall be cycled at least once each year and shall be fully operational at all times.

Routine maintenance of the dam, its spillway and all appurtenant structures shall be performed as necessary to remove trees, brush and debris, and to repair slumps, areas of erosion, or defective equipment.

The earthen dam, the resultant reservoir, and the emergency spillway, shall be constructed and maintained according to the approved plans and specifications on file with the Oregon Water Resources Dam Safety program.

Any significant change in the approved design prior to or during construction shall be documented by the project engineer in a letter to

Dam Safety. All construction shall be performed under the supervision of a registered professional engineer licensed in Oregon.

No fill shall be placed until preparation of the foundation and excavation of the core trench has been completed and examined in entirety by the engineer of record, or by the Water Resources Dam Safety Engineer, or both.

No water shall be stored until the Water Resources Department receives written certification from the engineer of record that construction has been completed in accordance with the approved plans and specifications. If construction deviates from the approved design a set reproducible asbuilt drawings, including a revised reservoir capacity graph/table, must accompany the engineer's written certification of completion.

The completed structure shall not be enlarged, modified, altered or otherwise changed without the prior written approval of the Director of the Water Resources Department or the Director's authorized representative. Except for routine repair and maintenance, plans and specifications prepared by an Oregon licensed engineer are required for any significant modification, alteration, or rehabilitation of the dam, spillway or appurtenant structures.

STANDARD CONDITIONS

Use under this permit is limited to the reservoir area. This permit does not provide for the appropriation of water for maintaining the water level or maintaining a suitable fresh water condition.

The storage of water allowed herein is subject to the installation and maintenance of a fully functional conduit/gate assembly having a minimum diameter of 8 inches.

Failure to comply with any of the provisions of this permit may result in action including, but not limited to, restrictions on the use, civil penalties, or cancellation of the permit.

This permit is for the beneficial use of water without waste. The water user is advised that new regulations may require the use of best practical technologies or conservation practices to achieve this end.

By law, the land use associated with this water use must be in compliance with statewide land-use goals and any local acknowledged land-use plan.

The use of water allowed herein may be made only at times when sufficient water is available to satisfy all prior rights, including prior rights for maintaining instream flows.

The Director finds that the proposed use(s) of water described by this permit, as conditioned, will not impair or be detrimental to the public interest.

The reservoir shall be filled and complete application of the water to the use shall be made on or before October 1, 2006. If the water is not completely applied before this date, and the permittee wishes to continue development under the permit, the permittee must submit an application for extension of time, which may be approved based upon the merit of the application.

Within one year after complete application of water to the proposed use, the permittee shall submit a claim of beneficial use, which includes a map and report, prepared by a Certified Water Rights Examiner (CWRE).

Issued , 2002

DRAFT

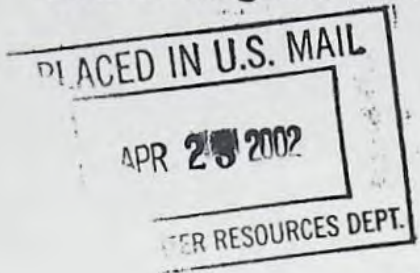
Paul R. Cleary, Director
Water Resources Department

REAL ESTATE TRANSACTIONS: Pursuant to ORS 537.330, in any transaction for the conveyance of real estate that includes any portion of the lands described in this permit, the seller of the real estate shall, upon accepting an offer to purchase that real estate, also inform the purchaser in writing whether any permit, transfer approval order, or certificate evidencing the water right is available and that the seller will deliver any permit, transfer approval order or certificate to the purchaser at closing, if the permit, transfer approval order or certificate is available.

CULTURAL RESOURCES PROTECTION LAWS: Permittees involved in ground-disturbing activities should be aware of federal and state cultural resources protection laws. ORS 358.920 prohibits the excavation, injury, destruction or alteration of an archeological site or object, or removal of archeological objects from public and private lands without an archeological permit issued by the State Historic Preservation Office. 16 USC 470, Section 106, National Historic Preservation Act of 1966 requires a federal agency, prior to any undertaking to take into account the effect of the undertaking that is included on or eligible for inclusion in the National Register. For further information, contact the State Historic Preservation Office at 503-378-4168, extension 232.

W/11# /6

Oregon Water Resources Department
Water Rights Division



Water Rights Application
Number R-84703

Proposed Final Order

Summary of Recommendation: The Department recommends that the attached draft permit be issued with conditions.

Application History

On MARCH 27, 2001, GLENN & MARY WESTBROOK submitted an application to the Department for the following water use permit:

- Amount of Water: 20.2 ACRE-FEET
- Use of Water: ADDITIONAL STORAGE FOR IRRIGATION (TO INCREASE AUTHORIZATION PREVIOUSLY ALLOWED UNDER PERMIT R-12733)
- Source of Water: WEAVER GULCH, A TRIBUTARY OF MILLER CREEK
- Area of Proposed Use: MARION County within SECTION 14, TOWNSHIP 9 SOUTH, RANGE 3 WEST, W.M.

On February 15, 2002, the Department mailed the applicant notice of its Initial Review, determining that "The appropriation of an additional 20.2 acre-feet of water in Westbrook Reservoir (constructed under permit R-12733) for storage for irrigation from an unnamed stream and Weaver Gulch, tributaries of Miller Creek, is allowable from November 1 through June 30." The applicant did not notify the Department to stop processing the application within 14 days of that date.

On March 5, 2002, the Department gave public notice of the application in its weekly notice. The public notice included a request for comments, and information for interested persons about both obtaining future notices and a copy of the proposed final order.

No written comments were received within 30 days.

In reviewing applications, the Department may consider any relevant sources of information, including the following:

- comments by or consultation with another state agency
- any applicable basin program
- any applicable comprehensive plan or zoning ordinance
- the amount of water available

- the rate and duty for the proposed use
- pending senior applications and existing water rights of record
- the Scenic Waterway requirements of ORS 390.835
- applicable statutes, administrative rules, and case law
- any comments received

Findings of Fact

The Willamette Basin Program allows storage of water for irrigation.

Senior water rights exist on Weaver Gulch, a tributary of Miller Creek, or on downstream waters.

Weaver Gulch, a tributary of Miller Creek, is not within or above a State Scenic Waterway.

An assessment of water availability has been completed. This assessment compared a calculation of natural streamflow minus the consumption portion of all relevant rights of record. A copy of this assessment is in the file. This assessment determined that water is available for further appropriation (at a 50 percent exceedance probability).

The Department finds that the amount of water requested, 20.2 af, is an acceptable amount.

In accordance with OAR 690-33-330, an interagency team reviewed this proposed use for potential adverse impacts on sensitive, threatened and endangered fish populations. This team consisted of representatives from the Oregon Departments of Water Resources (WRD), Environmental Quality, Fish and Wildlife (DFW), and Agriculture. WRD and DFW representatives included both technical and field staff. The interagency team did not recommend additional conditions of use be imposed on this application.

Conclusions of Law

Under the provisions of ORS 537.153, the Department must presume that a proposed use will not impair or be detrimental to the public interest if the proposed use is allowed in the applicable basin program established pursuant to ORS 536.300 and 536.340 or given a preference under ORS 536.310(12) (i.e. the use of water is human consumption or livestock), if water is available, if the proposed use will not injure other water rights and if the proposed use complies with rules of the Water Resources Commission.

The proposed use requested in this application is allowed in the Willamette Basin Plan, or a preference for this use is granted under the provisions of ORS 536.310(12).

Water is available for the proposed use.

The proposed use will not injure other water rights.

The proposed use complies with other rules of the Water Resources Commission not otherwise described above.

The proposed use complies with the State Agency Agreement for land use.

For these reasons, the required presumption has been established.

Once the required presumption has been established, under the provisions of ORS 537.153(2) it may be overcome by a preponderance of evidence that either:

- (a) One or more of the criteria for establishing the presumption are not satisfied; or
- (b) The proposed use will impair or be detrimental to the public interest as demonstrated in comments, in a protest . . . or in a finding of the department that shows:
 - (A) The specific public interest under ORS 537.170(8) that would be impaired or detrimentally affected; and
 - (B) Specifically how the identified public interest would be impaired or detrimentally affected.

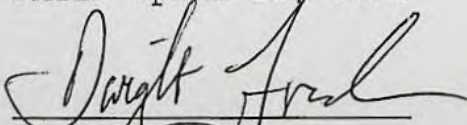
In this application, all criteria for establishing the presumption have been satisfied, as noted above. The presumption has not been overcome by a preponderance of evidence that the proposed use will impair or be detrimental to the public interest.

The Department therefore concludes that water is available in the amount of water necessary for the proposed use; the proposed use will not result in injury to existing water rights; and the proposed use will not impair or be detrimental to the public interest as provided in ORS 537.170.

Recommendation

The Department recommends that the attached draft permit be issued with conditions.

DATED April 23, 2002



Dwight French
Water Rights Section Manager

*If you have any questions,
please check the information
box on the last page for the
appropriate names and
phone numbers.*

Protest Rights and Standing

Under the provisions of 537.621(7), you have the right to protest this proposed final order. Your protest must be in writing, and must include the following:

- Your name, address, and telephone number;
- A description of your interest in the proposed final order, and, if you claim to represent the public interest, a precise statement of the public interest represented;
- A detailed description of how the action proposed in this proposed final order would impair or be detrimental to your interest;
- A detailed description of how the proposed final order is in error or deficient, and how to correct the alleged error or deficiency;
- Any citation of legal authority to support your protest, if known; and
- If you are not the applicant, the \$200 protest fee required by ORS 536.050 and proof of service of the protest upon the applicant.
- If you are the applicant, a statement of whether or not you are requesting a contested case hearing. If you do not request a hearing, the Department will presume that you do not wish to contest the findings of the proposed final order.
- If you do not protest this Proposed Final Order and if no substantive changes are made in the final order, you will not have an opportunity for judicial review, protest or appeal of the final order when it is issued.

Requests for Standing

Under the provisions of 537.153(5), persons other than the applicant who support a proposed final order may request standing for purposes of participating in any contested case proceeding on the proposed final order or for judicial review of a final order. A request for standing shall be in writing, include a statement that the requester supports the proposed final order, and a statement of how the requester would be harmed if the proposed final order is modified. The fee required at the time of submitting this request is \$50.00. If a hearing is scheduled, an additional fee of \$150.00 must be submitted along with a request for intervention. Forms to request standing are available from the Department.

Your protest or request for standing must be received in the Water Resources Department no later than June 7, 2002.

After the protest period has ended, the Director will either issue a final order or schedule a contested case hearing. The contested case hearing will be scheduled only if a protest has been submitted and if

- upon review of the issues, the director finds that there are significant disputes related to the proposed use of water, or
- the applicant requests a contested case hearing within 30 days after the close of the protest period.

This document was prepared by Russell W. Klassen. If you have any questions about any of the statements contained in this document I am most likely the best person to answer your questions. You can reach me at 1-503-378-8455 extension 266.

If you have questions about how to file a protest or if you have previously filed a protest and want to know the status, please contact Renee Moulun. Her extension number is 239.

If you have other questions about the Department or any of its programs please contact our Water Rights Information Group at extension 201.

Address all other correspondence to:

Water Rights Section, Oregon Water Resources Department, 158 12th ST. NE Salem, OR 97310

Fax: (503)378-6203

DRAFT

This is not a permit!!!
STATE OF OREGON

DRAFT

COUNTY OF MARION

DRAFT PERMIT TO CONSTRUCT A RESERVOIR AND STORE THE PUBLIC WATERS

THIS DRAFT PERMIT IS HEREBY ISSUED TO

GLENN & MARY WESTBROOK
3022 UMATILLA PLACE
ALBANY, OREGON 97321

(541) 928-8293

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

APPLICATION FILE NUMBER: R-84703

SOURCE OF WATER: WEAVER GULCH, A TRIBUTARY OF MILLER CREEK

STORAGE FACILITY: WESTBROOK RESERVOIR

PURPOSE OR USE OF THE STORED WATER: TO BE APPROPRIATED UNDER APPLICATION S-84702, PERMIT ##### FOR IRRIGATION

MAXIMUM VOLUME: 20.2 ACRE FEET EACH YEAR

WATER MAY BE APPROPRIATED FOR STORAGE: NOVEMBER 1 THROUGH JUNE 30

DATE OF PRIORITY: MARCH 27, 2001

The area submerged by the reservoir, when full, will be 11.2 acres and the maximum depth of water will be 23.34 feet. The maximum height of the dam shall not exceed 26.0 feet.

DAM LOCATION: NW 1/4 SE 1/4, SECTION 14, T9S, R3W, W.M.; 2030 FEET NORTH AND 1510 FEET WEST FROM THE SE CORNER SECTION 14

THE AREA TO BE SUBMERGED BY THE RESERVOIR IS LOCATED AS FOLLOWS:

NE ¼ SE ¼
NW ¼ SE ¼
SECTION 14
TOWNSHIP 9 SOUTH, RANGE 3 WEST, W.M.

Russ, I thought this app included an unnamed stream as a source. Did they drop it?

Measurement, recording and reporting conditions:

- A. Before water use may begin under this permit, the permittee shall install a meter or other suitable measuring device as approved by the Director. The permittee shall maintain the meter or measuring device in good working order, shall keep a complete record of the amount of water used each month and shall submit a report which includes the recorded water use measurements to the Department annually or more frequently as may be required by the Director. Further, the Director may require the permittee to report general water use information, including the place and nature of use of water under the permit.
- B. The permittee shall allow the watermaster access to the meter or measuring device; provided however, where the meter or measuring device is located within a private structure, the watermaster shall request access upon reasonable notice.

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.

The use may be restricted if the quality of the source stream or downstream water decrease to the point that those waters no longer meet state or federal water quality standards due to reduced flows.

The permittee shall install, maintain, and operate fish screening to prevent fish from entering the proposed diversion. The permittee shall also install a fishway at the obstruction that will provide adequate upstream and downstream passage for fish. The permittee may submit evidence that the Oregon Department of Fish and Wildlife (ODFW) has determined screens and/or fishways are not necessary. The required screens and fishways are to be in place, functional, and approved by ODFW before diversion of any water.

The outlet gate shall be cycled at least once each year and shall be fully operational at all times.

Routine maintenance of the dam, its spillway and all appurtenant structures shall be performed as necessary to remove trees, brush and debris, and to repair slumps, areas of erosion, or defective equipment.

The earthen dam, the resultant reservoir, and the emergency spillway, shall be constructed and maintained according to the approved plans and specifications on file with the Oregon Water Resources Dam Safety program.

Any significant change in the approved design prior to or during construction shall be documented by the project engineer in a letter to Dam Safety. All construction shall be performed under the supervision of a registered professional engineer licensed in Oregon.

No fill shall be placed until preparation of the foundation and excavation of the core trench has been completed and examined in entirety by the engineer of record, or by the Water Resources Dam Safety Engineer, or both.

No water shall be stored until the Water Resources Department receives written certification from the engineer of record that construction has been completed in accordance with the approved plans and specifications. If construction deviates from the approved design a set reproducible asbuilt drawings, including a revised reservoir capacity graph/table, must accompany the engineer's written certification of completion.

