

G15710

FILE#: G 15710

Name HANS NELSON AND SONS
 By NURSERY INC.
 Address 31020 SE WAYBILL RD
BORING, OR 97009-9427

Application No. G- G15710
 Permit No. G- 15436
 Certificate No. _____

Stream Index, Page No. _____

Date filed _____
 Priority _____
 Action suspended until C17

Return to applicant _____
 Date of approval _____

CONSTRUCTION

Date for beginning 5/29/03
 Date for completion _____
 Extended to _____

Date for application of water 10-1-07
 Extended to 10-1-2017

PROSECUTION OF WORK

Form "A" filed _____
 Form "B" filed _____
 Form "C" filed _____

FINAL PROOF

Blank mailed _____
 Proof received _____
 Date certificate issued _____

ASSIGNMENTS

Date _____ To Whom _____

REMARKS**FEES PAID**

Date	Amount	Receipt No.
2-19-02	400 EXAM	
2-19-02	175 RCRDG	
3-8-07	250	86511
12-20-24	780.00	144437

FEES REFUNDED

Date	Amount	Check No.
Address	Volume	Page

✓ Fees Paid

5/20/2025 \$480.00 145229

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 # 145229

INVOICE #

RECEIVED FROM: HD2N Leasing CO.

BY:

APPLICATION G-15710

PERMIT

TRANSFER

CASH: CHECK: # OTHER: (IDENTIFY)

☐

2688

☐

TOTAL REC'D \$480.00

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

\$

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

\$

0223 OTHER (IDENTIFY) Protest #480.00

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 (FW/WRD)

\$

0231 HYDRO LICENSE FEE (FW/WRD)

\$

HYDRO APPLICATION

\$

TREASURY OTHER / RDX

FUND TITLE

OBJ. CODE VENDOR #

DESCRIPTION \$

RECEIPT: 145229

DATED: 5-20-25

BY: L. L. Mink

Distribution - White Copy - Customer, Yellow Copy - Fiscal, Blue Copy - File, Buff Copy - Fiscal

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 # 145229

INVOICE #

RECEIVED FROM: HD2N Leasing CO.

BY:

APPLICATION G-15710

PERMIT

TRANSFER

CASH: CHECK: # OTHER: (IDENTIFY)

☐

2688

☐

TOTAL REC'D \$480.00

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)

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\$

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EXAM FEE

RECORD FEE

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Laura A. Schroeder

Oregon, Idaho,
Nevada, Washington & Utah

Therese A. Ure Stix

Oregon & Nevada

Caitlin R. Skulan

Nevada & Idaho



SCHROEDER

LAW OFFICES, P.C.

William F. Schroeder

(1928 - 2015)

James Browitt

Of Counsel
Idaho & Washington

May 19, 2025

VIA U.S. PRIORITY MAIL EXPRESS

Oregon Water Resources Department
Water Right Services Division
725 Summer Street NE, Suite A
Salem, OR 97301-1266

**RE: Protest to Proposed Final Order Denying an Extension of Time for Permit
G-15436 (Application G-15710)**

To Whom It May Concern:

Enclosed for filing on behalf of applicant Hans Nelson and Sons Nursery Inc., please find a Protest to the Proposed Final Order issued on the above-referenced Application for Extension of Time, with a check for \$480.00 for the protest fee.

Also enclosed is a copy of the protest that we would kindly ask you to conform with the Oregon Water Resources Department stamp showing receipt and return to our office in the enclosed postage prepaid envelope.

Thank you for your assistance with this matter.

Very truly yours,
SCHROEDER LAW OFFICES, P.C.

Rachel Shahidzadeh
Paralegal

RMS:rms

Enclosures

cc: Client

Received

MAY 20 2025

OWRD

1915 NE Cesar E. Chavez Boulevard, Portland, Oregon 97212 (503) 281-4100

10615 Double R Boulevard, Suite 100, Reno, Nevada 89521 (775) 786-8800

www.water-law.com counsel@water-law.com

1
2 **BEFORE THE WATER RESOURCES DEPARTMENT**
3 **OF THE STATE OF OREGON**

4 In the Matter of the Application for an
5 Extension of Time for Permit G-15436,
6 Water Right Application G-15710, in the
7 name of Hans Nelson and Sons Nursery Inc.

**PROTEST TO PROPOSED FINAL
ORDER TO DENY AN EXTENSION OF
TIME FOR PERMIT G-15436,
APPLICATION G-15710**

**CONTESTED CASE HEARING
REQUESTED**

8
9 Hans Nelson and Sons Nursery Inc. ("Nelson" or "Permittee/Protestant"), by and through
10 Schroeder Law Offices P.C and its attorneys, files this protest to the Proposed Final Order
11 ("PFO" attached hereto as Exhibit 1) issued on the Application for an Extension of Time
12 ("EOT") for Permit G-15436, pursuant to OAR 690-315-0060(1), and requests a contested case
13 hearing. The deadline to file protests to the PFO for Permit G-15436 is May 23, 2025. Ex. 1 at 9.

14 **PROTESTANT CONTACT INFORMATION**

15 Hans Nelson and Sons Nursery Inc.
16 c/o Dan Nelson
17 31020 SE Waybill Rd
18 Boring, OR 97009
19 Phone: (503) 663-3348

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18 **STATEMENT OF FACTS**

19 On February 15, 2002, Permittee/Protestant filed an Application for a Permit to Use
20 Groundwater with Oregon Water Resources Department (the "Department" or "OWRD"), which
21 was assigned as Application G-15710. Then, on May 29, 2003, the Department issued Permit G-
22 15436 (attached hereto as Exhibit 2) for Application G-15710 for the authorized "year round"
23 nursery use of groundwater from "two wells in Sandy River Basin" on 64.1 acres, with a
24 maximum rate of 0.89 cubic feet per second ("cfs"). Ex. 2 at 1.

25 Permit G-15436 describes a complete application of water date ("C-date") of October 1,
26 2007. Ex. 2 at 5. On March 5, 2007, Permittee/Protestant filed an EOT application for Permit G-



1 15436, which the Department approved and issued a Final Order ("FO") extending the C-date
2 from October 1, 2007, to October 1, 2017. Ex. 1 at 2.

3 Then, on November 22, 2024, the Department issued a 60-Day Letter (attached hereto as
4 Exhibit 3) to the Permittee/Protestant, requiring them to either submit a Claim of Beneficial Use
5 ("COBU") or file an EOT application for Permit G-15436 by January 27, 2025. Ex. 3 at 2.
6 Otherwise, the Department may order cancellation of the permit without further notice. *Id.* In
7 compliance with the terms of the 60-Day Letter, the Permittee/Protestant filed an EOT
8 application for Permit G-15436 on December 20, 2024 (attached hereto as Exhibit 4), requesting
9 a C-date extension from October 1, 2017, to October 1, 2027. Ex. 1 at 2.

10 On April 8, 2025, OWRD issued a PFO to *deny* the EOT application proposing to extend
11 the C-date under Permit G-15436 from October 1, 2017, to October 1, 2027. Ex. 1 at 1.

12 STANDING

13 Under OAR 690-315-0060(1), "the applicant or any other person adversely affected or
14 aggrieved by the proposed final order described in OAR 690-315-0050(2) may submit a written
15 protest to the proposed final order." *See also* ORS 537.153(6). This protest is timely as it is
16 submitted, along with the required protest fee, within 45 days from the publication date of the
17 PFO in the Department's weekly notice and otherwise complies with all conditions required
18 under OAR 690-315-0060(2).¹ *See also* ORS 536.025 & 536.027.

19 PROTESTANT'S INTEREST

20 Permittee/Protestant holds Permit G-15436 and filed the EOT application that the
21 Department proposes to deny. Ex. 1 at 1. As the sole holder of Permit G-15436, the Protestant
22 has a property interest to the extent of Permittee/Protestant's development of the permit and will
23 be adversely affected if the FO issued on the EOT application denies the proposed C-date
24 extension.

25
26 ¹ Public Notice Date: April 8, 2025

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PROTEST

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Issue #1: The Department's Proposed Denial of the EOT Application is Erroneous Because there is "Good Cause" to Approve the Extension, as Administrative Regulations Require.

In issuing the PFO, the Department concludes that the Permittee/Protestant "has not shown good cause exists" for an extension of time to apply water to full beneficial use pursuant to OAR 690-315-0040(1)(d). Ex. 1 at 8. The Department claims that the submitted EOT application demonstrates that the Permittee/Protestant did not comply with "time allowed for construction work," and that there "has been no construction, no financial investment or reasonable diligence toward developing the project," during the most recent extension of time. Ex. 1 at 8. Accordingly, in failing to find "good cause," the Department issued a PFO to *deny* the EOT application.

ORS 537.630(2) provides in pertinent part that the Department, for "good cause," shall order and allow an extension of time for the complete application of water under a permit. In making a "good cause" finding, the Department shall consider, but is not limited to, the criteria set forth under OAR 690-315-0040(2), including: (1) "reasonable diligence in previous performance under the permit," *Id.* at 2(a), (2) "use and income" from permitted water development to "provide fair and reasonable returns on investment," *Id.* at 2(f), (3) "economic interests dependent on completion of the project," OAR 690-315-0040(4)(e), (4) "denial of the extension will result in undue hardship," and that "no reasonable alternative exists for meeting water use needs," OAR 690-315-0040(2)(i), and (5) "unforeseen events over which the water right permit holder had no control and which delayed development under the permit." *Id.* at 2(h).

A. "Reasonable Diligence"

The Department finds the EOT application provides that "no work has been accomplished towards completion of the water system; the permit holder has not demonstrated compliance with permit conditions, and beneficial use of water has not been demonstrated." Ex.



1 at 5. Therefore, the Department concludes that the Permittee/Protestant has “not demonstrated reasonable diligence” in previous performance under Permit G-15436. *Id.*

3 In determining “reasonable diligence,” the Department shall consider, but is not limited to the following factors: “(a) the amount of construction completed within the time allowed in the permit or previous extensions; and (d) financial investment made towards developing the beneficial use of water.” OAR 690-315-0040(3)(a)-(d).

7 **Protestant’s Position**

8 The Department is mistaken in its claim that there is no “evidence of progress made towards completion of the water development application of water to full beneficial use,” and that therefore it “cannot find...reasonable diligence.” Ex. 1 at 4.