The completed structure shall not be enlarged, modified, altered or otherwise changed without the prior written approval of the Director of the Water Resources Department or the Director's authorized representative. Except for routine repair and maintenance, plans and specifications prepared by an Oregon licensed engineer are required for any significant modification, alteration, or rehabilitation of the dam, spillway or appurtenant structures.

STANDARD CONDITIONS

Use under this permit is limited to the reservoir area. This permit does not provide for the appropriation of water for maintaining the water level or maintaining a suitable fresh water condition.

The storage of water allowed herein is subject to the installation and maintenance of a fully functional conduit/gate assembly having a minimum diameter of 8 inches.

Failure to comply with any of the provisions of this permit may result in action including, but not limited to, restrictions on the use, civil penalties, or cancellation of the permit.

This permit is for the beneficial use of water without waste. The water user is advised that new regulations may require the use of best practical technologies or conservation practices to achieve this end.

By law, the land use associated with this water use must be in compliance with statewide land-use goals and any local acknowledged land-use plan.

The use of water allowed herein may be made only at times when sufficient water is available to satisfy all prior rights, including prior rights for maintaining instream flows.

The Director finds that the proposed use(s) of water described by this permit, as conditioned, will not impair or be detrimental to the public interest.

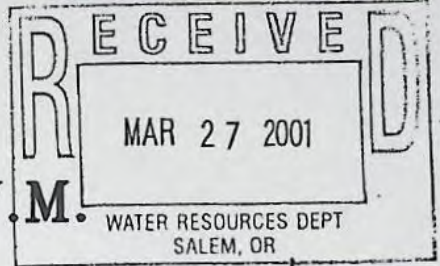
The reservoir shall be filled and complete application of the water to the use shall be made on or before October 1, 2006. If the water is not completely applied before this date, and the permittee wishes to continue development under the permit, the permittee must submit an application for extension of time, which may be approved based upon the merit of the application.

Within one year after complete application of water to the proposed use, the permittee shall submit a claim of beneficial use, which includes a map and report, prepared by a Certified Water Rights Examiner (CWRE).

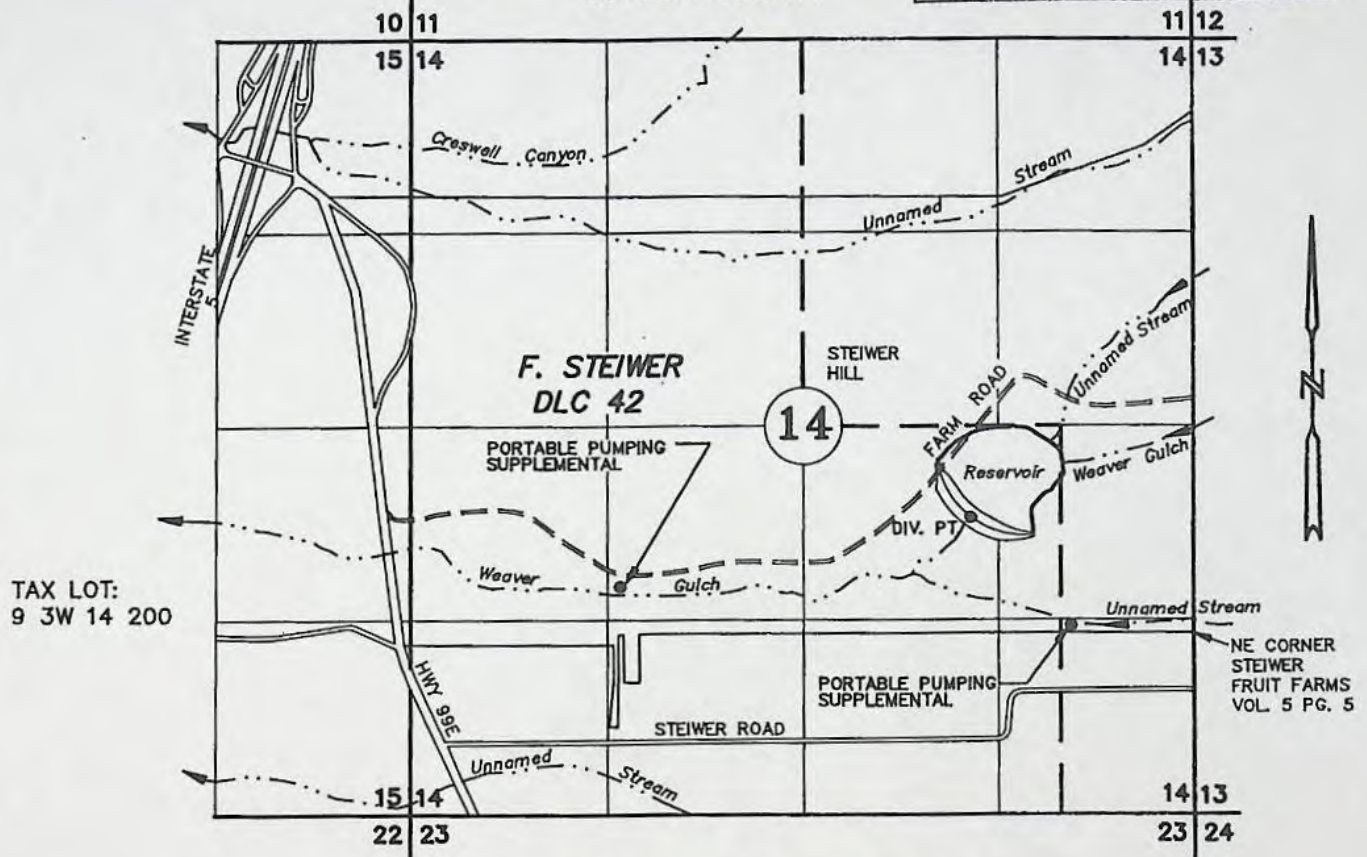
Issued _____, 2002

DRAFT - THIS IS NOT A PERMIT

Paul R. Cleary, Director
Water Resources Department



T.9S. R.3W. W.M.
MARION COUNTY



DIV. PT. LOCATION (PUMP): NW 1/4 SE 1/4, SEC. 14;
785' N AND 1510' WEST OF NE COR. STEIWER FRUIT FARMS

APPLICATION TO CONSTRUCT A RESERVOIR

R-22915
22916
R-84036
S-84037

R-916
18066
R-12733
53603

Application No. _____

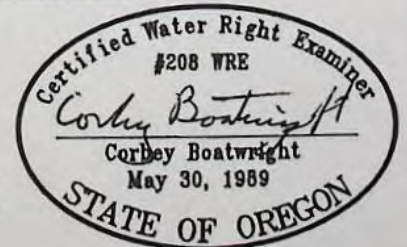
Permit No. _____

GLENN AND MARY WESTBROOK

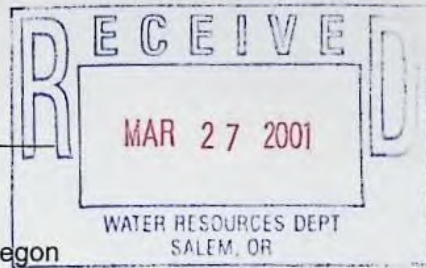
MARCH 06, 2001
SCALE 1" = 1320'

NOTE: This map is for the purpose of identifying the location of water rights and has no intent to dimension or locate property ownership lines.

Application No. *R84703*
Permit No. _____



Application No. _____



+100 10Ac/ft
11 11Ac/ft
\$111.00
250.00 exam
+361.00

State of Oregon

WATER RESOURCES DEPARTMENT

Application for a Permit to Construct a Reservoir

Applicant(s) Glenn and Mary Westbrook
(Please print or type - use dark ink)

Mailing Address: 3022 Umatilla Place

Albany
City

Oregon
State

97321
Zip

(541) 928-8293
Daytime Phone No.

I (We) make application for a permit to construct Westbrook reservoir and store the following described waters of the State of Oregon:

1. **SOURCE OF WATER** for the proposed use: Weaver Gulch and Unnamed Stream a tributary of Miller Creek (Willamette Basin).
If not in channel of a stream, state how it is to be filled: _____

2. **THE DAM:** The maximum height of the structure will be 26 feet above stream bed or ground surface at the centerline.
The dam will be (check one) earthfill, _____ concrete, flashboard, _____ other.
If "other" give description: _____

Give the location, description, and dimensions of the outlet conduit: 30" dia 2-3/3 x 1/2,
14ga AC coated CMP @ exist. stream channel location

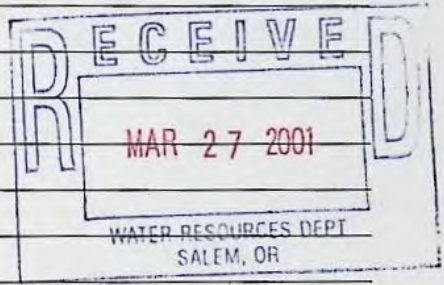
*NOTE: All dams across natural stream channels must be provided with an outlet conduit, minimum diameter of 8", or be of such capacity and location as to pass the normal flow of the stream at any time.

3. **THE USE(s)** of the impounded water will be: irrigation

Application No. RS 4703
Permit No.

4. **THE AMOUNT OF WATER** to be stored is: 20.2 under this application (14.2 total) acre-feet.
 The area submerged by the reservoir, when filled, will be 11.2 (see remarks) acres,
 and the maximum depth of water will be (23.34 total) 2.84 this application feet.

5. **SPILLWAY DESCRIPTION** (location and dimensions). State whether over or around the dam.
crest primary spillway = 356.98'
crest emergency spillway = 357.48
concrete spillway 4.52' deep x 17.0' wide around
NW'ly side of dam



6. **PROJECT SCHEDULE:** (List month and year)
 Proposed date construction work will begin permit date reservoir existing
 Proposed date construction work will be completed permit date + 1 year
 Proposed date water use will be completed permit date + Oct. 1, 2003

NOTE: Prior to issuance of a permit, it will be necessary to submit a map prepared by a Certified Water Right Examiner (CWRE) and a complete legal description of the property on which the water is to be used. The legal description may be copied from your deed, title insurance policy, or land sales contract.

7. a) In the event any deficiencies are noted involving the application map enclosed herein, please return the map with instructions for correction to (check one):
 _____ Applicant CWRE _____ Other (Identify in REMARKS section)

b) In the event any deficiencies are noted involving the application, please return the application with instructions for correction to (check one):
 _____ Applicant CWRE _____ Other (Identify in REMARKS section)

Application No. R 84703
 Permit No.

8. Are all lands involved (including the proposed diversion site, place of use, and access for conveying the water) under your ownership? yes. If not, list in the REMARKS section below, or on an attached sheet, the names and mailing addresses of the legal owners of all property involved in the proposed development.

REMARKS: This application is for a permit to store additional water that exceeded that permitted for the original Westbrook Reservoir filing (Ap R-84036, Pmt R-12733)

④ Ap R-84036	This Application	Actual
121.0 Ac/ft	20.2 Ac/ft	141.2 ac/ft
24.4 Acres	11.2 Acres	11.2 Acres
20.5' deep	2.84' deep	23.34' deep
25.0 ht of dam	1.0' addn. ht	26' height of dam

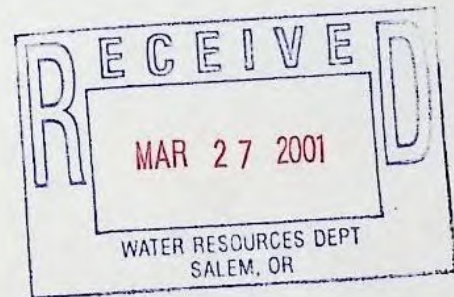
I/We certify that the information I have provided in this application is an accurate representation of the proposed water use and is true and correct to the best of my knowledge:

Glenn W. Westbrook
Signature

3-26-01
Date

Signature

Date



Application No. R84703
Permit No.

FOR WATER RESOURCES DEPARTMENT USE ONLY

Dear Applicant:

I certify that I have examined the foregoing application, together with the accompanying information, and am returning it to you for:

In order to retain its tentative priority, this application must be returned with the requested corrections or additions on or before:

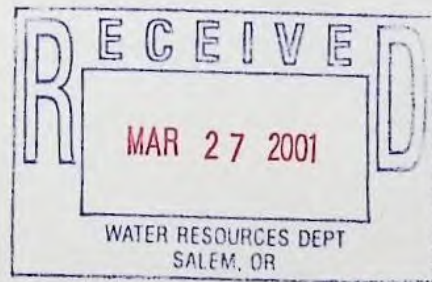
_____, 19____.

WITNESS my hand this _____ day of _____, 19____.

Water Resources Director

By: _____

This instrument was first received in the office of the Water Resources Director at _____, Oregon, on the _____ day of _____, 19____, at _____ o'clock, ____ M.



APPLICATION NO: _____

A:APPFORM 1/94

Application No. R 84703
Permit No.

File # R 84703
PFO Week # 352

FO CHECKLIST

PFO TO FO CONVERSION

Review Date: 8/14/02

Initials: BWK
WM District 16
WRD Region MWR
ODFW Bio _____

10. Y/N Were **comments or protests** received? If so, from whom and when?

20. Y/N/NA Affected owners, commentors, CWRE's & those who paid \$10 **notified** at the proper address?

30.	Exam Fee	<u>250</u>
	Q fee	<u>110.2</u>
	Subtotal	<u>360.2</u>
1 st CFS/AF <u>100</u>	Recording Fee	<u>175</u>
Addnl. <u>10.2</u>	Total	<u>535.2</u>
TOTAL Q <u>110.2</u>	Amount Paid	<u>361.</u>

owe
174.2

refund

40. Y/N Is **further processing** possible? If not state reason: _____

50. Y/N Are **additional items required**, fees, easement, etc., prior to permit? (Send certified letter prior to FO)

60. Y/N Assign **permit number**

R 13367 (S-53817)

70. Y/N Does PFO require **modification**? Why? _____

FO Type: DENIAL FOMOD FO w/ DRAFT PERMIT FO & PERMIT

List issues to be addressed here: ADD UNNAMED STREAM AS A SOURCE PER APP, PREVIOUS PERMIT, & WM

1-28-04 Permit R-13367 prepared by Kerry Leferan

Δ to IRRIGATION TO MAKE UP A DEFICIENCY IN RATE (enlargement of reservoir will be same source of water)

ISSUE W/ THESE # LATER

80. Add new "C" date ¶ and "permit end box"

90. **Save** WordPerfect document in M:\GROUPS\WR\FO\WEEK 347.

100. Y/N/NA Include screening self-certification form if appropriate.

PFO CHECKLIST

Application #: R 84703

County Marion Basin: Willamette 2

Township 9S Range 3W Section 14 1/4 1/4 NW SE

1. Shortcomings preventing PFO, FO, or permit? Y/N Should process continue Y/N

2. Groundwater Review A B C D River/Stream Name _____
a. Groundwater Availability A B C
b. Is second groundwater review complete? Y/N necessary? Y/N
c. Is the well located in a GWLA or CA? Y/N (if Y or close include map of POD) Area _____

3. Is use from BOR / Doug Co. project? Y/N Contract in file? N / Contract # _____

4. Is the use allowed by the Basin Program? Y/N Limited? Y/N _____

5. Surface Water Availability Data REDONE / NA (80% live flow & 50% storage) YR PMA

6. Is the source withdrawn or limited by statute or Department order? Y/N _____

7. Is the Proposed Use located in or above a SWW? Y/N _____

8. Division 33: Y/N/NA Above Bonn (after July 17, 1992) Y/N Limit to April 15 - September 30 Y/N
Below Bonn (after April 8, 1994; June 3, 1994) Y/N add PISPC Y/N
Statewide - (in shaded areas on T, E, and S Map - after June 3, 1994) Y/N
WE HAVE COMMENTS FOR THE RESERVOIR AS IT WAS BEING AUTHORIZED UNDER PERMIT R-12733 FROM ODFW

11. Rate _____ Duty _____ Season: Normal 11-6/30 Req _____

12. Rate: Max _____ Req 20.2

13. Small (≤ 0.1 cfs, ≤ 9.2 AF), Medium (> 0.1 or < 1.5 cfs, > 9.2 or < 100 AF) or Large (≥ 1.5 cfs, ≥ 100 AF) condition 7I and municipal require the Large condition

14. Conditions PISPC, SEE R 84036 DAM SAFETY CONS

15. IR Date 3/15/02 Public Notice Date 3/5/02 Comment Rec'd _____

16. Filed after 10/23/99? Y/N (if Y A date should be removed)

17. CWRE, representatives or Property owners to notify? Y/N JOHN FALK
CORREY ROSEWRIGHT (CWRE)

summary:
[Empty box for summary]

Initials: RNF Date: 4/10/02

IR CHECKLIST

Application #: R 84703

County Marion Basin: Willamette 2 WAB: 183
Township 9S Range 3W Section 14 1/4 1/4 NWSE

- 2. Groundwater Review A B C D River/Stream Name _____
a. Groundwater Availability A B C
b. Is the well located in a GWLA or CGWA? (If applicable, include map with POD) Y / N
- 3. Is the well located in T1N R3E Sec 20, 21, 28, 29 Y / N
- 4. Is the use located within Oregon Streamflow Restoration Area? Y (N) NA
- 5. SWW Y / N (if Y notify state parks) _____
- 6. Allowed under Basin Program (Y) / N Limitations? Y / N
- 7. Withdrawn? Y / N season allowed _____
- 8. Basin Maps have been checked. Y / N River Mile Trip to Willamette nr RM 104
- 9. Surface water Availability (80% live flow / 50% storage) NA Yes Run

Allowable _____

- 10. Rate/Duty/Season Requested _____
- 11. Use Store 20.2 Ac Fr For Irr Summary of Allowed Use Store 20.2 Ac Fr / 11-6/80
- 12. Priority Date(s) 3/27/01

- 13. B.O.R. or Doug Co. project Y / (N) contract # _____
- 14. DIVISION 33 (Y) / N / NA Above Bonn Y / N (7/17/92) Below Bonn (Y) / N (4/8/94) Statewide (Y) / N (6/3/94) map date _____
- 15. per interactive mapping DOA 1010 (Y) / N 303D Y / (N) / NA
- 17. Condition S (<0.1, <9.2), M, L (>1.5, >100), BOR, GW, etc. Y / N PISPC, SEE R 84076 DAM SAFETY COND
- 18. Land use approval (OK'd) needs approval county notified NA
- 19. Watermaster Dist: (1 2 16 18 20 - NWR) (3 4 5 21 - NCR) (6 8 9 10 - ER) (11 12 17 - SCR) (13 14 15 19 - SWR)

- 20. Letter format == Good == Limited == Bad == Bad w/ IRshort == Bad w/ HC Opportunity
- 21. CWRE, representative, etc. to notify? (Y) / N
CORREY BRATHWRIGHT (CWRE)

Name: RWK Date: 2/7/02

(10) Protect and encourage use of water which sustains economic development.

Stat. Auth.: ORS 536.220, 536.300, 536.310, 536.340, 536.410, 537.170, 537.356 & 537.358

Hist.: WRD 4-1992, f. & cert. ef. 3-13-92; WRD 12-1992, f. & cert. ef. 9-9-92

General Provisions

690-502-040 (1) Water availability: The classifications in OAR 690-502-050 through 690-502-150 limit access to natural streamflow during periods when remaining available supplies are insufficient to meet existing water rights and public instream uses 80 percent of the time. When improved water availability data show that there is insufficient natural flow to support a classification, any permit issued shall further restrict or condition the time of use to when water is available.

(2) Limited licenses: The uses of surface water for which limited licenses may be issued are prescribed in ORS 537.143(1). Applications for limited licenses may be accepted in the Willamette Basin unless expressly prohibited by statute, order of the State Engineer or the Commission, or by the classifications in OAR 690-502-050 through 690-502-150.

(3) Surface water applications: Applications to use surface water filed after April 18, 1991, shall be processed under the classifications established in OAR 690-502-050 through 690-502-150. Applications filed on or before April 18, 1991, shall be processed under the classification in effect at the time of the application.

(4) Storage:

(a) Unless expressly prohibited by statute, order or administrative rule, the surface waters of the Willamette River and tributaries are classified for storage from November 1 to June 30. A storage permit may be issued for a shorter time period and/or conditioned based on water availability or compatibility with other uses and needs;

(b) Secondary applications to maintain reservoir levels throughout the year may be processed if the proposed use is consistent with the classification;

(c) Water legally stored may be released or used at any time for any beneficial purpose, such as domestic, livestock, irrigation (during the irrigation season as specified in section (6) of this rule), agricultural, commercial, municipal, industrial, power, mining, recreation, fish life, wildlife, pollution abatement, wetland enhancement, public instream uses and uses allowed under a limited license.

(5) Groundwater recharge: Use of surface water to recharge groundwater shall be subject to the same limitations and season as specified in section (4) of this rule. Use of groundwater from one aquifer to recharge another shall be allowed only if consistent with the classification of the providing aquifer as specified in OAR 690-502-160.

(6) Expanded irrigation season: Unless expressly limited by statute, court decree, order, administrative rule (including classification, except for use of stored water), water availability or any other permit condition, an irrigation season of March 1 to October 31 shall apply to future permits for primary and supplemental irrigation.

(7) Conservation: The Department shall require that special conservation and water use efficiency conditions be employed when permitting the use of water from the Columbia River Basalt Group, low-yield aquifers and water quality limited streams.

Stat. Auth.: ORS 536.220, 536.300, 536.310, 536.340, 536.410, 537.170, 537.356 & 537.358

Hist.: WRD 4-1992, f. & cert. ef. 3-13-92; WRD 12-1992, f. & cert. ef. 9-9-92

Analysis for Application: R84703**Location: 9.00 S-3.00 W-14-nesw****Uses: ST 0.000 (P)****Basins**

BASIN_NUM	BASIN_NAME
2	Willamette

Records Found: 1**WaterMaster Districts**

WATERDIST	REGION
16	NW

Records Found: 1**WAB**

BASIN	WID	LINK_1
2	183	Water Availability: 50% 80%

Records Found: 1**County**

COUNTY	FIPS
Marion	41047

Records Found: 1**Groundwater Restricted**

NAME1	NAME2	SUB_AREA	STATUS	SQ_MI
SOUTH SALEM HILLS			LIMI	87.53

Records Found: 1**Divison 33 Area**

DIV33
In a Div33 area

Records Found: 1**Rule 4D**

RULE4D
In a Rule4D Area

Records Found: 1**303D Streams Records Found: 0****303D Lakes Records Found: 0**

Location: 9.00 S-3.00 W-14-nwse

Uses: ST 0.000 (P)

Basins

BASIN_NUM	BASIN_NAME
2	Willamette

Records Found: 1

WaterMaster Districts

WATERDIST	REGION
16	NW

Records Found: 1

WAB

BASIN	WID	LINK_1
2	183	Water Availability: 50% 80%

Records Found: 1

County

COUNTY	FIPS
Marion	41047

Records Found: 1

Groundwater Restricted

NAME1	NAME2	SUB_AREA	STATUS	SQ_MI
SOUTH SALEM HILLS			LIMI	87.53

Records Found: 1

Divison 33 Area

DIV33
In a Div33 area

Records Found: 1

Rule 4D

RULE4D
In a Rule4D Area

Records Found: 1

303D Streams Records Found: 0

303D Lakes Records Found: 0

Water Availability for WID 183

WATER AVAILABILITY TABLE
 Water Availability as of 1/ 1/**** for
 WILLAMETTE R > COLUMBIA R - AB MILL CR AT GAGE 14191000
 Watershed ID #: 183 Basin: WILLAMETTE Exceedance Level: 50
 Time: 09:33 Date: 02/07/2002

Select an Item Number for More Details

Item #	Watershed ID #	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	Sto
1	181	YES	YES	YES	YES	YES	YES	YES	YES	YES	YES	YES	YES	YES
2	182	YES	YES	YES	YES	YES	YES	YES	YES	YES	YES	YES	YES	YES
3	183	YES	YES	YES	YES	YES	YES	YES	YES	YES	YES	YES	YES	YES

STREAM NAMES
 Water Availability as of 1/ 1/**** for
 WILLAMETTE R > COLUMBIA R - AB MILL CR AT GAGE 14191000
 Watershed ID #: 183 Basin: WILLAMETTE Exceedance Level: 50
 Time: 09:33 Date: 02/07/2002

Item	Watershed ID	Stream Name
1	181	WILLAMETTE R > COLUMBIA R - AT MOUTH
2	182	WILLAMETTE R > COLUMBIA R - AB MOLALLA R
3	183	WILLAMETTE R > COLUMBIA R - AB MILL CR AT GAGE 14191000

LIMITING WATERSHEDS
 Water Availability as of 1/ 1/**** for
 WILLAMETTE R > COLUMBIA R - AB MILL CR AT GAGE 14191000
 Watershed ID #: 183 Basin: WILLAMETTE Exceedance Level: 50
 Time: 09:33 Date: 02/07/2002

Mnth	Limiting Watershed	Stream Name	Water Avail?	Net Water Available
1	183	WILLAMETTE R > COLUMBIA R - AB MILL CR AT GAGE 1	YES	29300.0
2	183	WILLAMETTE R > COLUMBIA R - AB MILL CR AT GAGE 1	YES	23100.0
3	183	WILLAMETTE R > COLUMBIA R - AB MILL CR AT GAGE 1	YES	20400.0
4	183	WILLAMETTE R > COLUMBIA R - AB MILL CR AT GAGE 1	YES	17800.0
5	183	WILLAMETTE R > COLUMBIA R - AB MILL CR AT GAGE 1	YES	15800.0
6	182	WILLAMETTE R > COLUMBIA R - AB MOLALLA R	YES	9370.0
7	182	WILLAMETTE R > COLUMBIA R - AB MOLALLA R	YES	3360.0
8	182	WILLAMETTE R > COLUMBIA R - AB MOLALLA R	YES	1470.0
9	182	WILLAMETTE R > COLUMBIA R - AB MOLALLA R	YES	1860.0
10	183	WILLAMETTE R > COLUMBIA R - AB MILL CR AT GAGE 1	YES	4670.0
11	183	WILLAMETTE R > COLUMBIA R - AB MILL CR AT GAGE 1	YES	15200.0
12	183	WILLAMETTE R > COLUMBIA R - AB MILL CR AT GAGE 1	YES	32800.0
Stor	183	WILLAMETTE R > COLUMBIA R - AB MILL CR AT GAGE 1	YES	*****

DETAILED REPORT OF INSTREAM REQUIREMENTS
 Water Availability as of 1/1/**** for
 WILLAMETTE R > COLUMBIA R - AB MILL CR AT GAGE 14191000

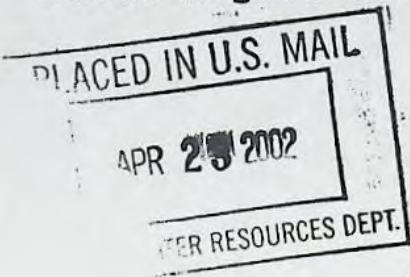
Watershed ID #: 183 Basin: WILLAMETTE Exceedance Level: 50
 Time: 09:33 Date: 02/07/2002

-----ISWRs-----								
APP #	183A	0	0	0	0	0	0	MAXIMUM
Status	Cert.							
1	1300.00	0.00	0.00	0.00	0.00	0.00	0.00	1300.00
2	1300.00	0.00	0.00	0.00	0.00	0.00	0.00	1300.00
3	1300.00	0.00	0.00	0.00	0.00	0.00	0.00	1300.00
4	1300.00	0.00	0.00	0.00	0.00	0.00	0.00	1300.00
5	1300.00	0.00	0.00	0.00	0.00	0.00	0.00	1300.00
6	1300.00	0.00	0.00	0.00	0.00	0.00	0.00	1300.00
7	1300.00	0.00	0.00	0.00	0.00	0.00	0.00	1300.00
8	1300.00	0.00	0.00	0.00	0.00	0.00	0.00	1300.00
9	1300.00	0.00	0.00	0.00	0.00	0.00	0.00	1300.00
10	1300.00	0.00	0.00	0.00	0.00	0.00	0.00	1300.00
11	1300.00	0.00	0.00	0.00	0.00	0.00	0.00	1300.00
12	1300.00	0.00	0.00	0.00	0.00	0.00	0.00	1300.00

1

Paul R. Cleary, Director
 Oregon Water Resources Department 158 12th ST. NE Salem, OR 97310 Phone: (503)378-8455 Fax:
 (503)378-2496

Oregon Water Resources Department
Water Rights Division



Water Rights Application
Number R-84703

Proposed Final Order

Summary of Recommendation: The Department recommends that the attached draft permit be issued with conditions.

Application History

On MARCH 27, 2001, GLENN & MARY WESTBROOK submitted an application to the Department for the following water use permit:

- Amount of Water: 20.2 ACRE-FEET
- Use of Water: ADDITIONAL STORAGE FOR IRRIGATION (TO INCREASE AUTHORIZATION PREVIOUSLY ALLOWED UNDER PERMIT R-12733)
- Source of Water: WEAVER GULCH, A TRIBUTARY OF MILLER CREEK
- Area of Proposed Use: MARION County within SECTION 14, TOWNSHIP 9 SOUTH, RANGE 3 WEST, W.M.

On February 15, 2002, the Department mailed the applicant notice of its Initial Review, determining that "*The appropriation of an additional 20.2 acre-feet of water in Westbrook Reservoir (constructed under permit R-12733) for storage for irrigation from an unnamed stream and Weaver Gulch, tributaries of Miller Creek, is allowable from November 1 through June 30.*" The applicant did not notify the Department to stop processing the application within 14 days of that date.

On March 5, 2002, the Department gave public notice of the application in its weekly notice. The public notice included a request for comments, and information for interested persons about both obtaining future notices and a copy of the proposed final order.

No written comments were received within 30 days.

In reviewing applications, the Department may consider any relevant sources of information, including the following:

- comments by or consultation with another state agency
- any applicable basin program
- any applicable comprehensive plan or zoning ordinance
- the amount of water available

- the rate and duty for the proposed use
- pending senior applications and existing water rights of record
- the Scenic Waterway requirements of ORS 390.835
- applicable statutes, administrative rules, and case law
- any comments received

Findings of Fact

The Willamette Basin Program allows storage of water for irrigation.

Senior water rights exist on Weaver Gulch, a tributary of Miller Creek, or on downstream waters.