11 During the most recent EOT period from October 1, 2007, to October 1, 2017, the Permittee/Protestant performed significant work to develop the water system under Permit G-15436. Ex. 4. Before the most recent EOT period, the Permittee/Protestant hired a well drilling company to develop a well in compliance with the described points of appropriation under Permit G-15436. However, during the initial phases of construction in early 2007, all development of the well was suspended due to the sudden illness of the driller. *Id.* Unfortunately, the well driller passed away, forcing the Protestant/Permittee to *temporarily* abandon the incomplete borehole during September of 2007.

19 Starting in 2008, within the most recent EOT period, the Protestant/Permittee hired a new well drilling company to complete development of the unfinished point of appropriation. The drillers struggled to further develop the existing borehole. *Id.* Accordingly, on the advice of the well drilling company, the Permittee/Protestant agreed to temporarily pause development of the point of appropriation under Permit G-15436 to allow the drillers to follow-up with their other clients. The Permittee/Protestant and the well drilling company both believed that progress would shortly resume, however neither party predicted the 2008 global financial crisis and its effects on the nursery industry. Given this turn of events, the Permittee/Protestant could no



1 longer afford to develop the well under Permit G-15436 and completely abandoned the borehole
2 by August of 2008. However, the Permittee/Protestant did *not* abandon its interest in developing
3 Permit G-15436.

4 During the last EOT development timeline and from 2007-2013, the Permittee/Protestant
5 constructed infrastructure improvements to the on-site storage reservoir for use as a “bulge-in-
6 the-system” for the water system Permittee/Protestant was developing under Permit G-15436, for
7 the approximate cost of \$10,000. Ex. 4 at 7. Further, to prepare for the inclusion of a new
8 groundwater supply within the existing water system, the Permittee/Protestant had Olsen Pump
9 Service install a variable frequency drive (“VFD”) to efficiently regulate the appropriation of the
10 groundwater source described under the permit, for \$6,660. Attached hereto as Exhibit 5.

11 Despite the \$16,660 investment in developing the water system under Permit G-15436,
12 the effects of the 2008 crisis continued to hamper the Permittee/Protestant’s ability to upgrade
13 capital items, including the more expensive investment of re-constructing the well at the point of
14 appropriation described under Permit G-15436. Accordingly, in March of 2015, the
15 Permittee/Protestant contacted OWRD to inquire about applying for an additional EOT and was
16 incorrectly informed that a second extension of time was impossible. Ex. 4 at 8. Upon this
17 erroneous advice, the Permittee/Protestant in reliance upon it paused any planned allocation of
18 funding for drilling.

19 In light of this evidence, the circumstances including the death of the well driller, the
20 2008 financial crisis, and the erroneous advice given by OWRD, the Protestant demonstrated
21 “reasonable diligence” in its performance under Permit G-15436 during the most recent EOT
22 period and therefore “good cause” exists for the Department to approve the EOT application.

23 **B. “Fair and Reasonable Returns on Investment” and Dependent “Economic**
24 **Interests”**

25 The Department finds that “use and income,” under Permit G-15436, “will likely result”
26 in reasonable returns upon investment “if an extension of time is approved,” and yet it concludes



1 that the Permittee/Protestant showed no "good cause" for an extension. Ex. 1 at 6. Furthermore,
2 the Department claims the EOT application "did not identify" any "specific economic interests"
3 other than those of the Permittee/Protestant's "that may be dependent on completion of the
4 project," despite clear evidence to the contrary. *Id.*

5 **Protestant's Position**

6 The Permittee/Protestant manages over 64,000 square feet of greenhouse cover which
7 accounts for 33% of its total income. Due to increasing demand for greenhouse grown nursery
8 plants, the Permittee/Protestant plans on constructing an additional 18,000 square feet of
9 greenhouse infrastructure to develop water use under Permit G-15436. The proposed increase in
10 greenhouse cover would result in a substantial "return on investment" with a conservative
11 estimate of an additional \$200,000 in income during the first year of operations.

12 However, the Permittee/Protestant is not the only economic benefactor if the C-date
13 under Permit G-15436 is extended. The construction of the greenhouse structures will require the
14 Permittee/Protestant to hire outside contractors and new nursery employees to manage the
15 expanded operations.

16 OWRD concludes that the "return on investment" and the "economic interests, beyond
17 those of the permit holder," are insufficient to establish "good cause" for approving the EOT.
18 This decision ignores the "good cause" criteria under OAR 690-315-0040(2) and unnecessarily
19 will affect the local economy during a difficult financial time for Oregon when further
20 infrastructure development and its associated employment would improve Oregon's economy.

21 **C. "Undue Hardship" and "No Other Reasonable Alternatives"**

22 The Department finds the Permittee/Protestant would not suffer "undue hardship" should
23 it issue an FO denying the proposed extension of time and believes existing water sources are
24 sufficient. Ex. 1 at 7.

25 ///

26 ///

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1 **Protestant's Position**

2 Permittee/Protestant does not deny that the place of use described under Permit G-15436
3 is served by existing surface water rights Certificate 90738 and Permit S-54652. However, due to
4 contaminant issues, the surface water cannot be used for greenhouse plants, and without
5 groundwater, the Permittee/Protestant would have to abandon its nursery expansion plans.
6 Furthermore, if the Department cancelled Permit G-15436, the Permittee/Protestant would
7 unlikely be able to acquire a new groundwater permit due to the 2024 Groundwater Allotment
8 Rules.

9 As there is no "reasonable alternative" in securing groundwater, the denial of the EOT
10 and subsequent cancellation of Permit G-15436 would cause "undue hardship" and prevent
11 Permittee/Protestant's nursery from expanding. This is clearly "good cause" for OWRD to
12 approve the EOT.

13 **D. Unforeseen Events**

14 In issuing the PFO to deny the EOT, the Department concludes that the "unforeseen
15 events" that occurred during the development period for Permit G-15436 are unpersuasive in
16 demonstrating "good cause" for the approval of the EOT. OAR 690-315-0040(2)(h).

17 **Protestant's Position**

18 Protestant has experienced many unforeseen events that have disrupted the complete
19 development of Permit G-15436. The illness and eventual death of the well driller in 2007
20 delayed construction of the well and severe weather conditions in 2008 caused significant site
21 access issues which led to the abandonment of the incomplete borehole at great expense to the
22 Protestant. Ex. 4 at 10.

23 Then, the 2008 global financial crisis drastically curtailed nursery sales and left the
24 Permittee/Protestant financially unstable for many years. Sales dropped 50% and the business
25 only became profitable again in 2015. Accordingly, when the economy recovered, the
26 Permittee/Protestant directed existing funds towards backlogged maintenance of existing



1 infrastructure and could not simultaneously afford to *further* develop Permit G-15436. However,
2 maintenance of the existing infrastructure added to the development of Permit G-15436. Now,
3 for the first time in years, the Protestant is financially stable and prepared to invest
4 approximately \$280,000 to \$380,000 to complete construction of the water system and intends to
5 apply water to full beneficial use under Permit G-15436 by October 1, 2027.

6 For all the preceding reasons, the Protestant demonstrates "good cause" under ORS
7 537.630(2) and the Department's PFO is erroneous.

8 REQUESTED RELIEF

9 Protestant respectfully requests that OWRD issue a superseding Proposed Final Order
10 approving the extension of time from October 1, 2017, to October 1, 2027, to allow for the full
11 development of Permit G-15436 (Application G-15710).

12
13 DATED this 19th day of May, 2025.

14
15 SCHROEDER LAW OFFICES, P.C.

16
17 

18 Laura A. Schroeder, OSB 873392
19 Massimigliano P. Jones, OSB 233516
20 Schroeder Law Offices, P.C.
21 1915 N.E. Cesar E. Chavez Blvd.
22 Portland, OR 97212
23 Phone: (503) 281-4100
24 Fax: (877) 600-4971
25 Email: counsel@water-law.com
26 *Attorneys for Protestant*

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MAY 20 2025

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OLSEN PUMP SERVICE, INC.

PO BOX 374
GRESHAM OR 97030
503-663-7150
503-803-3354

5/5/2014 4140

NELSON & SONS NURSERY
DAN NELSON
31020 SE WAYBILL ROAD
BORING OR 97009

		DAN	Due on receipt
DRIVE	DANFOSS 20 HP CENTRIFUGAL PUMP PANEL: INCLUDES DRIVE, DISCONNECT, FAN, 3R ENCLOSURE, TIMER & SPEED POTENTIOMETER.	1	5,965.00 5,965.00
TANK	20 GALLON PRESSURE TANK	1	220.00 220.00
FITTINGS	MISC FITTINGS	1	100.00 100.00
LABOR	LABOR	3	125.00 375.00

Received

MAY 20 2025

OWRD

1.5% FINANCE CHARGE ON PAST DUE ACCOUNTS. THANK YOU
FOR YOUR BUSINESS.

\$6,660.00

#48611 5/16/14

503-663-7150

Mailing List for Extension PFO Copies

PFO Date: April 8, 2025

Copies Mailed

Application: G-15710

By: TH

Permit: G-15436

On: 4.8.2025

Original mailed to Applicant:

Hans Nelson and Sons Nursery INC
30737 SE Waybill Rd
Boring, OR 97009

Copies sent to:

1. WRD - App. File G-15710/ Permit G-15436

Fee paid as specified under ORS 536.050 to receive copy:

2. None

Receiving via e-mail (10 AM Tuesday of signature date)
(DONE BY EXTENSION SPECIALIST)

3. WRD - Watermaster District 20, Amy Landvoigt
4. WRD - NWR Regional Manager, Mike McCord

CASEWORKER: JDP

Oregon Water Resources Department
Water Right Services Division

Application for Extension of Time

In the Matter of the Application for an Extension of Time for	)	PROPOSED
Permit G-15436, Water Right Application G-15710, in the	)	FINAL ORDER
name of Hans Nelson and Sons Nursery Inc	)	TO DENY

Permit Information

Application:	G-15710
Permit:	G-15436
Basin:	2C – Lower Willamette / Watermaster District 20
Date of Priority:	February 15, 2002
Source of Water:	two wells in Sandy River Basin
Purpose or Use:	nursery use on 64.1 acres
Maximum Rate:	0.89 cubic foot per second (cfs)

This Extension of Time request is being processed in accordance with Oregon Revised Statute 537.630 and 539.010(5), and Oregon Administrative Rule Chapter 690, Division 315.

In Summary, the Department proposes to:

- Deny an extension of time to apply water to full beneficial use from October 1, 2017, to October 1, 2027.