Weaver Gulch, a tributary of Miller Creek, is not within or above a State Scenic Waterway.

An assessment of water availability has been completed. This assessment compared a calculation of natural streamflow minus the consumption portion of all relevant rights of record. A copy of this assessment is in the file. This assessment determined that water is available for further appropriation (at a 50 percent exceedance probability).

The Department finds that the amount of water requested, 20.2 af, is an acceptable amount.

In accordance with OAR 690-33-330, an interagency team reviewed this proposed use for potential adverse impacts on sensitive, threatened and endangered fish populations. This team consisted of representatives from the Oregon Departments of Water Resources (WRD), Environmental Quality, Fish and Wildlife (DFW), and Agriculture. WRD and DFW representatives included both technical and field staff. The interagency team did not recommend additional conditions of use be imposed on this application.

Conclusions of Law

Under the provisions of ORS 537.153, the Department must presume that a proposed use will not impair or be detrimental to the public interest if the proposed use is allowed in the applicable basin program established pursuant to ORS 536.300 and 536.340 or given a preference under ORS 536.310(12) (i.e. the use of water is human consumption or livestock), if water is available, if the proposed use will not injure other water rights and if the proposed use complies with rules of the Water Resources Commission.

The proposed use requested in this application is allowed in the Willamette Basin Plan, or a preference for this use is granted under the provisions of ORS 536.310(12).

Water is available for the proposed use.

The proposed use will not injure other water rights.

The proposed use complies with other rules of the Water Resources Commission not otherwise described above.

The proposed use complies with the State Agency Agreement for land use.

For these reasons, the required presumption has been established.

Once the required presumption has been established, under the provisions of ORS 537.153(2) it may be overcome by a preponderance of evidence that either:

- (a) One or more of the criteria for establishing the presumption are not satisfied; or
- (b) The proposed use will impair or be detrimental to the public interest as demonstrated in comments, in a protest . . . or in a finding of the department that shows:
 - (A) The specific public interest under ORS 537.170(8) that would be impaired or detrimentally affected; and
 - (B) Specifically how the identified public interest would be impaired or detrimentally affected.

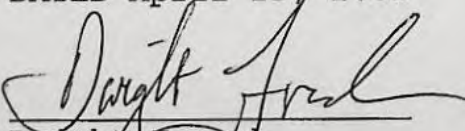
In this application, all criteria for establishing the presumption have been satisfied, as noted above. The presumption has not been overcome by a preponderance of evidence that the proposed use will impair or be detrimental to the public interest.

The Department therefore concludes that water is available in the amount of water necessary for the proposed use; the proposed use will not result in injury to existing water rights; and the proposed use will not impair or be detrimental to the public interest as provided in ORS 537.170.

Recommendation

The Department recommends that the attached draft permit be issued with conditions.

DATED April 23, 2002



Dwight French
Water Rights Section Manager

*If you have any questions,
please check the information
box on the last page for the
appropriate names and
phone numbers.*

Protest Rights and Standing

Under the provisions of 537.621(7), you have the right to protest this proposed final order. Your protest must be in writing, and must include the following:

- Your name, address, and telephone number;
- A description of your interest in the proposed final order, and, if you claim to represent the public interest, a precise statement of the public interest represented;
- A detailed description of how the action proposed in this proposed final order would impair or be detrimental to your interest;
- A detailed description of how the proposed final order is in error or deficient, and how to correct the alleged error or deficiency;
- Any citation of legal authority to support your protest, if known; and
- If you are not the applicant, the \$200 protest fee required by ORS 536.050 and proof of service of the protest upon the applicant.
- If you are the applicant, a statement of whether or not you are requesting a contested case hearing. If you do not request a hearing, the Department will presume that you do not wish to contest the findings of the proposed final order.
- If you do not protest this Proposed Final Order and if no substantive changes are made in the final order, you will not have an opportunity for judicial review, protest or appeal of the final order when it is issued.

Requests for Standing

Under the provisions of 537.153(5), persons other than the applicant who support a proposed final order may request standing for purposes of participating in any contested case proceeding on the proposed final order or for judicial review of a final order. A request for standing shall be in writing, include a statement that the requester supports the proposed final order, and a statement of how the requester would be harmed if the proposed final order is modified. The fee required at the time of submitting this request is \$50.00. If a hearing is scheduled, an additional fee of \$150.00 must be submitted along with a request for intervention. Forms to request standing are available from the Department.

Your protest or request for standing must be received in the Water Resources Department no later than **June 7, 2002**.

After the protest period has ended, the Director will either issue a final order or schedule a contested case hearing. The contested case hearing will be scheduled only if a protest has been submitted and if

- upon review of the issues, the director finds that there are significant disputes related to the proposed use of water, or
- the applicant requests a contested case hearing within 30 days after the close of the protest period.

This document was prepared by Russell W. Klassen. If you have any questions about any of the statements contained in this document I am most likely the best person to answer your questions. You can reach me at 1-503-378-8455 extension 266.

If you have questions about how to file a protest or if you have previously filed a protest and want to know the status, please contact Renee Moulun. Her extension number is 239.

If you have other questions about the Department or any of its programs please contact our Water Rights Information Group at extension 201.

Address all other correspondence to:

Water Rights Section, Oregon Water Resources Department, 158 12th ST. NE Salem, OR 97310

Fax: (503)378-6203

klasserw- WEEK 352

DRAFT

This is not a permit!!!
STATE OF OREGON

DRAFT

COUNTY OF MARION

DRAFT PERMIT TO CONSTRUCT A RESERVOIR AND STORE THE PUBLIC WATERS

THIS DRAFT PERMIT IS HEREBY ISSUED TO

GLENN & MARY WESTBROOK
3022 UMATILLA PLACE
ALBANY, OREGON 97321

(541) 928-8293

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

APPLICATION FILE NUMBER: R-84703

SOURCE OF WATER: WEAVER GULCH, A TRIBUTARY OF MILLER CREEK

STORAGE FACILITY: WESTBROOK RESERVOIR

PURPOSE OR USE OF THE STORED WATER: TO BE APPROPRIATED UNDER APPLICATION
S-84702, PERMIT ##### FOR IRRIGATION

MAXIMUM VOLUME: 20.2 ACRE FEET EACH YEAR

WATER MAY BE APPROPRIATED FOR STORAGE: NOVEMBER 1 THROUGH JUNE 30

DATE OF PRIORITY: MARCH 27, 2001

The area submerged by the reservoir, when full, will be 11.2 acres and
the maximum depth of water will be 23.34 feet. The maximum height of the
dam shall not exceed 26.0 feet.

DAM LOCATION: NW 1/4 SE 1/4, SECTION 14, T9S, R3W, W.M.; 2030 FEET NORTH
AND 1510 FEET WEST FROM THE SE CORNER SECTION 14

THE AREA TO BE SUBMERGED BY THE RESERVOIR IS LOCATED AS FOLLOWS:

NE ¼ SE ¼
NW ¼ SE ¼
SECTION 14
TOWNSHIP 9 SOUTH, RANGE 3 WEST, W.M.

Measurement, recording and reporting conditions:

- A. Before water use may begin under this permit, the permittee shall install a meter or other suitable measuring device as approved by the Director. The permittee shall maintain the meter or measuring device in good working order, shall keep a complete record of the amount of water used each month and shall submit a report which includes the recorded water use measurements to the Department annually or more frequently as may be required by the Director. Further, the Director may require the permittee to report general water use information, including the place and nature of use of water under the permit.
- B. The permittee shall allow the watermaster access to the meter or measuring device; provided however, where the meter or measuring device is located within a private structure, the watermaster shall request access upon reasonable notice.

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.

The use may be restricted if the quality of the source stream or downstream water decrease to the point that those waters no longer meet state or federal water quality standards due to reduced flows.

The permittee shall install, maintain, and operate fish screening to prevent fish from entering the proposed diversion. The permittee shall also install a fishway at the obstruction that will provide adequate upstream and downstream passage for fish. The permittee may submit evidence that the Oregon Department of Fish and Wildlife (ODFW) has determined screens and/or fishways are not necessary. The required screens and fishways are to be in place, functional, and approved by ODFW before diversion of any water.

The outlet gate shall be cycled at least once each year and shall be fully operational at all times.

Routine maintenance of the dam, its spillway and all appurtenant structures shall be performed as necessary to remove trees, brush and debris, and to repair slumps, areas of erosion, or defective equipment.

The earthen dam, the resultant reservoir, and the emergency spillway, shall be constructed and maintained according to the approved plans and specifications on file with the Oregon Water Resources Dam Safety program.

Any significant change in the approved design prior to or during construction shall be documented by the project engineer in a letter to Dam Safety. All construction shall be performed under the supervision of a registered professional engineer licensed in Oregon.

No fill shall be placed until preparation of the foundation and excavation of the core trench has been completed and examined in entirety by the engineer of record, or by the Water Resources Dam Safety Engineer, or both.

No water shall be stored until the Water Resources Department receives written certification from the engineer of record that construction has been completed in accordance with the approved plans and specifications. If construction deviates from the approved design a set reproducible asbuilt drawings, including a revised reservoir capacity graph/table, must accompany the engineer's written certification of completion.

The completed structure shall not be enlarged, modified, altered or otherwise changed without the prior written approval of the Director of the Water Resources Department or the Director's authorized representative. Except for routine repair and maintenance, plans and specifications prepared by an Oregon licensed engineer are required for any significant modification, alteration, or rehabilitation of the dam, spillway or appurtenant structures.

STANDARD CONDITIONS

Use under this permit is limited to the reservoir area. This permit does not provide for the appropriation of water for maintaining the water level or maintaining a suitable fresh water condition.

The storage of water allowed herein is subject to the installation and maintenance of a fully functional conduit/gate assembly having a minimum diameter of 8 inches.

Failure to comply with any of the provisions of this permit may result in action including, but not limited to, restrictions on the use, civil penalties, or cancellation of the permit.

This permit is for the beneficial use of water without waste. The water user is advised that new regulations may require the use of best practical technologies or conservation practices to achieve this end.

By law, the land use associated with this water use must be in compliance with statewide land-use goals and any local acknowledged land-use plan.

The use of water allowed herein may be made only at times when sufficient water is available to satisfy all prior rights, including prior rights for maintaining instream flows.

The Director finds that the proposed use(s) of water described by this permit, as conditioned, will not impair or be detrimental to the public interest.

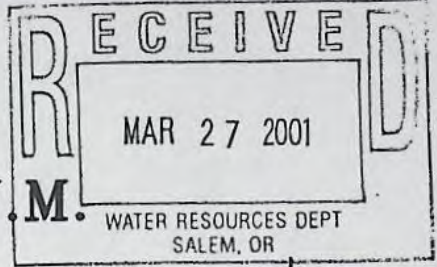
The reservoir shall be filled and complete application of the water to the use shall be made on or before October 1, 2006. If the water is not completely applied before this date, and the permittee wishes to continue development under the permit, the permittee must submit an application for extension of time, which may be approved based upon the merit of the application.

Within one year after complete application of water to the proposed use, the permittee shall submit a claim of beneficial use, which includes a map and report, prepared by a Certified Water Rights Examiner (CWRE).

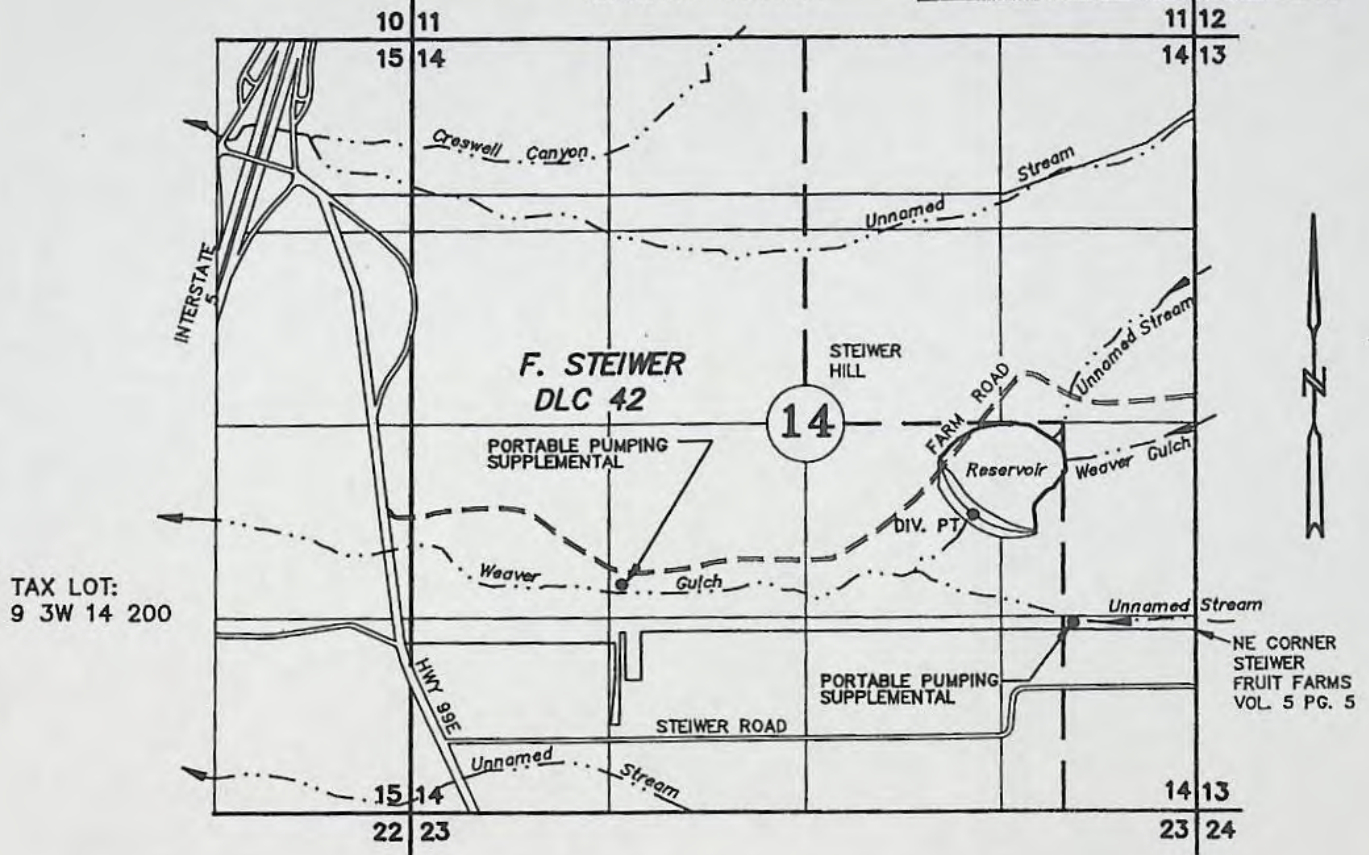
Issued _____, 2002

DRAFT - THIS IS NOT A PERMIT

Paul R. Cleary, Director
Water Resources Department



T.9S. R.3W. W.M.
MARION COUNTY



DIV. PT. LOCATION (PUMP): NW 1/4 SE 1/4, SEC. 14;
785' N AND 1510' WEST OF NE COR. STEIWER FRUIT FARMS

APPLICATION TO CONSTRUCT A RESERVOIR

- | | |
|---------|---------|
| R-22915 | R-916 |
| 22916 | 18066 |
| R-84036 | R-12733 |
| S-84037 | 53603 |

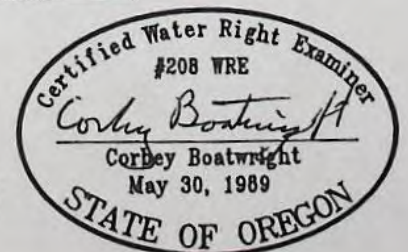
Application No. _____ Permit No. _____

GLENN AND MARY WESTBROOK

MARCH 06, 2001
SCALE 1" = 1320'

NOTE: This map is for the purpose of identifying the location of water rights and has no intent to dimension or locate property ownership lines.

Application No. *R84703*
Permit No. _____



Marion Russ #16

WATERMASTER DIVISION 33 APPLICATION WORK SHEET

Recommendations for Water Right Applications that may affect the Habitat of Sensitive
OAR 690-33-310 through 340.

FILE#: R' 84703

GLENN WESTBROOK
WESTBROOK, MARY
3022 UMATILLA PLACE
ALBANY, OR 97321

Date: 2/15/02 21 day Deadline Date: 3/8/02 Application # _____

Applicant's Name: _____

SOURCE OF WATER: GROUNDWATER SURFACE WATER STORAGE

DESCRIPTION OF THE SOURCE: Springs, An Unnamed stream & Weaver Gulch
(A spring, well, sump, exempt pond, unnamed stream, etc.)

1) If from surface water, does the water at the proposed diversion location flow into another water body?
 YES NO SOMETIMES Weaver Gulch & Miller Cr & Boshaw Crk

If sometimes, describe the time period, Between: After rains begin and late June
(late Oct - early Nov)

2) Does the source ever go dry in the area of the proposed diversion?
 YES NO Mid July to Early August according to owner

3) To your knowledge, has the requested source of water been regulated because of insufficient flow to satisfy existing water rights including instream water rights?

YES NO

If YES, please explain: _____

4) Is there sufficient flow at the proposed point of diversion to satisfy all existing water rights and provide the quantity of water requested under this application?

YES NO meaning?

5) Did you meet with staff from another agency to discuss this application?

YES NO

Who: _____ Agency: _____ Date: _____

6) Is mitigation an option?

YES NO

If YES, please explain: _____

Comments: SA-84702 also involved. 4.4.2002 @ 0945 On site inspect. Owner not present. Dam height 25ft ±. Photos & GPS - Est Accuracy ± 1.3. Some slumping nr. over flow channel - R.R. & U.S. - spring area, smaller pond U.S. (picture), dam ht. = 5ft ±
P-82611

Name: Bid Kerba Date: 4.18.2002 Title: W.M #16

WRD Contact: Kerry Lefever, Acting Interagency Coordinator, Water Rights Division
1-800-624-3199 ext: 276 / Fax: 503-378-6203 / e-mail: Kerry.A.LEFEVER@ wrd.or.state.us



Thursday, April 04, 2002
Westbrook - 9s3w14
Ra-84703 Top of dam looking
south. 1 of 6 panoramic shoots



Thursday, April 04, 2002
Westbrook - 9s3w14
Ra-84703 Top of dam 2 of 6
panoramic shoots



Thursday, April 04, 2002
Westbrook - 9s3w14
Ra-84703 Top of dam 3 of 6
panoramic shoots



Thursday, April 04, 2002
Westbrook - 9s3w14
Ra-84703 Top of dam 4 of 6
panoramic shoots



Thursday, April 04, 2002
Westbrook - 9s3w14
Ra-84703 Top of dam 5 of 6
panoramic shoots



Thursday, April 04, 2002
Westbrook - 9s3w14
Ra-84703 Top of dam looking
north. 6 of 6 panoramic shoots



Thursday, April 04, 2002
Westbrook - 9s3w14
Ra-84703 Overflow pipe.



Thursday, April 04, 2002
Westbrook - 9s3w14
Ra-84703 Overflow pipe.



Thursday, April 04, 2002
Westbrook - 9s3w14
Ra-84703 Outlet area for
overflow pipe.



Thursday, April 04, 2002
Westbrook - 9s3w14
Ra-84703 Emergency spillway
located on north end of dam.



Thursday, April 04, 2002
Westbrook - 9s3w14
Ra-84703 Emergency spillway
located on north end of dam.



Thursday, April 04, 2002
Westbrook - 9s3w14
Ra-84703 Emergency spillway
located on north end of dam.
Spring area and slump.



Thursday, April 04, 2002
Westbrook - 9s3w14
Ra-84703 Emergency spillway
located on north end of dam.
Spring area and slump.



Thursday, April 04, 2002
Westbrook - 9s3w14
Ra-84703 Emergency spillway
located on north end of dam.
Spring area along north shore
u.s. from emergency spillway.



Thursday, April 04, 2002
Westbrook - 9s3w14
Ra-84703 Inflow at upper end of
reservoir. Weaver Gulch



Thursday, April 04, 2002
Westbrook - 9s3w14
Ra-84703 Emergency spillway
located on north end of dam.
Spring area along north shore
u.s. from emergency spillway.



Thursday, April 04, 2002
Westbrook - 9s3w14
Ra-84703 Inflow at upper end of
reservoir. Weaver Gulch



Thursday, April 04, 2002
Westbrook - 9s3w14
Ra-84703 Inflow at upper end of
reservoir. Weaver Gulch



Thursday, April 04, 2002
Westbrook - 9s3w14
Ra-84703 Inflow at upper end of
reservoir. Weaver Gulch.



Thursday, April 04, 2002
Westbrook - 9s3w14
Unnamed stream feeding
Ra-84703 from Ra-22915,
Rp-916, C-23306 & P-82611.



Thursday, April 04, 2002
Westbrook - 9s3w14
North bank of Ra-84703 showing
spring areas feeding reservoir.



Thursday, April 04, 2002
Westbrook - 9s3w14
North bank of Ra-84703 showing
spring areas feeding reservoir.



Oregon

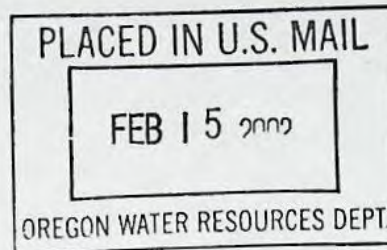
John A. Kitzhaber, M.D., Governor

Water Resources Department

Commerce Building
158 12th Street NE
Salem, OR 97301-4172
(503) 378-3739
FAX (503) 378-8130
www.wrd.state.or.us

February 15, 2002

GLENN & MARY WESTBROOK
3022 UMATILLA PLACE
ALBANY, OREGON 97321



(541) 928-8293

Reference: File R-84703

Dear Applicant:

**THIS IS NOT A PERMIT AND IS
SUBJECT TO CHANGE AT THE NEXT PHASE OF PROCESSING.**

This letter is to inform you of the favorable preliminary analysis of your water use permit application and to describe your options. In determining whether a water use permit application may be approved, the Department must consider the factors listed below, all of which must be favorable to the proposed use if it is to be allowed. Based on the information you have supplied, the Water Resources Department has made the following preliminary determinations:

Initial Review Determinations:

1. The proposed use is not prohibited by law or rule.
2. The appropriation of an additional 20.2 acre-feet of water for storage in an existing reservoir (constructed under permit R-12733) from an unnamed stream and Weaver Gulch, a tributaries of Miller Creek, for storage for irrigation is **allowable** November 1 through June 30 under OAR 690-502, the Willamette Basin Program.
3. Water in the amount of 20.2 acre-feet is **available** from unnamed stream and Weaver Gulch.

Summary of Initial Determinations

The appropriation of an additional 20.2 acre-feet of water in Westbrook Reservoir (constructed under permit R-12733) for storage for irrigation from an unnamed stream and Weaver Gulch, tributaries of Miller Creek, is allowable from November 1 through June 30.

Because of these favorable determinations, the Department can now move your application to the next phase of the water rights application review process. This phase is where public interest factors will be evaluated.

Please reference the application number when sending any correspondence regarding the conclusions of this initial review. Comments received within the comment period will be evaluated at the next phase of the process.

To Proceed With Your Application:

If you choose to proceed with your application, you do not have to notify the Department. Your application will automatically be placed on the Department's Public Notice to allow others the opportunity to comment. After the comment period the Department will complete a public interest review and issue a proposed final order.

Withdrawal Refunds:

If you choose not to proceed, you may withdraw your application and receive a refund (minus a \$50 processing charge per application.) To accomplish this you must notify the Department in writing by **Friday, March 1, 2002**. For your convenience you may use the enclosed "STOP PROCESSING" form.

If A Permit Is Issued It Will Likely Include The Following Conditions:

1. Measurement, recording and reporting conditions:
 - A. Before water use may begin under this permit, the permittee shall install a meter or other suitable measuring device as approved by the Director. The permittee shall maintain the meter or measuring device in good working order, shall keep a complete record of the amount of water used each month and shall submit a report which includes the recorded water use measurements to the Department annually or more frequently as may be required by the Director. Further, the Director may require the permittee to report general water use information, including the place and nature of use of water under the permit.
 - B. The permittee shall allow the watermaster access to the meter or measuring device; provided however, where the meter or measuring device is located within a private structure, the watermaster shall request access upon reasonable notice.
2. You may be required to install fish screens at the point of diversion to meet Oregon Department of Fish and Wildlife specifications for adequate protection of aquatic life.
3. 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.
4. The use may be restricted if the quality of the source stream or downstream water decrease to the point that those waters no longer meet state or federal water quality standards due to reduced flows.
5. The permittee shall install, maintain, and operate fish screening to prevent fish from entering the proposed diversion. The permittee shall also install a fishway at the

obstruction that will provide adequate upstream and downstream passage for fish. The permittee may submit evidence that the Oregon Department of Fish and Wildlife (ODFW) has determined screens and/or fishways are not necessary. The required screens and fishways are to be in place, functional, and approved by ODFW before diversion of any water.

6. The outlet gate shall be cycled at least once each year and shall be fully operational at all times.
7. Routine maintenance of the dam, its spillway and all appurtenant structures shall be performed as necessary to remove trees, brush and debris, and to repair slumps, areas of erosion, or defective equipment.
8. The earthen dam, the resultant reservoir, and the emergency spillway, shall be constructed and maintained according to the approved plans and specifications on file with the Oregon Water Resources Dam Safety program.
9. Any significant change in the approved design prior to or during construction shall be documented by the project engineer in a letter to Dam Safety. All construction shall be performed under the supervision of a registered professional engineer licensed in Oregon.
10. No fill shall be placed until preparation of the foundation and excavation of the core trench has been completed and examined in entirety by the engineer of record, or by the Water Resources Dam Safety Engineer, or both.
11. No water shall be stored until the Water Resources Department receives written certification from the engineer of record that construction has been completed in accordance with the approved plans and specifications. If construction deviates from the approved design a set reproducible asbuilt drawings, including a revised reservoir capacity graph/table, must accompany the engineer's written certification of completion.
12. The completed structure shall not be enlarged, modified, altered or otherwise changed without the prior written approval of the Director of the Water Resources Department or the Director's authorized representative. Except for routine repair and maintenance, plans and specifications prepared by an Oregon licensed engineer are required for any significant modification, alteration, or rehabilitation of the dam, spillway or appurtenant structures.
13. The priority date for this application is MARCH 27, 2001.

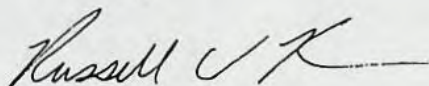
The water source identified in your application is in an area in which an Agricultural Water Quality Management Area Plan is being developed. These plans are developed by the Oregon Department of Agriculture (ODA) with the cooperation of local landowners and other interested stakeholders. These plans help make sure that current and new appropriations of water are done in a way that does not adversely harm the environment. You are encouraged to contact Mike

Wolf, (503) 986-4711 at the ODA to learn more about the plan and how it may affect your proposed water use.

If you have any questions:

Questions about the status of your application, processing timelines, or your upcoming Proposed Final Order should be directed to our Water Right Information Group at (503) 378-8455 extension 201. Feel free to call me at (503) 378-8455 extension 266 if you have any questions regarding the contents of this letter. Please have your application number available if you call. Address all other correspondence to: Water Rights Section, Oregon Water Resources Department, 158 12th ST. NE Salem, OR 97301-4172, Fax: (503)378-6203.

Sincerely,



Russell W. Klassen
Initial Reviewer

cc: Regional Manager, Watermaster District 16, Water Availability Section
enclosures: Flow Chart of Water Right Process
Stop Processing Form

R-84703
wab 02-183
pou 02-183
gw

APPLICATION FACT SHEET

Mail to: Applicant, Watermaster, District Biologist (ODFW)
If necessary, also mail to : Regional Water quality manager (DEQ), and DOA

Application File Number: R-84703

Applicant: GLENN WESTBROOK WESTBROOK, MARY

County: MARION

Watermaster: District 16

Priority Date: MARCH 27, 2001

Source: AN UNNAMED STREAM AND WEAVER GULCH, TRIBUTARIES OF MILLER
CREEK

Use: STORAGE FOR SUPPLEMENTAL IRRIGATION

Quantity: 20.2 ACRE-FEET

Basin Name & Number: Willamette, #02

Stream Index Reference: Volume 7 SANTIAM R MISC

Point of Diversion Location: NWSE, SECTION 14, T 9S, R3W, W.M.;

Place of Use: NESW NWSE, SECTION 14, TOWNSHIP 9 SOUTH, RANGE 3 WEST, W.M.