ACRONYM QUICK REFERENCE

Application – Application for Extension of Time
Department – Oregon Department of Water Resources
FOF – Finding of Fact
PFO – Proposed Final Order
cfs – cubic foot per second

AUTHORITY

Generally, see ORS 537.630 and OAR Chapter 690 Division 315.

ORS 537.630(2) provides in pertinent part that the Oregon Water Resources Department (Department) for good cause shown shall order and allow 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) 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 therefor; and the income or use that may be required to provide fair and reasonable returns upon the investment.

OAR 690-315-0040 provides that in order to approve an application for an extension of time to complete construction or apply water to full beneficial use, the Department shall make the findings in OAR 690-315-0040(1) including a finding that there is “good cause” to approve the extension. OAR 690-315-0040(2)-(4) contains the factors that the Department must consider to make findings that support a “good cause” determination.

FINDINGS OF FACT

1. On May 29, 2003, Permit G-15436 was issued by the Department. The permit authorizes the use of up to 0.89 cfs of water from two wells in Sandy River Basin for nursery use on 64.1 acres. The permit specified complete application of water was to be made on or before October 1, 2007.
2. One prior permit extension has been granted for Permit G-15436. The extension request resulted in the completion dates for full application of water being extended from October 1, 2007, to October 1, 2017.
3. On December 20, 2024, the permit holder submitted an “Application for Extension of Time” (Application) to the Department, requesting the time to apply water to full beneficial use under the terms and conditions of Permit G-15436 be extended from October 1, 2017 to October 1, 2027.
4. On December 31, 2024, notification of the Application for Extension of Time for G-15436 was published in the Department’s Public Notice. No public comments were received regarding the extension application.

Review Criteria [OAR 690-315-0040]

In order to approve an Application for an Extension of Time to complete construction and/or apply water to full beneficial use pursuant to ORS 537.230 or 537.630, or to begin construction, pursuant to ORS 537.248, the Department must make the findings in OAR 690-315-0040(1)(a) – (d).

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

5. On December 20, 2024, the Department received a completed Application 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. According to the Application, the permit holder states, in June 2007 “Well drilling began. The drilling process was halted due to driller illness.” The well was subsequently temporally abandoned between August and September 2007.
7. According to the Water Well Report for CLAC 64080, received by the Department on October 12, 2007, construction started August 15, 2007. This Water Well Report for CLAC 64080 is a New well/Temporary Abandonment.
8. According to the Water Well Report for CLAC 65140, submitted to the Department on September 5, 2008, abandonment of CLAC 64080 was completed August 18, 2008.

The Department has determined that construction of a well began, however, well construction for points of appropriation under Permit G-14536, have been abandoned, and not completed.

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

The Department must find that there is “good cause” to approve the extension. In making a “good cause” finding, the Department shall consider the requirements set forth under OAR 690-315-0040(2).

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

In order to make a finding of “good cause” to approve the extension, the Department shall consider whether the applicant has demonstrated “reasonable diligence” in previous performance under the permit. OAR 690-315-0040(2)(a). In determining “reasonable diligence”, the Department shall consider, but is not limited to, the following factors: a) The amount of construction completed within the time allowed in the permit or previous extension; b) The amount of beneficial use made of the water during the permit or previous extension time limits; c) Water right holder conformance with the permit or previous extension conditions; and d) Financial investments made toward developing the beneficial use of water.

continued on following page

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

The amount of construction completed within the time allowed in the previous extension.¹

9. During the most recent extension period, being from October 1, 2007, to October 1, 2017, a pond was excavated under a different permit, but would also be used as a bulge in the system.
10. No additional work has been accomplished towards construction of the wells authorized under the permit since 2007.

The Department cannot find evidence of progress made towards completion of the water development and application of water to full beneficial use as allowed in the time period specified in the permit. Therefore, the Department cannot find good cause or reasonable diligence towards the complete application of water to a beneficial use under G-15436.

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

The water right permit holder's conformance with the permit and previous extension conditions.

11. 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 meter or other suitable measuring device has been installed, (2) the required static water level measurements have not been received by the Department, and (3) the Progress Report due October 1, 2012, has not been received.

The Department has determined the permit holder has not demonstrated compliance with the conditions contained in the permit and in the Final Order on Extension of Time issued September 6, 2007.

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

The amount of beneficial use made of the water during the permit or previous extension conditions.

12. No water has been appropriated from the well.
13. Delay of any beneficial use of water under Permit G-15436 was due, to no well being constructed.

The Department finds there is no evidence of progress made towards completion of the water development and application to full beneficial use as allowed in the time period specified in the previous condition.

¹ "Actual Construction" is defined in OAR 690-315-0020(3)(d)(A) and (B) as physical work performed toward completion of the water system which demonstrates the water right permit holder's good faith and intention to complete the project with reasonable diligence. Actual construction does not include planning a diversion system, formulating a business plan, securing financing, letting contracts, purchasing but not installing equipment, surveying, clearing land or planting crops.

Financial Investments to Appropriate and Apply Water to a Beneficial Purpose [OAR 690-315-0040(2)(b),(3)(d),(4)(d)]

14. An investment of approximately \$10,500, which is approximately 3 percent of the total projected cost for complete development of this project, has been made. An additional \$380,000 investment is estimated for the completion of this project.

The Department has determined that the permit holder had made an investment, however, no investment towards the development of the groundwater source has been made since 2007.

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

The Application provides evidence that no work has been accomplished towards completion of the water system; the permit holder has not demonstrated compliance with permit conditions, and; beneficial use of water has not been demonstrated. The Department has determined the applicant has not demonstrated reasonable diligence in previous performance under Permit G-15436.

The Market and Present Demands for Water [OAR 690-315-0040(4)(a-f)]

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:

- *(a) The amount of water available to satisfy other affected water rights and scenic waterway flows;*
- *(b) 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);*
- *(c) The habitat needs of sensitive, threatened or endangered species, in consultation with the Oregon Department of Fish and Wildlife;*
- *(d) Economic investment in the project to date;*
- *(e) Other economic interests dependent on completion of the project; and*
- *(f) Other factors relevant to the determination of the market and present demands for water and power.*

OAR 690-315-0040(4)(a)

The amount of water available to satisfy other affected water rights and scenic waterway flows.

15. A review of the amount of water available to satisfy other affected water rights and scenic waterway flows was determined at the time of issuance of Permit G-15436; furthermore, water availability for other affected water rights and scenic waterway flows after the permit was issued is determined when an Application for a new water right is submitted.

OAR 690-315-0040(4)(b)

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).

16. The points of appropriation for Permit G-15436, located within the Sandy River Basin, are not located within a limited or critical ground water area.
17. Sandy River is located above Sandy River Scenic Waterway.
18. The points of appropriation are not in an area listed by the Department of Environmental Quality as a water quality limited stream.

OAR 690-315-0040(4)(c)

The habitat needs of sensitive, threatened or endangered species, in consultation with the Oregon Department of Fish and Wildlife.

19. Sandy River is located within an area ranked "moderate" 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.

OAR 690-315-0040(4)(d)

Economic interests dependent on completion of the project.

20. An approximate total of \$10,500 has been invested in the project.
21. No additional investment has been made since 2007.

OAR 690-315-0040(4)(e)

Other economic interests dependent on completion of the project.

22. The Application did not identify any specific economic interests other than those of the applicant's that may be dependent on completion of the project.

OAR 690-315-0040(4)(f)

Other factors relevant to the determination of the market and present demand for water and power.

23. No other factors relevant to the determination of the market and present demand for water and power have been identified.

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

24. The use and income from the permitted water development will likely result in reasonable returns upon the investment if an extension of time is approved.

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

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

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

26. The Application identifies the death of the well driller in 2007, as an unforeseen event.
27. The Application identifies the financial downturn in 2008 as an unforeseen event, which delayed development until 2013.
28. The Application also identifies the COVID-19 Pandemic as an unforeseen event.

The Department has considered the unforeseen events identified in the Application and has determined that the death of the well driller was considered previously in the previously authorized extension, and the COVID-19 Pandemic occurred outside of the extended development timeline. Additionally, even though the economic downturn of 2008 did result in delays, no other work was completed towards the development of the groundwater source in more than a decade after the stated recovery in 2013.

Denial of the Extension Will Result in Undue Hardship [OAR 690-315-0040(2)(i)]

29. The Application asserts an undue hardship would occur with the denial of the extension of time. According to the Application, the place of use is covered by water right Certificate 90738, for use of water from a reservoir perfected under water right Certificate 93838. The reservoir is filled by spring sources, which have become unreliable to maintain reservoir levels.

Though the permit holder has invested approximately \$10,500 in the construction of the well, the well was abandoned, resulting in the loss of the investment in the construction of the well. The investment in the development of the reservoir and use of water from the reservoir remains, and use under these permits remain allowable.

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

30. The Application does not provide evidence of good faith of the appropriator under Permit G-15436.

The Department has determined that no water has been appropriated under the permit, no well has been completed under the permit, no investment towards the development of the ground water source has been made since 2007, and compliance with conditions has not been demonstrated. The Department has determined good faith towards the development of the permit has not been demonstrated.

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.

31. As of December 20, 2024, the remaining work to be completed consists of constructing the well, completing construction of the water system, meeting all permit conditions, and applying water to full beneficial use.

The Department cannot find that the applicant can complete the project or apply water to full beneficial use within the time requested for the extension, because the applicant has not demonstrated good faith or reasonable diligence towards the development of the water right permit.

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

The Department must find that there is "good cause" to approve the extension. In making a "good cause" finding, the Department shall consider the requirements set forth under OAR 690-315-0040(2).

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 not 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).

CONCLUSIONS OF LAW

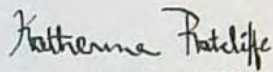
1. The permit holder has submitted a complete extension application form and the fee specified in ORS 536.050, as required by OAR 690-315-0040(1)(a).
2. The permit holder has not complied with the time allowed for construction work under the permit pursuant to ORS 537.630 as required by OAR 690-315-0040(1)(b) and OAR 690-315-0040(5).
3. The Application established that there has been no construction, no financial investment or reasonable diligence toward developing the project during the most recent extension of time period. The permit holder has not shown that good cause exists for an extension of time to complete construction and 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:

Deny the time to apply water to beneficial use under Permit G-15436 from October 1, 2017, to October 1, 2027.

DATED: April 8, 2025



Katherine Ratcliffe
Water Right Services Division Administrator, for
Ivan Gall, Director
Oregon Water Resources Department

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

Protests

Pursuant to OAR 690-315-0060(1), 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. Protests must be received by the Water Resources Department no later than **May 23, 2025**, at this address: Oregon Water Resources Department, Water Right Services Division, 725 Summer St NE, Suite A, Salem, OR 97301-1266. Protests may not be submitted by electronic mail. OAR 690-002-0025(3).

Protests must be in writing and include all of the following:

- The name, address, and telephone number of the protestant
- A detailed description of the protestant'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
- A detailed description of how the action proposed in the proposed final order would impair or be detrimental to the protestant's interest
- A detailed description of how the proposed final order is in error or deficient, and how to correct the alleged error or deficiency
- If the applicant protests, a statement of whether a hearing is requested
- Citation of legal authority supporting the protestant, if known
- Proof of service of the protest on the water right permit holder, if protestant is other than the water right permit holder, and
- If you are the applicant, the protest fee of \$480 required by ORS 536.050; and

- If you are not the applicant, the protest fee of \$950 required by ORS 536.050.

Within 60 days after the close of the period for requesting a contested case hearing, the Director shall either issue a final order on the extension request, or schedule a contested case hearing if a protest has been submitted, and, upon review of the issues, the Director finds there are significant disputes related to the proposed agency action; or, the applicant submits a written request for a contested case hearing within 30 days after the close of the period for submitting protests. The hearing will be conducted as provided in Oregon Revised Statutes (ORS) Chapter 183, and Oregon Administrative Rules (OAR) 137-003-0501 to 137-003-0700.

If the applicant does not request a hearing within 30 days after the close of the protest period, or if the request for a hearing is withdrawn, or the Department or the administrative law judge is notified that the protestant will not appear, or the protestant fails to appear, at a scheduled hearing, the Director may issue a Final Order by default. If the Director issues a Final Order by default, the Department designates the relevant portions of its files on this matter, including all materials submitted relating to this matter, as the record for purpose of proving a *prima facie* case upon default.

A party may be represented by an attorney at the hearing. Legal aid organizations may be able to assist a party with limited financial resources. Generally, partnerships, corporations, associations, governmental subdivisions or public or private organizations are represented by an attorney. However, consistent with OAR 690-002-0020 and OAR 137-003-0555, an agency representative may represent a partnership, corporation, association, governmental subdivision or public or private organization if the Department determines that appearance of a person by an authorized representative will not hinder the orderly and timely development of the record in this case.

Notice Regarding Servicemembers: Active-duty service members have a right to stay proceedings under the federal Servicemembers Civil Relief Act. For more information contact the Oregon State Bar at 800-452-8260, the Oregon Military Department at 800-452-8260, or the nearest United States Armed Forces Legal Assistance Office through <http://legalassistance.law.af.mil>.

- If you have questions about statements contained in this document, please contact Jeffrey D. Pierceall at (503) 979-3213.
 - 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 Will Davidson at 503-507-2749.
 - If you have any questions about the Department or any of its programs, please contact our Water Resources Customer Service Group at 503-986-0900.
 - Address any correspondence to : Water Right Services Division
725 Summer St NE, Suite A
Salem, OR 97301-1266
- Fax: 503-986-0901

Application: G-15710

Permit: G-15436

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

Applicant/Permit
Holder(s)

Hans Nelson and Sons Nursery Inc
31020 ~~Boring~~ SE Waybull Rd
Boring, OR 97009

Proposed Completion Date: 10-1-2027

☐ WRIG...Money Receipted on: 12-20-2024

☐ Extension Specialist ...

☐ Added to tracking spreadsheet

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

☒ Tonya Miller...

☒ Recent Assignment (Check WRIS for Update)

☒ Publish on Public Notice (initial 30-day comment): Date of
notice 12-31-2024

☒ 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 returned 12-30-2024

NOTES:

**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 # **144437**

INVOICE # _____

RECEIVED FROM: H D Z N Leasing Co.
BY: _____

APPLICATION	G-15710
PERMIT	
TRANSFER	

CASH: ☐ CHECK: # 2671 ☒ OTHER: (IDENTIFY) ☐

TOTAL REC'D \$ 780.00

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 \$ 780.00

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) _____

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: **144437**

DATED: 12-20-24 BY: Lisa D Mike

Application for
Extension of Time
for a Water Right Permit
(NON-Municipal/ NON-Quasi-Municipal)



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

Criteria for a Permit Extension of Time

The Department can accept requests for an extension of time on permits to (1) complete construction, and/or to (2) apply water to beneficial use.

In order to approve a permit extension request the Department must be able to find:

1) Construction has begun:

A. For Groundwater Permits

Construction of the well(s), *authorized by the permit*, began within 5 years of the date the permit was issued or by the actual construction date specified in the permit.

B. For Surface Water or Reservoir Permits

Construction of the water system began within 5 years of the date the permit was issued or by the actual construction date specified in the permit.

The Department will also confirm that:

- 2) If required, a fish screen, fish passage or fish by-pass device was installed before or prior to diversion of any water. An exception to the need to confirm installation prior to diversion of any water would be a waiver submitted to the Department from ODFW stating that a fish screen, fish passage or fish by-pass device was not required, provided your permit allows for a waiver.

If you have questions, please call the Department at (503)-986-0900 and ask to speak with a permit extension specialist.

Received
DEC 20 2024
OWRD

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).*

I, Dan Nelson, President of Hans Nelson & Sons Nursery, Inc.

NAME OF PERMIT HOLDER [OAR 690-315-0020(1) and (3)(a)]

30737 SE Waybill Road
ADDRESS

Boring
CITY

OR
STATE

97009
ZIP

*Contact by mail only
PHONE

*Contact by mail only
E-MAIL ADDRESS

the permit holder of: Application Number G-15710

Permit Number G-15436
[OAR 690-315-0020(3)(b)]

do hereby request that the date by which the water development will be completed and
water put to full beneficial use, which time now expires on October 1, 2017, be extended to
October 1, 2027, [OAR 690-315-0020(3)(i)]

I am the permit holder, and may 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.

Dan Nelson 12-13-24
Signature Date
Dan Nelson 12-13-24
Printed Name Title

The agent below is authorized to represent the applicant in all matters relating to THIS application.

Permit Holder Initials

Authorized Agent (Print Agent Name)

Agent contact

Received
DEC 20 2024
OWRD

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 \$780
- Signature page (Second page of this Application for Extension of Time).
- Letter granting an agent authority to act on behalf of the permit holder (*if applicable*).
- All supporting documentation and/or evidence referenced in the Application for Extension of Time. (ODFW Fish screen approval or waiver, contract for stored water, etc)

MAIL COMPLETED APPLICATION
along with the Supporting documents and/ or evidence and correct fee to:

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

Received
DEC 20 2024
OWRD

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.
- Request the reasonable amount of time necessary to fully complete construction of the water 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).
- Permit extensions are evaluated under OAR Chapter 690, Division 315. These rules may be viewed at the State of Oregon, Secretary of State Website. To be granted an extension of time, the Department must make four specific findings; 1) the application is complete, 2) construction of the water system began within the time specified in the permit and applicable statute, 3) there is good cause, and 4) the project can be completed within the time being requested. If the Department cannot make all four findings, the extension of time cannot be approved.
- 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 690-315-0020(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 Services Division.

- An Application for an Extension of Time will be reviewed for completeness. A response is required for each item contained in the application. 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, or, a copy of the permit may be requested by water right application number from the Water Rights Division at 503-986-0900 (copy fees will apply).
- **Previous Applications and Orders.** Copies of previous applications and orders that may inform the completion of the Application for Extension of Time, if available, may be downloaded from the Department's Website. **NOTE: If the document requested is not available on the Department's website, you may be required to submit a Public Record Request.**
- **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.).

Questions to complete this application for an Extension of Time

Please see the instruction sheet to help you answer these items.

1. **Beginning Construction within required deadlines.** OAR 690-315-0020(3)(d)

For Groundwater Permits

Has construction of the point of appropriation (well) authorized under this permit begun?

☒ Yes ☐ No (see notes below)

Date construction began: August 15, 2007

Details of construction and attach documentation:

The construction of a well under Permit G-15436 was started in early 2007, prior to the first extension of time (EOT) application. The original well driller fell ill and progress on the well was stopped for him to recover. The well driller ended up passing away, and the original borehole was temporarily abandoned in September 2007 due to this and other site access issues. After a year-long delay, the borehole was completely abandoned in August 2008.

The Applicant intended to install a new well once the company had funds to start a new drilling project. Other projects on the subject property (related to the storage reservoir dam and existing irrigation infrastructure) ended up taking precedent over the well. The Applicant is now in a financial position to continue with well construction and is also in need of the supplemental supply under G-15436.

For Surface/Reservoir Permit

~~Has construction of the water system begun?~~ ☐ Yes ☐ No

~~Date construction began Month: Day: Year:~~

~~Details of construction and attach documentation:~~

Received
DEC 20 2024
OWRD

DEC 20 2024

OWRD

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

2a. Permits typically contain standard or special conditions that must be fully satisfied to lawfully develop and use permitted water. Review the permit subject to this extension to identify which of the conditions listed in the 2nd column are contained within it. Using the extra row labeled "other" to specify any other additional conditions included in the permit, or specified in a final order approving a permit amendment or prior extension of time. In the 1st column check the box for each condition (row) identified as relevant. In the 3rd column check "Yes" if you have completed or met the permit condition. Check "No" if the condition is not yet satisfied. In the 4th column, give the date when the condition was satisfied or will be satisfied. Attach any pertinent documentation. Note: a pump test condition does not need to be addressed here however; you must submit the results of the test to the Department for approval prior to certification.