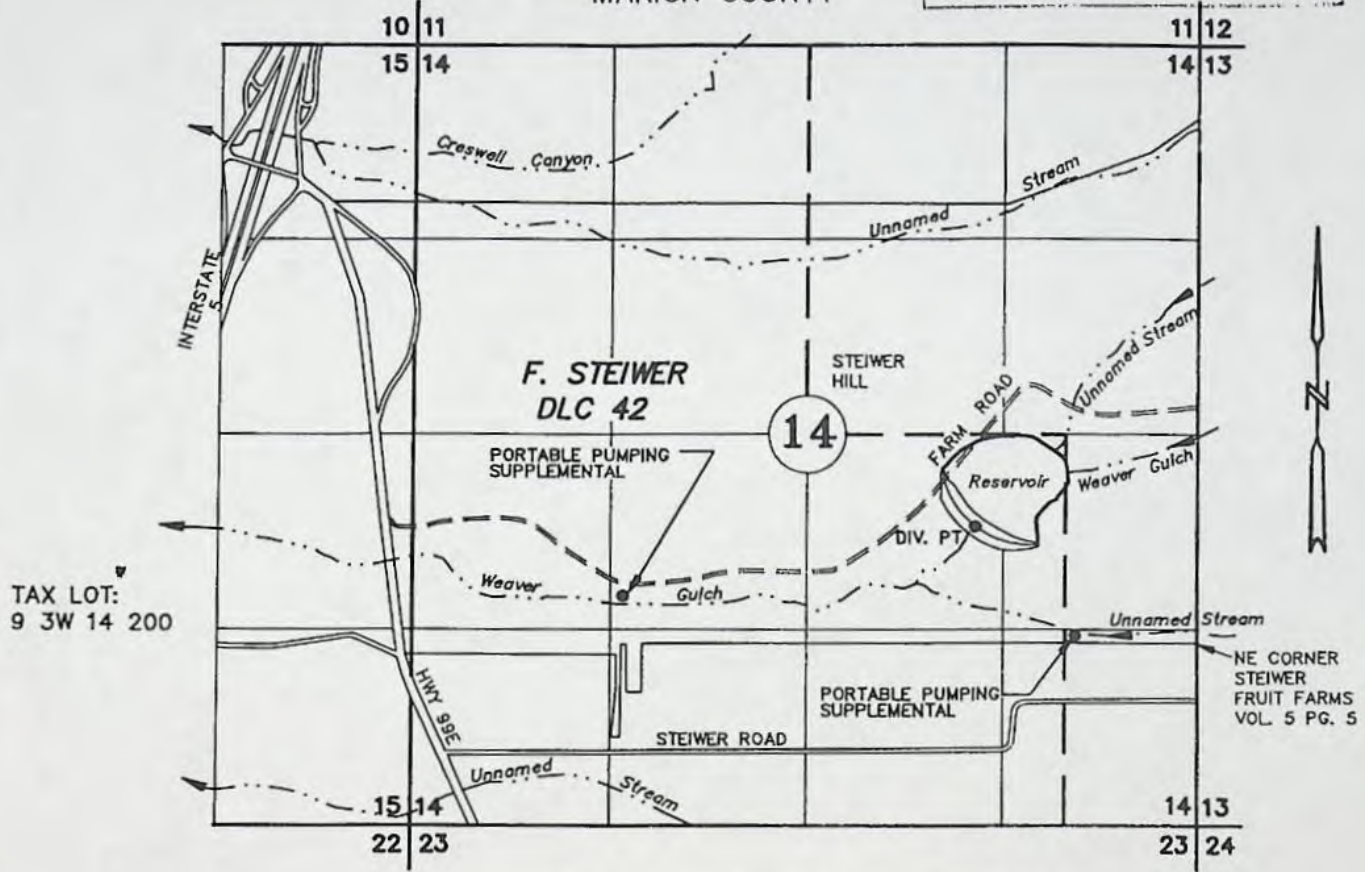
14 DAY STOP PROCESSING DEADLINE DATE: Friday, March 1, 2002

PUBLIC NOTICE DATE: Tuesday, March 5, 2002

30 DAY COMMENT DEADLINE DATE: Thursday, April 4, 2002

RECEIVED
 MAR 27 2001
 WATER RESOURCES DEPT
 SALEM, OR

T.9S. R.3W. W.M.
 MARION COUNTY



DIV. PT. LOCATION (PUMP): NW 1/4 SE 1/4, SEC. 14;
 785' N AND 1510' WEST OF NE COR. STEIWER FRUIT FARMS

APPLICATION TO CONSTRUCT A RESERVOIR

- | | |
|---------|---------|
| R-22915 | R-916 |
| 22916 | 18066 |
| R-84036 | R-12733 |
| S-84037 | 53603 |

Application No. _____ Permit No. _____

GLENN AND MARY WESTBROOK

MARCH 06, 2001
 SCALE 1" = 1320'

NOTE: This map is for the purpose of identifying the location of water rights and has no intent to dimension or locate property ownership lines.

Application No. *R84703*
 Permit No. _____





Oregon

John A. Kitzhaber, M.D., Governor

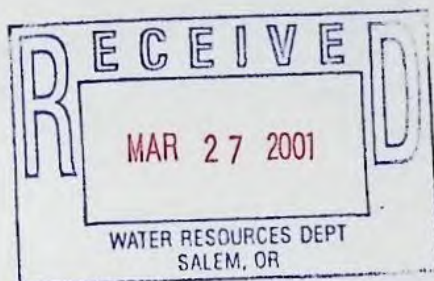
March 7, 2001

Water Resources Department

Commerce Building
158 12th Street NE
Salem, OR 97301-4172
(503) 378-3739
FAX (503) 378-8130

Martin G. Boatwright, P.E.
Boatwright Engineering, Inc.
2613 12th Street SE
Salem, OR 97302

Re: Westbrook Dam, (File W-36)
Reservoir Application R-84036, Permit R-12733



Dear Mr. Boatwright:

Thank you for submitting asbuilt drawings and your accompanying letter certifying completion of the referenced project located in **Section 14, T9S, R3W, Marion County**. Our receipt of these items satisfies the dam safety requirements for construction of the dam and acknowledges the impoundment of water in an amount equal to 141.2 acre-feet @ elevation 359.34', which corresponds to the top of the vertical riser *with the flashboards installed*. Please be advised that Permit R-12733 allows for 121 acre-feet reservoir storage.

Based on the asbuilt drawings, the following physical data was assembled:

Crest primary spillway (vertical riser w/o flashboards)	356.98'
Crest emergency spillway	357.48'
Maximum storage (w/flashboards)	359.34'
Top of dam	362.0'

The height of the embankment at maximum centerline section is approximately 25 feet above natural ground surface. We understand all elevations shown on the asbuilts are NGVD.

We understand all waters used to fill the reservoir originate from a combination of springs and natural runoff. Because the size of the dam and reservoir exceed the established limits for exempt structures (greater than or equal to 10 feet height and 9.2 acre-feet storage), this project has been added to the state inventory of dams and reservoirs. As required by statute, the dam will be inspected on a regular basis for purposes of public safety by one or more employees of the Water Resources Department. We have tentatively scheduled the next inspection of this dam for autumn, 2001.

Thank you for your cooperation. We appreciate your efforts to achieve a good quality project. If you have any questions, please do not hesitate to let me know.

Sincerely,

John Falk, PE
Safety of Dams

Application No. R84703
Permit No.

c: Glen D. Westbrook
OWRD Water Rights Section
Bill Ferber - Watermaster Dist. #16

WATER RIGHT FEE CALCULATION WORKSHEET

Groundwater, Surface Water, Standard Reservoir and Alternate Reservoir

<u>Groundwater or Surface Water Live Flow Calculation</u>	<u>Storage or to use Stored Water Calculation</u>	<u>Applications to appropriate both STORED WATER & LIVE FLOW</u>	<u>Applications to EXCLUSIVELY Appropriate STORED WATER</u>
Base Fee..... \$ 250	Base Fee..... \$250	Base Fee..... \$ 250	Base Fee..... \$ 100
1 st CFS* or fraction..... \$ 150	\$10 for 1 st AF or fraction up to 10 AF	<u>Live Flow Calculation</u>	\$10 for 1 st AF or fraction up to 10 AF
plus each additional CFS or fraction _____ CFS X \$75..... \$	20.2 AF X \$10..... <u>\$100</u> 20.2	1 st CFS or fraction..... \$ 150	20.2 AF X \$10..... <u>\$100</u>
Total Surface Water or Groundwater Examination Fee..... \$	plus \$1 each additional AF (> 10 AF - 1000 AF) _____ AF X \$1..... <u>\$ 11</u>	each additional CFS or fraction _____ CFS X \$75..... \$	plus \$1 each additional AF (> 10 AF - 1000 AF) <u>10.2</u> AF X \$1..... <u>\$ 11</u>
	plus 25¢ each additional AF (> 1000 AF +) _____ AF X 25¢..... \$	<u>plus Live Flow Fee.....</u> \$	plus 25¢ each additional AF (> 1000 AF +) _____ AF X 25¢..... \$
	Total Storage Exam Fee..... \$ 361	<u>Storage Calculation</u>	Total Examination Fee to Exclusively Appropriate Stored Water..... \$
		\$10 for 1 st AF or fraction up to 10 AF _____ AF X \$10..... \$	
		\$1 each additional AF (> 10 AF - 1000 AF) _____ AF X \$1..... \$	
		25¢ each additional AF (> 1000 AF +) _____ AF X 25¢..... \$	
		plus Storage Fee..... \$	
		Total Examination Fee..... \$	

*1 CFS = 448.83 gallons per min.
Application No. R 84703
Permit No.

Recording fees for all applications (due prior to permit issuance): \$ 175

All examination fees must be paid before an application may be accepted. Recording fees do not have to be paid at application filing.

WATER RIGHT FEE CALCULATION
Groundwater, Surface Water, Standard Reservoir

Fee is figured adding \$250 Base Fee *plus* the following calculations:

Groundwater or Surface Water Live Flow Calculation		Storage or to use Stored Water Rate Calculation	
1 st CFS* or fraction	\$ 150	\$10 for 1 st AF or fraction up to 10AF	
<i>Plus</i>		_____ X \$10 <i>Plus</i>	_____
Additional CFS or fraction		\$1 each add'l AF (>10AF-1000AF)	
_____ X \$75	\$ _____	_____ X \$1 <i>Plus</i>	_____
		.25 each add'l AF (>1000 +)	
		_____ X .25	_____
Total Calculation	\$ _____	Total Calculation	\$ _____
LIVE FLOW EXAMINATION FEE TOTAL		STORED EXAMINATION FEE TOTAL	
\$250 + \$ _____ = \$ _____		\$250 + \$ _____ = \$ _____	

If an application is to appropriate both stored water *and* live flow, use the following calculation:

Base Fee	\$250	(Note: use only one base fee)
<i>plus</i>		
Live flow calculation (above)	_____	
<i>Plus</i>		
Storage calculation(above)	+ _____	
Total Exam Fee	_____	

Recording fees for all applications (due at permit):\$175

ALL EXAMINATION FEES MUST BE PAID BEFORE AN APPLICATION CAN BE ACCEPTED FOR FILING. RECORDING FEES *DO NOT* HAVE TO BE PAID AT APPLICATION FILING.

*1 CFS equals 448.83 gallons per minute.

84037 & 84036

RECEIVED

Oregon

Aug. 12, 1999

AUG 13 1999

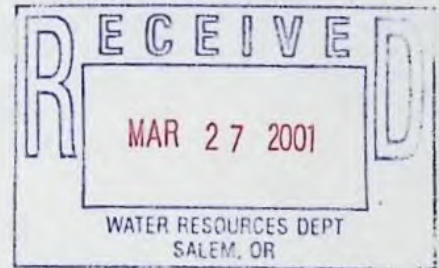
WATER RESOURCES DEPT.
SALEM, OREGON



DEPARTMENT OF
FISH AND
WILDLIFE

Salem District Office

Water Rights Section
Water Resources Department
158 12th Street NE
Salem, OR 97310



Re: Permit No. 53603 and R-12733
Westbrook, Glen and Mary
Marion County
Weaver Gulch > Miller Creek; 121 acre feet

ODFW inventoried the site of this proposed reservoir for the presence of fish resources on April 12, 1999. No fish species were present in the north branch of Weaver Gulch, where the reservoir will be located, and existing habitat does not appear to be suitable for supporting trout. Therefore, neither fish passage nor screening will be required at this impoundment.

Sincerely,

Wayne L. Hunt

Wayne Hunt
Fish Biologist

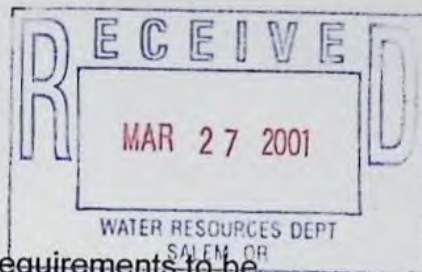
C: Boatwright Engineering
Glen and Mary Westbrook
Zarnowitz, HD

Application No. R 84703
Permit No.



4412 Silverton Road NE
Salem, OR 97305
(503) 378-6925
FAX (503) 378-6233

MINIMUM APPLICATION REQUIREMENTS
STANDARD RESERVOIR PROCESS



All applications submitted to the Department must meet minimum requirements to be accepted for filing. Applications that are incomplete are returned without being accepted or receiving a priority date. In order to ensure that an application will be accepted, the following information must be received at the time of filing:

- Name and mailing address of applicant(s). If the applicant is a public agency, corporation or business, the title and signature authority of the person completing the application must be indicated.
- The source of water for the reservoir.
- Information about the dam and impoundment area including dam height, width, crest width and surface area. Preliminary plans and specifications for the dam and impoundment area may be listed on a separate page.
- The proposed dates for beginning and completion of construction and the date when the full amount of water will be stored. If the system is already in place, you may write that statement on the project schedule.
- Property ownership must be listed. If the applicant does not own all the land where the water will be diverted, conveyed and stored, *the name and mailing address of each landowner must be given*. You may list this information on a separate sheet of paper.

If the application involves more than 25 landowners, it is not necessary to list them. The Department can allow for publication in your local newspaper. More information will be sent at Initial Review for this process.

If the applicant does not own all the lands, it must be indicated whether or not an easement or written authorization permitting access has been obtained. However, you do not need to provide the Department with a copy of the easement or written authorization at this time.

- An oath certifying the information contained in the application is a true and accurate representation of the proposed water use.
- Sign the application in ink.

Application No. R 84.103
Permit No.

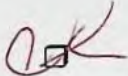
Additional Information Required:



A completed land use information form *signed by the local planning official*.



The metes and bounds legal description of the place of use and point of diversion. A copy of the deed, land sales contract or title insurance policy will show the legal description required. *A copy of your tax statement will not be accepted.*



A map that meets the requirements of OAR 690-310-050 must be submitted. Refer to the Map Requirements Sheet for details.

If the application is for a reservoir that stores more than 9.2 acre-feet of water **AND** has a dam over 10 feet in height, the map must be prepared by a Certified Water Rights Examiner.



If there will be a secondary use made of the stored water, or you will be maintaining the water in an on-channel reservoir, a secondary surface water application is required.

In order for your application to be processed as quickly as possible, make sure all the above information is included when you submit the application. An Initial Review Report is usually completed within 45 days after an application has accepted by the Department.

Please refer to the Minimum Application Requirements for Surface and Groundwater if you will be submitting a secondary application.

For reservoirs that store less than 9.2 acre-feet or have a dam less than 10 feet high, you may be eligible to file under HB2379 Expedited Review Process.

Standard Reservoir Applications

General Information

Oregon law declares that all waters within the state belong to the public. A water right of record is necessary to store and use public waters. Some water is unavailable for use because of existing water rights or withdrawal by legislative action or administrative order.

By law, the land use associated with water use must comply with statewide land-use goals and local land-use plans. The proposed land use may be prohibited if it is not in keeping with state goals or local plans. City or county planning agencies can provide advice about local land-use plans.

An engineer licensed in Oregon or a qualified representative of the federal government must prepare plans and specifications for the construction or alteration of any dam 10 or more feet in height and impounding more than 9.2 acre-feet of water (3 million gallons). The Water Resources Department will provide further information concerning these requirements upon request.

Applications and Permits

Oregon Law requires a permit from the Water Resources Department to construct a reservoir and to use the stored water and streamflow. Two applications for permits are normally required:

- A "primary" application to construct a reservoir and
- A "secondary" application to appropriate surface water.

This guide explains how to complete the primary application form and the Minimum Filing Requirements necessary for filing. The *Surface Water Applications* pamphlet explains how to complete the secondary form.

The permit to construct a reservoir allows construction of the reservoir and storage of streamflow that is surplus to the needs of existing rights. Generally, streamflow will not be available for storage during irrigation season, so the reservoir must be filled from surplus winter streamflow.