CHART-A

Permit Conditions in this Permit		Have Completed or Met?	Date satisfied/ or will be satisfied
Checkbox	Ground water Check those included on this permit		
☒	Installation of a meter/totalizing flow meter	☐ Yes ☒ No	None of these conditions have been satisfied because they are all dependent on the construction of a viable well. The Applicant proposes to construct a viable well source by 2027, at which point the metering, water level, and usage reporting conditions will be satisfied.
☒	Submittal of annual water usage report	☐ Yes ☒ No	
☒	Submittal of static water level measurements in the month required (between March 15 and April 15 each year)	☐ Yes ☒ No	
☒	Special well construction standards (can produce water from no shallower than 500 ft)	☐ Yes ☒ No	
☐	Submittal of a monitoring plan	☐ Yes ☐ No	
☐	Well ID tag assigned and installed	☐ Yes ☐ No	
☐	Other (Specify): Initial water level reporting before use begins	☐ Yes ☒ No	
Surface Water or Reservoir N/A			
☐	Installation of a meter/ totalizing flow meter	☐ Yes ☐ No	
☐	Submittal of annual water use report	☐ Yes ☐ No	
☐	Installation of a fish screen	☐ Yes ☐ No	
☐	Installation of a fish by-pass device	☐ Yes ☐ No	
☐	Installation of a fish passage	☐ Yes ☐ No	
☐	Installation of an outlet gate/pipe/ conduit	☐ Yes ☐ No	
☐	Submittal of a letter from ODFW that fish screen, fish by-pass device, and/or fish passage is not required	☐ Yes ☐ No	
☐	Submit as-built plans and specification	☐ Yes ☐ No	
☐	Submittal of a letter from an engineer prior to storage	☐ Yes ☐ No	

2b. If you have identified that you have NOT complied with Permit conditions, explain the reasons why and indicate a date certain, when you will be in compliance.

The initial effort by the Applicant to drill and construct a well under this permit resulted in a shallow, incomplete hole that had to be abandoned after the first extension of time was granted. This was a financially- and time-consuming setback for the development of the permit. The Applicant has continued to invest in the irrigation infrastructure on the subject property, much of which will be necessary for the use of a groundwater source, though the development of other water sources took precedence over the well project given its previous challenges.

The Applicant is now in a financial and operational situation where the construction of a viable well is both feasible and necessary. The proposed extension of time to October 1, 2027 will provide the Applicant with several more years to contract with a driller, install at least one well (the permit includes two points of appropriation), and meet the metering, water level measurement, and usage reporting requirements of the permit.

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

3. Provide evidence of physical work made toward completion of the water system, and of progress made toward making beneficial use of water within the permitted time period (CHART-B); and if applicable, within the time period of the most recent extension granted (CHART-C). CHART-B (below) must be completed for all Application for Extension of Time requests. *Use chronological order.* Itemize each work item, and do not combine multiple work actions in one area. (Planning, formulating a business plan, securing financing, letting contracts, purchasing but not installing equipment, surveying, clearing land, or planting crops *is not considered work in the development of the water system.* *Work accomplished under other water rights may not be considered work under this permit.*)

CHART-B

DATE	WORK ACCOMPLISHED BEFORE PERMIT WAS ISSUED <i>List any work done before the permit was issued – eg. well drilled.</i>	COST*
2002-2003	<i>In preparation for G-15346 and surface water permit S-54192 (now Cert. 90738), the Applicant installed approx. 6,000 ft of 3-5" PVC distribution line and 2,000 ft of aluminum irrigation line around the place of use, drainage tiling, as well as pumps and related infrastructure.</i>	~\$90,000 (in 2003 terms)
DATE	WORK ACCOMPLISHED AFTER PERMIT WAS ISSUED and PRIOR TO DATE SPECIFIED IN PERMIT FOR COMPLETE APPLICATION OF WATER <i>List work/actions done during the permitted time period.</i>	COST*
May 29, 2003	Date the permit was signed - find date above signature on last page of permit.	
June 2003	<i>Well sites cleared and prepared for eventual drilling activity.</i>	~\$10,500 (in 2007 terms)
Spring 2007	<i>Well drilling began. The drilling process was halted due to driller illness.</i>	
Aug-Sep 2007	<i>The well driller eventually passed away and the hole was temporarily abandoned for this reason and due to site access challenges.</i>	
Oct 1, 2007	Date the permit specified complete application of water to the use shall be made- all permits contain this date.	
DATE	WORK ACCOMPLISHED AFTER the date the permit specified complete application of water and prior to any previous extension order <u>COMPLETE ONLY IF THIS IS YOUR 1st APPLICATION FOR AN EXTENSION OF TIME:</u> <i>List work done after the date specified in the permit for complete application of water up to the date of this Application for Extension of Time.</i>	COST*
	NONE	
Total Cost for Chart-B		~\$100,500

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

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

CHART-C

DATE	WORK ACCOMPLISHED DURING THE LAST EXTENSION PERIOD <i>List all work done during the last authorized extension period.</i>	COST*
Oct 1, 2007	"Extended From" date for complete application of water used in the most recent Final Order on Extension of Time.	
2007-2013	Improvements to the on-site storage reservoir (different permit) were completed related to the proposed use under G-15436 (use as a bulge-in-the-system). Excavated material for the reservoir was used to raise and level the well site, for example. The economic downturn after 2008 greatly reduced the Applicant's ability to invest in further water infrastructure work for many years.	~\$10,000+
Mar 2015	The Applicant contacted OWRD in March 2015 to inquire about requesting an additional extension of time. The Applicant was verbally informed at that time that a second extension of time was not possible. The Applicant was still not financially prepared to make another attempt at well construction at this time.	-
Oct 1, 2017	"Extended To" date for complete application of water resulting from the most recent Final Order on Extension of Time.	
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*
	NONE	
Total Cost of Chart-C		~\$10,000

* If exact cost is not known, you must provide your best estimate. [OAR 690-315-0020(3)(f)]

5. Cost of project to date: **~\$110,000** (not adjusted for inflation)
(The total combined cost from CHART-B and CHART-C) [OAR 690-315-0020(f)]

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

Provide evidence of the maximum rate (or duty, if applicable) of water diverted for beneficial use under this permit made to date.

TIP: Report the rate used to date. Unless full beneficial use has been made, this rate will be less than the rate authorized on the permit.

6. ~~For Surface Water Permit Extensions (e.g. S-XXXX or R-XXXX):~~ **N/A**

TIP: Report the rate in the same units of measurement as specified in the permit.

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7. **For Ground Water Permit Extensions (G-15436):**

TIP: Include information from ALL wells that pertain to this permit, including drilled wells not currently used.

CHART-D

Well # as identified on Permit	Water User's Well #	Has this well been drilled?	IF DRILLED					If yes, provide the Permit, Certificate, or Transfer No.
			Well Log Number e.g. MORR 50473	Well Tag Number e.g. # 27566 or N/A	Is the actual drilled location authorized on this permit or on a permit amendment?	Maximum instantaneous rate used to date from this well - - under <u>this permit</u> only (CFS or GPM)	Is this well authorized or utilized under any OTHER water rights?	
Well-1		Yes ☐ No ☒	None Yet		Yes ☐ No ☐	0 cfs	Yes ☐ No ☒	
Well-2		Yes ☐ No ☒	None Yet		N/A ☒	0 cfs	Yes ☐ No ☒	
Total instantaneous rate from all wells utilized under this permit						0 cfs		

8. Has a Permit Amendment Application been filed? Yes ☐ No ☒
If yes, identify Transfer No. T-_____

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

9. **For Irrigation and Nursery Use Permits Extensions**

Provide the total number of acres irrigated to date under this permit.

a) Total acres irrigated to date: 0 acres

b) List by year, the number of acres irrigated each year since permit issuance.

No acreage developed to date due to a lack of viable groundwater source.

Year	Acres	Year	Acres	Year	Acres

c) Provide a copy of the application map identifying the acres irrigated. N/A

d) Please specify the number of acres irrigated by each Point of Diversion/Point of Appropriation (POD/POA). N/A

{POD/POA}# _____ Acres _____ {POD/POA} # _____ Acres _____

{POD/POA} # _____ Acres _____ {POD/POA} # _____ Acres _____

[OAR 690-315-0020(3)(i)(j)]

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10. In the chart below 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)
Late 2025 - 2026	Contract with driller to drill, construct, and develop at least one viable groundwater well meeting permit conditions.	~\$200,000 - \$300,000
2026-2027	Purchase and install well pump and VFD control systems.	~\$70,000
2027	Hire CWRE/geologist to complete a standard pump test and prepare/submit a claim of beneficial use.	~\$10,000
Oct 1, 2027	Date intend to apply water to full beneficial use under the terms and conditions of this permit.	
Total Cost		\$280,000 – 380,000

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

11. Estimated remaining cost to complete the project: \$280,000 - \$380,000
(The total cost from CHART-E)

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

12. Provide a summary of your plan to complete construction, meeting all permit conditions and apply the water to beneficial use: (List all tasks or steps needed to complete the project, the date when each task will be completed, and the cost associated with each task; attach additional pages if necessary.)

The Applicant proposes to begin well construction within approximately the next two years after locating and contracting with a well driller. Once a viable well is drilled and developed, the Applicant will meet all remaining permit conditions (install a meter, report initial water level readings, report annual spring water levels, and report use annually). A pump test will also be completed prior to filing a claim of beneficial use.

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

13. Justify the time requested to complete the project and/or apply the water to full beneficial use. (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 Applicant recognizes that the permit window closed in 2017. The Applicant contacted the Department in 2015 to inquire about options for continuing the development of the permit. The Department verbally discouraged the Application from seeking another extension of time. Due to that communications, the Applicant believed that the permit was not eligible for continued development. This resulted in a 2+ year delay in the progress of the permit. The Applicant is requesting a 10-year extension to 2027, which will provide the applicant with approximately three more seasons from the current date to contract with a well driller, install a well, and meet permit conditions. The Applicant feels that three years from the current date is

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a reasonable time to complete the work necessary to develop beneficial use under this permit, and also replaces the last several years of the previous extension which were lost.

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

14a. Will a denial of the extension result in undue hardship? (Describe the hardship and the effects.)

Yes. The place of use for Permit G-15436 is also served by existing surface water rights (Cert. 90738 and Permit S-54652), which have the storage reservoir on the property as their source. The reservoir is filled from spring sources that emerge on the property (Cert. 93838). The springs are becoming increasingly unreliable sources to fill the reservoir. In times of drought and high heat (increased evapotranspiration from the reservoir), the discharge from the springs may be insufficient to maintain operational water levels in the reservoir. The groundwater sources allowed under Permit G-15436 would be used as a supplemental water source for the nursery uses in the place of use when the reservoir supply is insufficient. Without this permit, nursery operations may be hampered or restricted in the future.

14b. Are there any other reasonable alternatives that exist for meeting your water use needs? (Explain in detail, consider other potential sources of water, and describe their feasibility)

As stated above, there are surface water rights for the place of use of G-15436. However, the springs that are the ultimate source for the surface water rights are becoming increasingly unreliable to meet nursery demands due to growing climate pressures. The Applicant has found that the spring discharge often becomes insufficient by August.

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

15. Was the delay in the timely completion of this water development project and/or timely application of water to full beneficial use caused by any additional government requirements, other than the conditions contained within the permit, which significantly delayed the completion and perfection of this right? (Explain in detail, including how much time did this delay the project; list dates.)

No, there were no additional government requirements that delayed the application of water. All delays were associated with challenges in drilling and completing a viable well and financial hardships.

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

16. Describe any unforeseen events which contributed to the delay of completion of this project that you had no control over. (Explain in detail what the unforeseen events were (i.e. health issues, natural disaster) and how much time was spent addressing the unforeseen events. Delays caused by business decisions are not considered unforeseen events)

The illness and death of the original well driller in 2007 initially delayed the development of the permit to the point that the first extension of time was necessary. Site access challenges and weather conditions further delayed progress, eventually leading to the abandonment of the original incomplete borehole in late 2008 at great expense to the business. The economic downturn in 2008 and the following repercussions on the nursery industry made the expenditure for a new well impractical for many years. The 2008 financial crisis noticeably curtailed nursery sales until at least 2013. Spending by the Applicant during the remainder of the extension period (to 2017) prioritized maintenance and improvement of existing water supply and irrigation

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infrastructure at the property (such as spring sources and the storage reservoir). The Applicant is now in a financial position to continue with well construction and is also in need of the supplemental supply available to develop under G-15436.

Since the current extension period ended in 2017, the Applicant's business has also been impacted by the COVID-19 pandemic. Significant supply chain issues related to necessary nursery equipment and supplies restricted the Applicant's business and ability to consider additional water right and water supply work. The repercussions of this event have now subsided, and the business has recovered.

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

17. Describe an additional reasons why the construction was not completed, and/or water was not beneficially used within permit time limits. (Provide supporting information for the reason(s) that best fits your circumstances.)

See Item 16 above.

[OAR 690-315-0020(3)(m)(n)]

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

The Applicant is now in a financial position to continue with well construction and is also in need of the supplemental supply under G-15436. Once the proposed extension is granted, the Applicant is prepared to move forward to identifying a driller and contracting to being the well construction project. The rest of the permit conditions and beneficial use of the permit all hinge on the development of a viable well.

The OWRD should consider that moving forward with well construction is a significant financial risk for the Applicant. Due to the depth conditions on the permit (500 ft minimum depth for water) and the local geology, it is possible that well drilling will be very expensive and may not yield a highly-productive well.

[OAR 690-315-0040(2)(f)]

19. Will the income or use of the water project provide a fair and reasonable return on your investment? (Explain in detail)

Yes. The extension of G-15436 is vital to ensuring the long-term viability of this nursery operation. The Applicant believes that the groundwater source will become a necessary supplemental supply in the near future due to increases strains on the existing surface water sources (springs/reservoir). Future expansion of nursery stock in the place of use will also require this supplemental source to ensure reliable supply. The water available under G-15436 will allow the Applicant to finally move forward with expanding field stock areas and adding greenhouses to the farm, as originally planned when they purchased the property in the early 2000s.

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[OAR 690-315-0040(4)(d)]

20. Describe in detail if there are other economic interest, beyond those of the permit holder, which are dependent upon the completion of this project. *(Who will be effected and how?)*

Ensuring a sufficient water supply for nursery operations will support the local agricultural workforce and regional businesses that rely on the products produced by the Applicant's nursery.

ATTACHMENTS

- Attachment 1 – Permit G-15436
- Attachment 2 – Abandonment Well Logs for Original Borehole

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ATTACHMENT 2

CLAC 64080

Permit # G-15710

State of Oregon

State Well ID

WATER WELL REPORT (as required by ORS 537.765)

Page 1 of 1

Start Card # 190981

1) OWNER: Well No. 190981
Name NELSON & SONS NURSERY
Address 31020 SE WAYBILL RD
City BORING St OR Zip 97009

2) TYPE OF WORK: NEW WELL / Temporary Abandonment

3) DRILL METHOD: ROTARY MUD

4) PROPOSED USE: IRRIGATION

5) BORE HOLE CONSTRUCTION:

Special Construction Approval NO Depth of Compl. Well 160 ft
Explosives used NO Type Amount

HOLE			SEAL			
Diam.	From	To	Material	From	To	Amount
10	0	160				

Seal placement method

Backfill: from ft to ft Material
Gravel: from ft to ft Size

6) CASING/LINER:

Casing	Diam.	From	To	Gauge	Material	Connection
	10	0	20	.250	STEEL	WELDED

liner

Final Location of shoe(s)

7) PERFORATIONS/SCREENS:

[] Perf. Method

[] Screens Type

Material

From	To	Slot Size	Number	Diam.	Tele/pipe Size	Casing/liner

8) WELL TESTS: Minimum testing time is 1 hour

Test type

Yield GPM	Draw-down	Drill stem at	Time 1 hr.

Temperature of water Depth Artesian Flow Found

Was water analysis done? NO By whom

Reason for water not suitable for use

Depth of strata

9) LOCATION OF WELL by legal description:

County CLACK Lat. ° ' " Long. ° ' "
Township 1 S Range 4 E WM.
Section 25 NW 1/4 SW 1/4
Tax Lot 2000 Lot Block Subdivision
Street Address of Well (or nearest Address)
38616 SE LUSTED ROAD BORING, OR 97009

10) STATIC WATER LEVEL:

ft. below land surface. Date
Artesian pressure lb per square in. Date

11) WATER BEARING ZONES:

Depth at which water was first found	From	To	Est Flow Rate	SWL

12) WELL LOG:

Material	Ground elevation	From	To	SWL
TOP SOIL		0	1.5	
BROWN CLAY		1.5	37	
COARSE GRAVEL & BOULDERS		37	46	
MEDIUM GRAVEL		46	50	
MEDIUM GRAVEL W/FINGERS OF BROWN CLAY		50	62	
BOULDERS & COARSE GRAVEL		62	74	
MEDIUM GRAVEL		74	94	
COARSE MULTI-COLORED GRAVEL		94	104	
COARSE GRAVEL & BOULDERS MULTI-COLORED		104	160	

TEMPORARY ABANDONMENT OF WELL DUE TO WET
WEATHER AND LACK OF ACCESS.
& ACCESS WAS NOT POSSIBLE.

PERMIT # G-15710

Date started 08/15/07

Completed 09/13/07

(unbonded) Water Well Constructor Certification: I certify that the work I performed on the construction, alteration, or abandonment of this well is in compliance with Oregon water supply well construction standards. Materials used and information reported above are true to my best knowledge and belief.

Signed _____ WWC Number _____
Date _____

(bonded) Water Well Constructor Certification: I accept responsibility for the construction, alteration, or abandonment work performed on this well during the construction dates reported above. All work performed during this time is in compliance with Oregon water supply well construction standards. This report is true to the best of my knowledge and belief.

Signed Vance Wagner WWC Number 1738
Date 10/08/07

ORIGINAL & FIRST COPY - WATER RESOURCES DEPARTMENT

SECOND COPY - CONSTRUCTOR

THIRD COPY - CUSTOMER

9809C 10/91

OCT 12 2007

WATER RESOURCES DEPT
SAIFM OREGON

Olsen-Pulliam Well Drlg
PO Box 505
Gresham Or 97030
503-665-3353

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CLAC 65140

State of Oregon
 WATER WELL REPORT (as required by ORS 537.765)

Page 1 of 1

State Well ID L92172
 Start Card # 199257

1) OWNER: Well No. L92172
 Name NELSON & SONS NURSERY
 Address 31020 SE WAYBILL RD
 City BORING St OR Zip 97009

2) TYPE OF WORK: ABANDON

3) DRILL METHOD: ROTARY AIR

4) PROPOSED USE: IRRIGATION

5) BORE HOLE CONSTRUCTION:

Special Construction Approval NO Depth of Compl. Well 160 ft
 Explosives used NO Type Amount

HOLE		SEAL		Amount	
Diam.	From To	Material	From To	Amount	
10	0 160	CEMENT	0 160	120 SACKS	

Seal placement method POURED IN

Backfill: from ft to ft Material

Gravel: from ft to ft Size

6) CASING/LINER:

Diam.	From To	Gauge	Material	Connection
asing				

iner

inal Location of shoe(s)

7) PERFORATIONS/SCREENS:

Perf. Method		Screens Type		Material	
From To	Slot Size	Number	Diam.	Tele/pipe Size	Casing/liner

8) WELL TESTS: Minimum testing time is 1 hour

Test type	Draw-down	Drill stem at	Time
Yield GPM			1 hr.

Temperature of water Depth Artesian Flow Found

Was water analysis done? NO By whom

Reason for water not suitable for use

Depth of strata

(9) LOCATION OF WELL by legal description:

County CLACK Lat. " " " " Long. " " " "
 Township 1 S Range 4 E WM.
 Section 25 NW 1/4 SW 1/4
 Tax Lot 2000 Lot Block Subdivision
 Street Address of Well (or nearest Address)
 38616 SE LUSTED ROAD BORING, OR 97009

(10) STATIC WATER LEVEL:

ft. below land surface. Date
 Artesian pressure lb per square in. Date

(11) WATER BEARING ZONES:

Depth at which water was first found		Est Flow Rate	SWL
From	To		

(12) WELL LOG:

Ground elevation
 Material From To SWL
 PULLED 10" SURFACE PIPE OUT AND GROUTED
 FROM 0 FEET TO 160 FEET.
 USED 120 SACKS OF CEMENT.

PERMIT # G-15710

ORIGINAL START CARD #190981

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Date started 08/18/08

Completed 08/18/08

(unbonded) Water Well Constructor Certification: I certify that the work I performed on the construction, alteration, or abandonment of this well is in compliance with Oregon water supply well construction standards. Materials used and information reported above are true to my best knowledge and belief.

Signed WWC Number
 Date

(bonded) Water Well Constructor Certification: I accept responsibility for the construction, alteration, or abandonment work performed on this well during the construction dates reported above. All work performed during this time is in compliance with Oregon water supply well construction standards. This report is true to the best of my knowledge and belief.