The permit to appropriate surface water allows use of the stored water under the terms of the permit. The permit can also allow the use of streamflow, when available in excess of existing rights, to maintain the reservoir by offsetting seepage and evaporation losses. A secondary application is not needed only if water is stored from an intermittent stream and is intended only for use within the reservoir area, such as for livestock or recreation.

Terms of the permit include the time limits to begin, complete construction of the reservoir, and to fill the reservoir. A substantial beginning on actual construction of the reservoir must be made within one year from the date the permit is issued. This time limit cannot be extended. Land clearing is not considered a part of reservoir construction.

Application No. R 84703
Permit No.

Rights of way

A reservoir permit does not authorize the flooding of water over, or the construction of works on property not owned or controlled by the applicant. Any easement, right of access or right of way necessary to the intended storage of water is a private matter between the water use and the property owner involved.

Preparing the Application

The application should be typewritten or completed in blue or black ink. All items must be completed even though part or all of the required information may appear on maps or supplemental drawings.

- Item 1** If the stream has no official name, list the source as "unnamed stream," and also state the name of the stream or river to which it is a tributary. If the reservoir is "off channel" (not located within a stream) and filled by diversion from a nearby water source, describe the diversion works, including any diversion dam, ditch or pipeline.
- Item 2** Recommended minimum dimensions for these items are under the heading "Storage Dams". Any dam which will be located on a stream channel must have an outlet conduit.
- Item 3** If more than one water use is planned, state the amount of water to be stored for each purpose. (Example: 2.2 acre-feet for irrigation and 4.3 acre-feet for recreation.)
- Item 4** Enter the total amount of water to be stored for all uses, (for example above the total storage would be 6.5 acre-feet.)
- Item 5** A spillway is recommended for all reservoirs except excavated sumps not located on a stream channel or drainageway for which the inflow can be controlled. Spillways are explained under the heading "Storage Dams".
- Item 6** Time limits for beginning and completion of construction are explained under the heading "Application and Permits".
- Item 8** List whether or not you are the owner of all lands involved with this application. Answer yes or no. If the answer is No, then list the name and mailing address of the legal owner(s).
- Item 9** If you answered NO to question 8, you must indicate whether or not you have secured an easement or written authorization from the legal land owner permitting access to the lands you do not own.

Map Requirements

A map of the proposed development must accompany each application for a permit. Refer to the Map Requirements sheet for details on mapping.

Fee Schedule

Examination Fee: \$250 plus
\$10 for the first acre-foot (AF) up to 10 AF, then
\$1 for each additional AF up to 1000 AF, then
25 cents for each additional AF.

Storage Dams

The Water Resources Department recommends the following dimensions for any dam less than 10 feet in height and storing less than 9.2 acre-feet:

- (1) Minimum crest or top width of 8 feet
- (2) Minimum upstream slope of 3:1 (three feet horizontal to one foot vertical)
- (3) Minimum downstream slope of 2:1
- (4) Minimum spillway depth of 2.5 feet.
- (5) Minimum outlet conduit diameter of 8 inches

Most small dams built in Oregon are earthfill structures. It is important to observe proper procedures during construction of the embankment, and to provide an adequate spillway to prevent failure by overtopping.

The Water Resources Department recommends the following methods for construction of dams less than 10 feet in height and storing less than 9.2 acre-feet.

During site preparation, strip all brush, trees, sod, stumps, roots and other organic material from the area to be occupied by the dam and from the borrow area. Dig a cutoff or core trench along the axis of the dam and backfill with compacted embankment material to prevent underseepage. The cutoff trench should have side slopes of 1:1 and should be deep enough to intercept any gravel layers or other deposits which could allow seepage under the dam.

Any dam which will be located on a stream channel must have an outlet conduit with a minimum diameter of 8 inches. Conduits allow emptying of the reservoir for repairs or maintenance, and passage of streamflow to satisfy downstream water rights. Place the conduit at the bottom or in the lower part of the embankment. Asphalt-dipped corrugated metal pipe with water-tight joints is often used. Install the control valve at the upstream end of the conduit, to be operable by a control wheel and gate shaft accessible from the crest of the dam. Support the valve control stem with concrete piers placed in the upstream face.

Construct at least two cutoff collars. Collars are usually made of reinforced concrete at least four inches thick, and extending at least 24 inches around the conduit in all directions. Prefabricated asphalt-dipped metal cutoff collars are acceptable if a watertight joint is obtained between the collar and the conduit.

Spread embankment material parallel to the axis of the dam in layers not more than eight inches thick. Compact the layers properly with a sheepsfoot roller or similar equipment.

The best material for use in embankment construction is soil with a mixture of silt, sand and clay. A straight

Application No. R 84703
Permit No.

silt or sand embankment may be subject to erosion and failure by seepage through the embankment. A straight clay material is often difficult to compact properly and is subject to shrinking and cracking when dried.

Do not use roots, stumps, sod or other organic material in the embankment. Avoid using large rocks in the embankment unless to cover the slope to prevent erosion. After construction, keep the slopes free of brush and tree growth. A low grass covering helps prevent surface erosion. Squirrels and other burrowing rodents can cause damage to, and even failure of small embankments and should be controlled.

All dams should have a spillway to prevent overtopping. The exception to this is excavated sumps not located on a stream channel or drainageway and for which the inflow can be controlled. For off-channel dams, the spillway capacity should be slightly greater than the capacity of the ditch or pipeline which delivers water to the reservoir. Build the spillway around the dam, not over the top. The spillway is normally dug in natural materials and protected against erosion with a sod, rock or concrete lining.

For dams located on a stream channel, the spillway should be sized to pass the estimated 50-year peak flow. The spillway channel should return the flow to the natural channel far enough downstream to prevent erosion of the downstream toe of the embankment.

Adherence to these guidelines should result in a safe and useful structure.

Submitting Your Reservoir Application

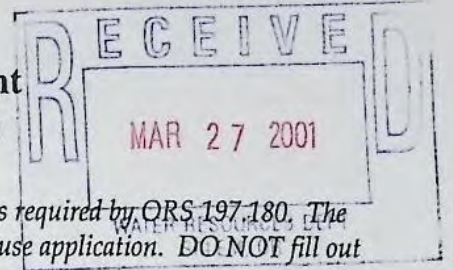
Mail the completed application, map, legal description, land-use form and fees to:

Water Resources Department
Commerce Building
158 12th Street NE
Salem, OR 97310

Application No.
Permit No.



Oregon Water Resources Department Land Use Information Form



This information is needed to determine compatibility with local comprehensive plans as required by ORS 197.180. The Water Resources Department will use this and other information to evaluate the water use application. DO NOT fill out this form if water is to be diverted, conveyed, or used only on federal lands.

To Be Completed By Applicant

The following section includes information about proposed water use. This section must be completed by the individual or group that is filing an application for a water right with the Water Resources Department.

A. Applicant

Name: Glenn and Mary Westbrook

Address: 3022 Umatilla Place

City: Albany State: OR Zip: 97321 Day Phone: (541) 928-8293

B. Land and Location

Please provide information as requested below for all tax lots on or through which water will be diverted, conveyed, or used. Check "diverted" if water is diverted (taken) from its source on tax lot, "conveyed" if water is conveyed (transported) on tax lot, and "used" if water will be put to beneficial use on tax lot. More than one box may be checked. (Attach extra sheets as necessary.) 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.

Tax Lot I.D.	Plan Designation (e.g. Rural Residential/RR-5)	Water to be: (check all that apply)		
<u>93W14-200</u>	<u>Primary Ag / EFU</u>	<input checked="" type="checkbox"/> Diverted	<input checked="" type="checkbox"/> Conveyed	<input checked="" 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 counties and cities where water is proposed to be diverted, conveyed, or used. Marion County

C. Description of Water Use

Indicate what the water will be used for. Include the beneficial use (found in the instruction booklet for your water right application) and use the space below to describe the key characteristics of the project.

Beneficial Use(s): Irrigation

Briefly describe: 379.3 acres

Application No. P84703

Permit No.

D. Source

Indicate the source for the proposed water use:

Reservoir/Pond Ground Water Surface Water Weaver Gulch and Unnamed Stream
(source)

E. Quantity

Indicate the estimated quantity of water the use will require:

20.2 CFS GPM Acre-Feet

For Local Government Use Only

The following section must be completed by a planning official from each county and city listed unless your project will be located entirely within the city limits. In this case, only the city planning agency must complete this form. Please request additional forms as needed or feel free to copy.

A. Allowed Use

Check the appropriate box below and provide requested information.

- Land uses to be served by proposed water uses (including proposed construction) are allowed outright or are not regulated by your comprehensive plan. Cite applicable ordinance section(s); 136.020. Go to section B "Approval" below
- Land uses to be served by proposed water uses (including proposed construction) involve discretionary land use approvals as listed in the table below.

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

Note: Please attach documentation of applicable local land use approvals which have already been obtained. (Record of Action plus accompanying findings is sufficient.)

B. Approval

Please provide printed name and written signature.

Name: NORMAN BICKELL Date: 3-5-01
 Title: Assoc. Planner Phone: (503) 588-5038
 Signature: *Norman Bickell*

C. Additional Comments

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

Note: If this form cannot be completed while the applicant waits, sign and detach the receipt stub as instructed below. You will have 30 days from the Water Resources Department's notice date to return the completed Land Use Information Form or WRD will presume the land use associated with the proposed water right is compatible with local comprehensive plans. (See attached letter.)

FAT 195933

PAGE 369

GRANTOR
 EDWIN J. ALLEN BY THOMAS PRASANTA, TRUSTEE
 ROBERT L. RIENSCHEIDLER and LORENE RIENSCHEIDLER

Grantor & Grantee
 in consideration of FIVE HUNDRED SEVENTY FIVE THOUSAND & NO/100 Dollars,
 to them paid by the Grantee herein, the hereby grant, bargain, sell and convey unto
 GLEN D. WESTBROOK and MARY L. WESTBROOK, husband and wife

Grantor & Grantee
 the following described real property, situated in the County of MARION
 State of Oregon, to wit:
 SEE EXHIBIT A WHICH IS ATTACHED HERETO AND MADE A PART HEREOF...

"THIS DEED IS BEING RERECORDED TO CORRECT THE DESCRIPTION"

Parcel # 67600-000

To Have and to hold the granted premises unto the said Grantees their Heirs and Assigns forever,
 And the Grantees do covenant that they are lawfully seized in fee simple of the above granted
 premises free from all encumbrances, SEE EXHIBIT A WHICH IS ATTACHED HERETO AND MADE A PART...

and that they will and shall, Heirs, executors and administrators, shall warrant and forever defend the granted
 premises against the lawful claims and demands of all persons, except as above stated.
 Witness our hand & seal this 7th day of October 19 97

THIS INSTRUMENT WILL NOT ALLOW THE USE OF THE PROPERTY DESCRIBED IN THIS INSTRUMENT IN VITIATION OF APPLICABLE
 LAND USE LAWS AND REGULATIONS BEING ENFORCED IN
 ATTEMPTING THIS INSTRUMENT, THE PERMITS ALLOTTED FOR
 TITLE TO THE PROPERTY SHOULD BE USED WITH THE
 APPROPRIATE CITY OR COUNTY PLANNING DEPARTMENT TO
 VERIFY APPROVED USES AND TO DETERMINE ANY LIMITS IN
 LAWSUITS AGAINST ANY TARRANTING OR FOREST PRACTICES AS
 LISTED IN USE 10000

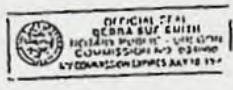
ROBERT L. RIENSCHEIDLER (SEAL)
 LORENE RIENSCHEIDLER (SEAL)

STATE OF OREGON
County of Marion

BE IT REMEMBERED, that on this 7th day of October 19 97 before me, the
 undersigned, a Notary Public in and for said County and State, personally appeared the within named
 Robert L. Rienschneider, and Lorene Rienschneider.

Known to me to be the identical individual(s) described in and who executed the within instrument and acknowledged to
 me that they executed the same freely and voluntarily.
 IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed my official seal this day and year last above
 written.

BUSBY SMITH
 Notary Public for Oregon
 My Commission expires 7/20/02



UNTIL A CHANGE IS REQUESTED, ALL TAX STATEMENTS SHALL
 BE SENT TO THE FOLLOWING ADDRESS:
 GLEN D. WESTBROOK
 3022 UNATILLA PLACE SW
 ALBANY, OR 97321
 Return to:
 GLEN D. WESTBROOK
 3022 UNATILLA PLACE SW
 ALBANY, OR 97321

STATE OF OREGON
 County of _____) ss.
 I certify that the within instrument was received for
 record on _____ at _____ and was recorded
 in Book _____ Page _____ Record
 of Deeds of said county.

 Notary of County of _____

 Deputy

A.T.S.

62-160-000 0931014-00200
 R36332

RECEIVED
 MAR 27 2001
 A.T.S.

1501
0369

WATER RESOURCES DIVISION
 Application No. R 84703
 Permit No.

JUL 01 1998

Tract I: Beginning at an iron pipe in the Northwest corner of Section 14, Township 9 South, Range 3 East of the Willamette Meridian in Marion County, Oregon, 302.36 feet South from the Northeast corner of said Section 14; thence South along the East line thereof, 3578.80 feet to the Northeast corner of Lot 1, STEIMER FRUIT FARMS as recorded in Volume 3, Page 5, Marion County Town Plat; thence South 89° 45' West along the North boundary thereof 3878.16 feet to the Northwest corner of Lot 12 in STEIMER FRUIT FARMS; thence South along the West line of said Lot 12, 660.0 feet to an iron pipe at the Southwest corner thereof; thence South 89° 45' West 33.30 feet to the Southeast corner of Tract I; thence North 05° 22' East 365.16 feet to an iron rod in the Northeast corner of Tract I; thence North 0° 03' East 317.13 feet to a point; thence North 89° 57' West 1440.83 feet parallel to the center line of County Road 911, to a point on the center line of 99E; thence North 7° 25' West 836.21 feet; thence North 6° 40' West 53.11 feet to a point in said 99E from which an iron rod bears North 84° 56' East 2.80 feet; thence North 6° 40' West 721.38 feet; thence North 7° 10' West 816.05 feet to an iron rod set in the center of the old county road; thence North 19° 20' West along the center of the old county road, 693.80 feet to an iron pipe set at the Southwest corner of that certain tract of land described in a deed recorded on Page 87 of Book 304 of Deed Records of Marion County, Oregon; said iron pipe being at a point which is South 19° 33' East, 1244.10 feet from an iron bolt set on the North line of Section 15, Township 9 South, Range 3 East of the Willamette Meridian, Marion County, Oregon; thence South 89° 46' East along the South line of said property, 3301.60 feet to an iron pipe; thence South 89° 46' East 1270.25 feet to an iron pipe; thence North 70° 24' East 1051.40 feet to an iron pipe; thence North 54° 42' East 398.53 feet to the point of beginning.

SAVE AND EXCEPT that portion lying within Highway 99E.

ALSO SAVE AND EXCEPT those portions conveyed to the State of Oregon, by and through its State Highway Commission by deeds recorded March 11, 1955, in Volume 473, Page 275, and recorded September 5, 1956, in Volume 491, Page 797, Deed Records for Marion County, Oregon.