Signed WWC Number 1738
 Date 08/18/08

ORIGINAL & FIRST COPY - WATER RESOURCES DEPARTMENT

RECEIVED

COPY - CONSTRUCTOR

THIRD COPY - CUSTOMER

9809C 10/91

SEP 05 2008

WATER RESOURCES DEPT

Olsen-Pulliam Well Drig

PO Box 505

Gresham Or 97030

503 665 2252



December 18, 2024

Oregon Water Resources Department
Attn: *Water Rights Services Division*
725 Summer St. NE Ste A
Salem, Oregon 97301

RE: APPLICATIONS FOR EXTENSION OF TIME – PERMIT G-15436

Dear OWRD Staff,

Please find accompanying this letter an application for an Extension of Time (EOT) for groundwater permit G-15436 for Hans Nelson & Sons Nursery (Applicant). This permit is for nursery uses from one of two proposed wells in the Sandy River basin. The Applicant has received one previous extension to account for initial difficulties installing a well. Subsequent financial challenges have prevented the Applicant from developing a viable well source under this permit. However, the Applicant is now in a position to do so and requires an EOT. Furthermore, climate and operational conditions make the water available under permit G-15436 critical for the future of the business.

The proposed EOT would extend the completion date to October 1, 2027, due to the passing of the original extension date. This application package includes the EOT form and fee check and various relevant attachments (see list below).

Please let us know if there are any issues with processing this application or questions regarding the information included therein. Thank you for your assistance.

Sincerely,

CwM H2O, L.L.C.

A handwritten signature in blue ink, appearing to read "RL2", written over a light blue grid background.

Robert Long, CWRE

Attachments:

1. Check #2671 for \$780 Extension of Time Fee
2. Extension of Time Application
3. Permit G-15436
4. Abandonment Well Logs for Original Borehole

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Oregon

Tina Kotek, Governor

Water Resources Department

North Mall Office Building

725 Summer St NE, Suite A

Salem, OR 97301

Phone 503 986-0900

Fax 503 986-0904

www.oregon.gov/owrd

December 30, 2024

REFERENCE: Application for Extension of Time

Dear Extension of Time Applicant:

The Water Right Services Division has received your application for an extension of time for **APPLICATION FILE #: G-15710 (Permit G-15436)**. Your application will be reviewed in the 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.

You may continue the use of water under your water right until the Water Resources Department formally takes action on your extension application. If your permit includes conditions, water use reporting, water level measurement reporting, etc., you are required to comply with the conditions.

Any additional development that occurs after the expired completion date, identified on the permit or an extension order, can only be claimed upon an approved extension application.

If you have questions concerning your extension of time application, please contact Jeffrey Pierceall at (503) 979-3213. 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 website at: www.wrd.state.or.us.

Mailing List for 60-Day Letter

Application: G-15710

Permit: G-15436

Permit Holder(s):

HANS NELSON AND SONS NURSERY INC.
DAN NELSON
31020 SE WAYBILL RD
BORING, OR 97009-9427

Is the Permit Holder(s) of record currently identified as a landowner of any tax lots involved as confirmed by the County records? YES and NO

Copies of Cancellation Order to be sent to Permit Holder(s) and following:

1. Watermaster District #20
2. File

Other persons to receive copies:

Current Landowner:

3. James Waagen
Linda Waagen
PO Box 2415
Gresham OR 97030

Copies Mailed

by: TM
(STAFF)

on: 11.22.2024
(DATE)



Oregon

Tina Kotek, Governor

Water Resources Department

725 Summer St NE, Suite A

Salem, OR 97301

(503) 986-0900

www.oregon.gov/owrd

*NOTE: For water rights information and useful forms, please see our web site at
www.oregon.gov/OWRD*

*Certified mail number
Return receipt requested 7022 1670 0001 3570 1958*

November 22, 2024

HANS NELSON AND SONS NURSERY INC.
DAN NELSON
31020 SE WAYBILL RD
BORING, OR 97009-9427

Reference: Application G-15710, Permit G-15436

Dear Permit Holder:

This letter is in regard to your water use permit as referenced above. Your permit required you to complete the development of your water use by October 1, 2017.

In order for the Department to consider issuance of a certificate of water right, you are required by law to hire a certified water right examiner to prepare and submit a claim of beneficial use that includes a final proof survey map of the development. The map and claim of beneficial use were to have been submitted to our Department within one year of **October 1, 2017**. The fee for submitting a claim of beneficial use is \$230.00. Please see the enclosed 'Resource Sheet' for our current database of CWRE's.

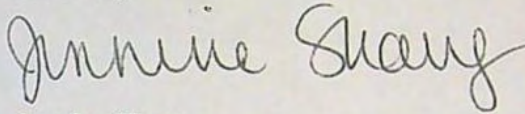
If you are not finished with the development of your permit, you need to file an application for an extension of time to complete your development. The fee for filing an extension of time is \$780.00. Please see the enclosed 'Resource Sheet' to access the extension of time form.

In the event that you are no longer using water as allowed by this permit, you should cancel it so that we may clear our records. Please see the enclosed 'Resource Sheet' to access the cancellation form, if you are interested in this option.

If you have not submitted either a Claim of Beneficial Use or a request for an extension of time for your permit within 60 days of the date of this letter (January 27, 2025) the Department may issue a Final Order to cancel your permit without further notice. If the Department issues a Final Order to cancel your permit, and you request reconsideration of the final order and reinstatement of your permit, there is a \$610.00 reinstatement fee that is charged in addition to the claim of beneficial use or extension of time fee.

Should you have any questions, please contact me at Jonnine.L.Skaug@water.oregon.gov, the address above or by telephone at 503-979-3943. Due to Covid-19, email may be the best way to reach me.

Sincerely,

A handwritten signature in cursive script that reads "Jonnine Skaug". The signature is written in dark ink and is positioned above the printed name and title.

Jonnine Skaug
Certificate Specialist

Enclosures (1)

cc: File

OWRD Watermaster District 20

James Waagen & Linda Waagen, PO Box 2415, Gresham OR 97030

STATE OF OREGON

COUNTY OF CLACKAMAS

PERMIT TO APPROPRIATE THE PUBLIC WATERS

THIS PERMIT IS HEREBY ISSUED TO

HANS NELSON AND SONS NURSERY INC
31020 SE WAYBILL RD
BORING, OREGON 97009-9427

(503) 663-3348

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

APPLICATION FILE NUMBER: G-15710

SOURCE OF WATER: TWO WELLS IN SANDY RIVER BASIN

PURPOSE OR USE: NURSERY USE ON 64.1 ACRES

MAXIMUM RATE: 0.89 CUBIC FOOT PER SECOND

PERIOD OF USE: YEAR ROUND

DATE OF PRIORITY: FEBRUARY 15, 2002

WELL LOCATIONS:

WELL #1 NW 1/4 SW 1/4, 1590 FEET NORTH & 580 FEET EAST FROM THE SW CORNER SECTION 25; TOWNSHIP 1 SOUTH, RANGE 4 EAST, W.M.

WELL #2 NW 1/4 SW 1/4, 1940 FEET NORTH AND 700 FEET EAST FROM THE SW CORNER, SECTION 25; TOWNSHIP 1 SOUTH, RANGE 4 EAST, W.M.

The amount of water used for NURSERY OPERATIONS is limited to a diversion of 0.15 cubic foot per second per acre. For the irrigation of containerized nursery plants, the amount of water diverted is limited to ONE-FORTIETH of one cubic foot per second (or its equivalent) and 5.0 acre feet per acre per year. For the irrigation of in ground nursery plants the amount of water diverted is limited to ONE-EIGHTIETH of one cubic foot per second (or its equivalent) and 2.5 acre feet per acre per year. The use of water for NURSERY OPERATIONS may be made at anytime, during the period of allowed use specified above, that the use is beneficial. For the irrigation of any other crop, the amount of water diverted is limited to ONE-EIGHTIETH of one cubic foot per second (or its equivalent) and 2.5 acre feet per acre during the irrigation season of each year.

THE PLACE OF USE IS LOCATED AS FOLLOWS:

NW ¼ SW ¼ 28.5 ACRES
SW ¼ SW ¼ 35.4 ACRES
SECTION 25
NW ¼ NW ¼ 0.2 ACRES
SECTION 36
TOWNSHIP 1 SOUTH, RANGE 4 EAST, 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.
- 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.
- C. The Director may require the permittee to keep and maintain a record of the amount (volume) of water used and may require the permittee to report water use on a periodic schedule as established by the Director. In addition, the Director may require the permittee to report general water use information, the periods of water use and the place and nature of use of water under the permit. The Director may provide an opportunity for the permittee to submit alternative reporting procedures for review and approval.

The well(s) shall produce groundwater from no shallower than 500 feet below land surface.

Use of water under authority of this permit may be regulated if analysis of data available after the permit is issued discloses that the appropriation will measurably reduce the surface water flows necessary to maintain the free-flowing character of a scenic waterway in quantities necessary for recreation, fish and wildlife in effect as of the priority date of the right or as those quantities may be subsequently reduced.

If the number, location, or construction of any well deviates from that proposed in the permit application or permit conditions, the conclusions of the Proposed Final Order and Final Order under which this permit was

granted may be revised, conditions may be appropriately revised, or this permit may not be valid.

- (1) Use of water from the well, as allowed herein, shall be regulated if the well displays:
 - (a) An average water level decline of three or more feet per year for five consecutive years; or
 - (b) A total water level decline of fifteen or more feet; or
 - (c) A hydraulic interference decline of fifteen or more feet in any neighboring well providing water for senior exempt uses or wells covered by prior rights.
- (2) The permittee/appropriator shall install a meter or other measuring device suitable to the Director, and shall keep a complete record of water uses.
- (3) The permittee/appropriator shall be responsible for complying with each of the following requirements for measuring water levels in the well.
 - (a) Use of water from a new well shall not begin until the initial water level in the well has been measured. A measurement of initial water level shall be made at the time a pump is installed, but before pumping begins.
 - (b) In addition to the measurement required in subsection (a) of this section, a water level measurement shall be made each year at the time of spring high water during the period March 15 through April 15.
 - (c) All water level measurements shall be made by a qualified individual. Qualified individuals include certified water rights examiners, licensed water well drillers, registered geologists, registered professional engineers, registered land surveyors, licensed well constructor, pump installer licensed by the Construction Contractors Board, or the permittee/appropriator.
 - (d) Any qualified individual measuring a well shall use standard methods of procedure and equipment designed for the purpose of well measurement. The equipment used shall be well suited to the conditions of construction at the well. A list of standard methods of procedure and suitable equipment shall be available

from the Department.

- (e) The permittee/appropriator shall submit a record of the measurement to the Department on a form available from the Department. The record of measurement shall include both measurements and calculations, shall include a certification as to their accuracy signed by the individual making the measurements, and shall be received not later than 30 days from the date of measurement. The Department shall determine when any of the declines cited in section (1) are evidenced by the well measurement required in section (3).