ALSO SAVE AND EXCEPT an undivided 2% of all oil, gas and minerals as reserved in deed recorded March 1, 1948, in Book 384, Page 280, Deed Records for Marion County, Oregon. **

SUBJECT TO:

- 1) 1997-98 taxes, a lien not yet payable;
 - 2) The assessment roll and the tax roll disclose that the within described premises were specially assessed as farm land. If the land has become or becomes disqualified for such special assessment under the statute, an additional tax may be levied for ten years, or a lesser number of years in which the land was subject to the special land use assessment;
 - 3) Rights of the public in and to that portion of the herein described tract lying within the boundaries of roads and roadways;
 - 4) Rights of the public and governmental bodies in and to any portion of the herein described property lying below the high water mark of the Miller Creek or of an unnamed creek, and in and to said water;
 - 5) Easement for ingress and egress above and below the surface of the herein described premises as implied by reservation of mineral rights in deed dated November 29, 1947, recorded March 1, 1948 in Book 384, Page 280, Marion County, Oregon;
 - 6) Limited access in deed to the State of Oregon by and through its State Highway Commission, recorded September 5, 1956 in Book 491, Page 797, Marion County, Oregon;
 - 7) Easement, including the terms and provisions thereof, conveyed to Southern Pacific Pipe Lines, Inc. by instrument recorded May 10, 1962 in Book 558, Page 210, Marion County, Oregon;
 - 8) Oil and Gas Lease recorded June 22, 1936 in Reel 48, Page 887, Marion County, Oregon;
- *****
 B-2-2
 Fence Encroachment, as disclosed by unrecorded document on file;
 Completed survey, reserving the right to make additional exceptions upon examination of said survey.

Tract II: The West 142.50 feet of the North 299.00 feet of Lot 12, Steimer Fruit Farms, Marion County, Oregon.

62460.000

0736114.000000



1501
0369

Application No. R 8703
 Permit No.

JUL 01 1998

Mailing List for PERMIT Copies

Application # R-84703

Mailing List Print Date: January 28, 2004

Original mailed to(when permit issued, include copy of permit map):

Applicant: GLENN AND MARY WESTBROOK
3022 UMATILLA PLACE
ALBANY, OREGON 97321

Copies Mailed	
By: _____	(SUPPORT STAFF)
on: <u>2/19/04</u>	(DATE)

For Permit - Copies sent to:

1. WRD - File # R-84703
2. WRD - Ken Stahr

For Permit - PERMIT and Map Copies sent to:

3. WRD - Data Center
4. WRD - Watermaster District #: 16
5. WRD - Regional Manager: NWR

For FO w/Permit - Copies to Other Interested Persons (*CWRE, Agent, Well Driller, Commenter, etc.*)

6. Corbey Boatwright (CWRE)

CASEWORKER: KL

Mailing List for PFO Copies

Application #R-84703

PFO Date: April 23, 2002

Original mailed to:

Applicant: GLENN & MARY WESTBROOK, 3022 UMATILLA PLACE, ALBANY, OREGON 97321

Copies sent to:

- 1. WRD - File # R-84703
- 2. Water Availability: Ken Stahr

PFO and Map Copies sent to:

- 3. WRD - Watermaster # District 16
- 4. WRD - John Falk
- 5. ODFW District Biologist: Wayne Hunt

Copies sent to Other Interested Persons (*CWRE, Agent, Well Driller, Commenter, etc.*)

- 6. Corbey Boatwright (CWRE)

CASEWORKER: klasserw- WEEK 352

Copies Mailed
By: <u>JKB</u>
(SUPPORT STAFF)
on: <u>4/23/02</u>
(DATE)

Mailing List for IR Copies

Application #R-84703

IR Date: February 15, 2002

Original mailed to:

Applicant: GLENN WESTBROOK WESTBROOK, MARY, 3022 UMATILLA PLACE,
ALBANY, OREGON 97321

Copies sent to:

1. WRD - File # R-84703
2. WRD - Water Availability: Ken Stahr
3. WRD - John Falk

IR, Map, Fact Sheet, and Basin Map — Copies sent to:

Review Forms completed and Copies Mailed
By: <u>JEB</u> (Support Staff)
on: <u>2/15/02</u> (Date)
Due date: <u>3/8/02</u>

Note to Support: Complete top portion of Division 33 Review Forms —
Date Sent, Due Date (28 days after date sent), application number and name —
and staple form to front of copy packet for the following:

- 1) Watermaster 2) ODFW 3) DEQ (if indicated below)

Mail Copies of IR, Map, Water Availability, Fact Sheet, and Basin Map to the following:

4. WRD - Watermaster # 16 + **Watermaster Form**
5. ODFW District Biologist: Wayne Hunt + **ODFW Form 2 (L. Col./Statewide)**
6. DEQ W-J. Blanchard + **DEQ Form**
7. DOA (Salem): Jim Johnson
8. DOA: Mike Wolf

Copies sent to Other Interested Persons (*CWRE, Agent, Well Driller, Commenter, etc.*)

10. Corbey Boatwright (CWRE)

ID# RWK

Route to Support for database tracking _____

84702

REC FEES 24.20

84703

REC FEES 174.20



WATER RESOURCES DEPARTMENT
OF OREGON

158 12th STREET NE
SALEM, OR 97310-4172

HERE'S THE
MATERIAL YOU
REQUESTED - - -

174.20
24.20

198.40

In response to your recent request, we are happy to forward the attached material. We hope it will serve your purpose.

If we may be of further service, please let us know.

(Name)

STATE OF OREGON
WATER RESOURCES DEPARTMENT

RECEIPT # **43882**

158 12TH ST. N.E.
 SALEM, OR 97310-0210
 378-8455 / 378-8130 (FAX)

INVOICE # _____

RECEIVED FROM: Glenn D. Westbrook
 BY: _____

APPLICATION	R-84703
PERMIT	
TRANSFER	

CASH: CHECK: # K 96-656 OTHER: (IDENTIFY)

TOTAL REC'D \$ 722.00

0417 WRD MISC CASH ACCT

ADJUDICATIONS	Reference # 43882	\$
PUBLICATIONS / MAPS		\$
OTHER: (IDENTIFY)		\$
OTHER: (IDENTIFY)		\$

REDUCTION OF EXPENSE

CASH ACCT.	\$
VOUCHER #	

0427 WRD OPERATING ACCT

0407	MISCELLANEOUS	PCA # 66111	\$
0410	COPY & TAPE FEES		\$
0410	RESEARCH FEES		\$
0408	MISC REVENUE: (IDENTIFY)		\$
(New) TC162	DEPOSIT LIAB. (IDENTIFY)		\$

RECEIVED OVER THE COUNTER
 WATER RIGHTS:
 SURFACE WATER

0201	EXAM FEE	\$ 361.00	0202	RECORD FEE	\$
0203	EXAM FEE	\$	0204	RECORD FEE	\$
0205	EXAM FEE	\$	0206	RECORD FEE	\$
0218	EXAM FEE	\$	0219	LICENSE FEE	\$
	EXAM FEE	\$	0220	LICENSE FEE	\$
	OTHER (IDENTIFY)				

0437 WELL CONST. START FEE

0211	WELL CONST START FEE	\$	CARD #	
0210	MONITORING WELLS	\$	CARD #	
	OTHER (IDENTIFY)			

0539 LOTTERY PROCEEDS

1302	LOTTERY PROCEEDS	\$
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0467 HYDRO ACTIVITY

0233	POWER LICENSE FEE (FW/WRD)	LIC NUMBER	\$
0231	HYDRO LICENSE FEE (FW/WRD)		\$
	HRDRO APPLICATION		\$

RECEIPT # **43882**

DATED: 3-27-01 BY: Tirasme H

**STATE OF OREGON
WATER RESOURCES DEPARTMENT**

RECEIPT # **55512**

158 12TH ST. N.E.
SALEM, OR 97310-0210
378-8455 / 378-8130 (FAX)

INVOICE # _____

RECEIVED FROM: Glenn D. Westbrook
BY: _____

APPLICATION	
PERMIT	
TRANSFER	

CASH: CHECK: # 96-656 OTHER: (IDENTIFY)

TOTAL REC'D \$ 198.40

0417 WRD MISC CASH ACCT

R 84703 224.20
S 84702 174.20

ADJUDICATIONS		\$
PUBLICATIONS / MAPS		\$
OTHER: (IDENTIFY)		\$
OTHER: (IDENTIFY)		\$

REDUCTION OF EXPENSE

**RECEIVED
OVER THE COUNTER**

PCA AND OBJECT CLASS		\$
----------------------	--	----

0427 WRD OPERATING ACCT

(New)

0407	MISCELLANEOUS			
	COPY & TAPE FEES			\$
0410	RESEARCH FEES			\$
0408	MISC REVENUE: (IDENTIFY)			\$
TC162	DEPOSIT LIAB. (IDENTIFY)			\$
WATER RIGHTS:				
0201	SURFACE WATER	EXAM FEE	0202	RECORD FEE
0203	GROUND WATER	\$ 198.40	0204	\$ 198.40
0205	TRANSFER	\$	0206	\$
WELL CONSTRUCTION				
0218	WELL DRILL CONSTRUCTOR	EXAM FEE	0219	LICENSE FEE
	LANDOWNER'S PERMIT	\$	0220	\$
	OTHER (IDENTIFY)			

0437 WELL CONST. START FEE

0211	WELL CONST START FEE	\$	CARD #	
0210	MONITORING WELLS	\$	CARD #	
	OTHER (IDENTIFY)			

0539 LOTTERY PROCEEDS

1302	LOTTERY PROCEEDS	\$
------	------------------	----

0467 HYDRO ACTIVITY

0233	POWER LICENSE FEE (FW/WRD)	LIC NUMBER	\$
0231	HYDRO LICENSE FEE (FW/WRD)		\$
	HRDRO APPLICATION		\$

RECEIPT # **55512**

DATED: 9/16/02 BY: Cornie Vance

**STATE OF OREGON
WATER RESOURCES DEPARTMENT**

RECEIPT # **80776**

725 Summer St. N.E. Ste. A
SALEM, OR 97301-4172
(503) 986-0900 / (503) 986-0904 (fax)

INVOICE # _____
R-84703

RECEIVED FROM: Heritage Seedlings Inc.

APPLICATION	S-84702
PERMIT	
TRANSFER	

BY: _____

CASH: CHECK:# 4710 OTHER: (IDENTIFY)

TOTAL REC'D \$ 30.00

1083 TREASURY 4170 WRD MISC CASH ACCT

0407	COPIES	<i>DCA-46111</i>	\$
_____	OTHER:	(IDENTIFY) _____	\$
0243 I/S Lease	_____	0244 Muni Water Mgmt. Plan	_____
_____	_____	0245 Cons. Water	_____

4270 WRD OPERATING ACCT

MISCELLANEOUS		<i>S-84702-15.00</i>	\$
0407	COPY & TAPE FEES	<i>R-84703-15.00</i>	\$
0410	RESEARCH FEES		\$
0408	MISC REVENUE: (IDENTIFY)	<i>Assignment</i>	\$ <u>30.00</u>
TC162	DEPOSIT LIAB. (IDENTIFY)	_____	\$
0240	EXTENSION OF TIME	_____	\$
WATER RIGHTS:		EXAM FEE	RECORD FEE
0201	SURFACE WATER	\$ _____	0202 \$ _____
0203	GROUND WATER	\$ _____	0204 \$ _____
0205	TRANSFER	\$ _____	
WELL CONSTRUCTION		EXAM FEE	LICENSE FEE
0218	WELL DRILL CONSTRUCTOR	\$ _____	0219 \$ _____
_____	LANDOWNER'S PERMIT	_____	0220 \$ _____
_____	OTHER (IDENTIFY) _____		

0536 TREASURY 0437 WELL CONST. START FEE

0211	WELL CONST START FEE	\$ _____	CARD # _____
0210	MONITORING WELLS	\$ _____	CARD # _____
_____	OTHER (IDENTIFY) _____		

0607 TREASURY 0467 HYDRO ACTIVITY LIC NUMBER

0233	POWER LICENSE FEE (FWWRD)	_____	\$
0231	HYDRO LICENSE FEE (FWWRD)	_____	\$
_____	HYDRO APPLICATION	_____	\$

_____ TREASURY OTHER / RDX

FUND _____	TITLE _____	
OBJ. CODE _____	VENDOR # _____	
DESCRIPTION _____		\$ _____

RECEIPT: **80776** DATED: 4-11-06 BY: [Signature]

HERITAGE SEEDLINGS, INC.

31635

Oregon Water Resources Dept.

Date	Type	Reference	Original Amt.	Balance Due	4/7/2014 Discount	Payment
3/28/2014	Bill		175.00	175.00		175.00
					Check Amount	175.00

RECEIVED

APR 24 2014

WATER RESOURCES DEPT
SALEM, OREGON

Checking - Chase (W

175.00

**STATE OF OREGON
WATER RESOURCES DEPARTMENT**

725 Summer St. N.E. Ste. A
SALEM, OR 97301-4172
(503) 986-0900 / (503) 986-0904 (fax)

RECEIPT # **111848**

INVOICE # _____

RECEIVED FROM: Heritage Seedlings, Inc
BY: _____

APPLICATION	R-84702
PERMIT	
TRANSFER	

CASH: CHECK: # 31635 OTHER: (IDENTIFY)

TOTAL REC'D \$ 175.00

1083 TREASURY 4170 WRD MISC CASH ACCT

0407 COPIES \$ _____
OTHER: (IDENTIFY) \$ _____

0243 I/S Lease _____ 0244 Muni Water Mgmt. Plan _____ 0245 Cons. Water _____

4270 WRD OPERATING ACCT

MISCELLANEOUS 46111

0407 COPY & TAPE FEES \$ _____
0410 RESEARCH FEES \$ _____
0408 MISC REVENUE: (IDENTIFY) \$ _____
TC162 DEPOSIT LIAB. (IDENTIFY) \$ _____
0240 EXTENSION OF TIME \$ _____

WATER RIGHTS:

0201 SURFACE WATER	EXAM FEE	0202	RECORD FEE
0203 GROUND WATER	\$ _____	0204	\$ _____
0205 TRANSFER	\$ _____		

WELL CONSTRUCTION

0218 WELL DRILL CONSTRUCTOR	EXAM FEE	0219	LICENSE FEE
LANDOWNER'S PERMIT	\$ _____	0220	\$ _____

0200 OTHER (IDENTIFY) Chain of Behe Field Use 175.00

0536 TREASURY 0437 WELL CONST. START FEE

0211 WELL CONST START FEE \$ _____ CARD # _____
0210 MONITORING WELLS \$ _____ CARD # _____
OTHER (IDENTIFY) _____

0607 TREASURY 0467 HYDRO ACTIVITY LIC NUMBER

0233 POWER LICENSE FEE (FWWRD) \$ _____
0231 HYDRO LICENSE FEE (FWWRD) \$ _____
HYDRO APPLICATION \$ _____

TREASURY OTHER / RDX

FUND _____ TITLE _____ **RECEIVED**
OBJ. CODE _____ VENDOR # _____ **OVER THE COUNTER**
DESCRIPTION _____ \$ _____

RECEIPT: **111848** DATED: 4-24-14 BY: [Signature]