The use of water under terms of this permit or certificate is subject to regulation concurrent with or prior to regulation of a senior right competing for water from the same source when regulation is the result of water level declines that exceed limits specified in the senior right.

STANDARD CONDITIONS

If substantial interference with a senior water right occurs due to withdrawal of water from any well listed on this permit, then use of water from the well(s) shall be discontinued or reduced and/or the schedule of withdrawal shall be regulated until or unless the Department approves or implements an alternative administrative action to mitigate the interference. The Department encourages junior and senior appropriators to jointly develop plans to mitigate interferences.

The wells shall be constructed in accordance with the General Standards for the Construction and Maintenance of Water Wells in Oregon. The works shall be equipped with a usable access port, and may also include an air line and pressure gauge adequate to determine water level elevation in the well at all times.

The use shall conform to such reasonable rotation system as may be ordered by the proper state officer.

Prior to receiving a certificate of water right, the permit holder shall submit the results of a pump test meeting the department's standards, to the Water Resources Department. The Director may require water level or pump test results every ten years thereafter.

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.

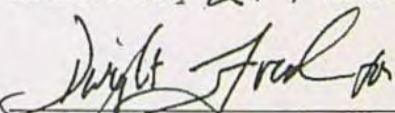
The use of water shall be limited when it interferes with any prior surface or ground water rights.

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.

Complete application of the water to the use shall be made on or before October 1, 2007. 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 May 29, 2003



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.

P G-15436

COMPLETENESS PROJECT

Page 1

60 Day Letter

PERMIT STATUS REVIEW BY: Jonnine Skaug DATE: NOVEMBER 2024 FILE # G-15710

1. Per Dwight French, do not send "C" DATE NOTICE PACKET if: update WRIS if appropriate

____ Extension pending Yes No _____
 ____ Assignment is pending Yes No _____
 ____ Cancellation has been requested Yes No _____
 ____ Claim of Beneficial Use received Yes No _____
 Date information received _____

Dept. has already sent a certified 60-Day Compliance letter (date _____, Cert mail # _____)

Was 60 days notice allowed? Y N If No, How Much Time? _____
 Was mail deliverable as addressed? Y N date _____
 If mail returned, online/www check? Y N date _____ successful? Y N
 Re-send Cert. Letter? Y N date _____
 Send cancellation order Y N

2. IF NONE OF THE ABOVE APPLY

yes Send certified "C" date notice packet to permit holder.

"C" DATE 10/1/2007 BASIN NUMBER 2 WM # 20

10/1/2007
 CWRE or AGENT Yes/No No

3. AOI Yes NO If Yes, name(s) of AOI _____

4. Current Landowner(s) and Mailing Address

TL 200 - Dan & Linda Nelson, 31020 Se Warbill Rd, Boring OR 97009 TL 2001 = James & Linda Waagen, PO Box 2415, Bresham OR 97030

County of Place of Use Clackamas Tax Lot(s) 2000, 2001

Attach copy of email from County Assessor or Printout from Assessor's Site

Contacts regarding 60 Day Letter:

Hold Action Request from Permit/Landowner - Date of Request _____ Requesting Parties Name _____

Hold Action Until (Date) _____

No more than 60 days beyond original deadline to submit an extension, assignment, or Alt Res CBU

Hold Action Request from CWRE - Date of Request _____ CWRE Name _____

Hold Action Until (Date) _____

No more than 6 months beyond original deadline to submit a CBU



Tax Lots

Identify Tax Lots

Tax lot information is only available for selected counties.

[QR](#)
[Map](#)

☐ Off
☒ On

County: Clackamas
Map Taxlot: 14E25 02000
Site Address: 38616 SE LUSTED RD, BORING 97009
Acres: 68.4
TRISQ: WM1 0054 00E25XXXX
Effective Date: January 1, 2024

Note: Tax lot information provided here is for general query purposes. It may not be up to date or may not be an official record. Please contact the respective county tax assessor's office for more current and specific information.

It is recommended to zoom to a detailed extent before query.

Tax Lots

Identify Tax Lots

Tax lot information is only available for selected counties.

[QR](#)
[Map](#)

☐ Off
☒ On

County: Clackamas
Map Taxlot: 14E25 02001
Site Address: 38683 SE LUSTED RD, BORING 97009
Acres: 7.8
TRISQ: WM1 0054 00E25XXXX
Effective Date: January 1, 2024

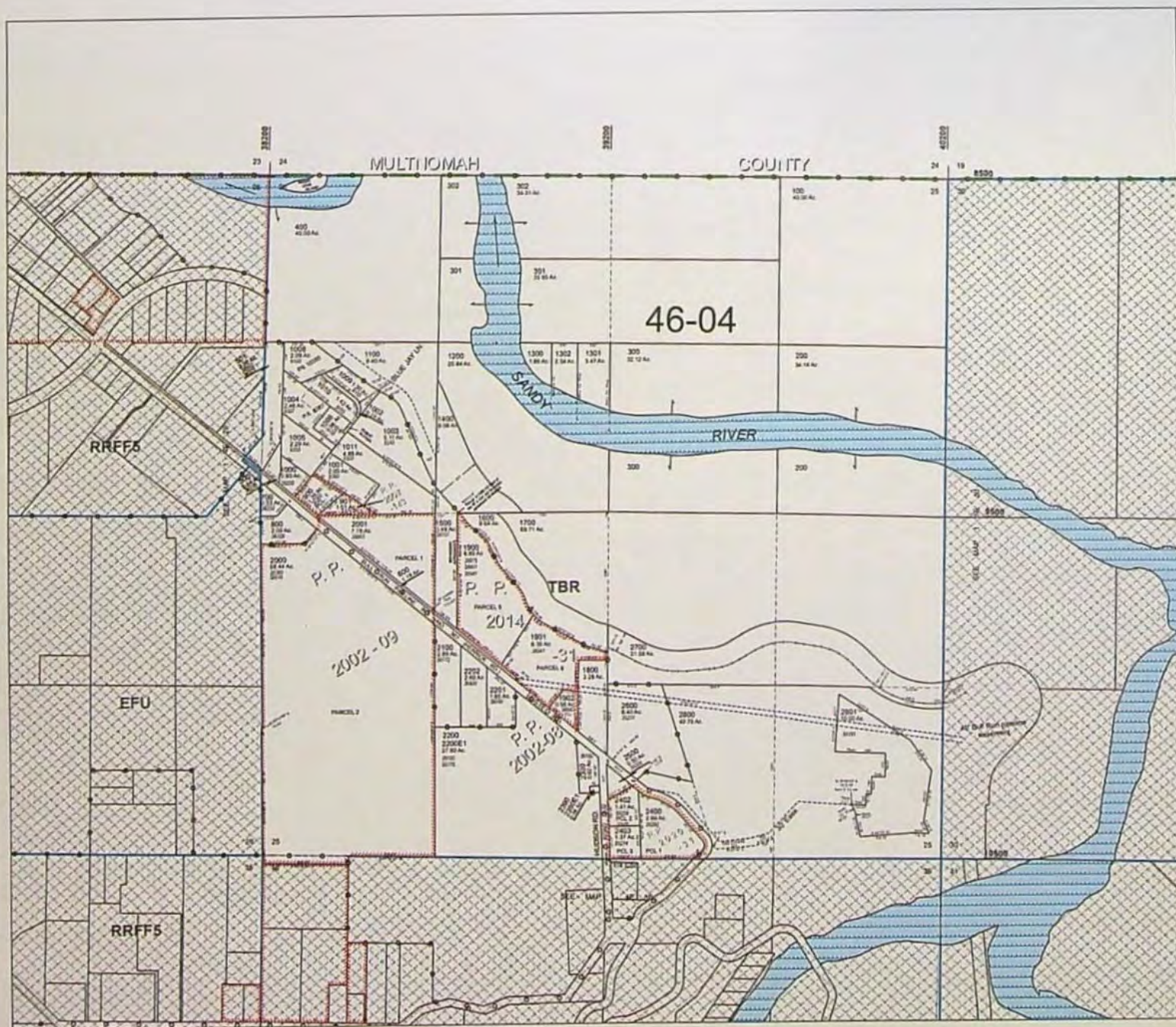
Note: Tax lot information provided here is for general query purposes. It may not be up to date or may not be an official record. Please contact the respective county tax assessor's office for more current and specific information.

It is recommended to zoom to a detailed extent before query.

14E 25

SEC.25 T.1S. R.4E. W. M.
CLACKAMAS COUNTY

1" = 400'



Cancelled
300
301
302
2080
290
2090
2401
20001
0911
1007

- | | |
|---------------------|----------------------|
| Parcel Boundary | Corner |
| Private Road ROW | Section Corner |
| Historical Boundary | 1/16th Line |
| Railroad Centerline | Cont. Lot Line |
| Tax Code Lines | DLC Line |
| Map Index | Meadow Line |
| Water Lines | PLSS Section Line |
| Land Use Zoning | Historic Corridor 42 |
| Plats | Historic Corridor 27 |
| Water | |

THIS MAP IS FOR ASSESSMENT
PURPOSES ONLY

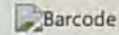
14E 25

Print Date: 5/14/2023

Property Account Summary Barcode

Account Number		Property Address	38616 SE LUSTED RD , BORING, OR 97009
General Information			
Alternate Property #	14E25 02000		
Property Description	Partition Plat 2002-009 PARCEL 2		
Property Category	Land &/or Buildings		
Status	Active, Locally Assessed, Use Assessed		
Tax Code Area	046-004		
Remarks			
Tax Rate			
Description	Rate		
Total Rate	13.3836		
Property Characteristics			
Property Tax Deferral	Potential Additional Tax Liability		
Neighborhood	16004: Boring to Sandy all other		
Land Class Category	681: Forest & Farm Land Improved		
Building Class Category	13: Single family res, class 3		
Year Built	1904		
Acreage	68.44		
Fire patrol acres	4.95		
Change property ratio	6XX		
Related Properties			
No Related Properties Found			
Parties			
Role	Percent	Name	Address
Taxpayer	100	NELSON DAN L & LINDA B TRUSTEES	31020 SE WAYBILL RD, BORING, OR 97009

Property Account Summary



Account Number		Property Address	38683 SE LUSTED RD , BORING, OR 97009
General Information			
Alternate Property #	14E25 02001		
Property Description	Partition Plat 2002-009 PARCEL 1		
Property Category	Land &/or Buildings		
Status	Active, Locally Assessed, Use Assessed		
Tax Code Area	046-004		
Remarks			
Tax Rate			
Description	Rate		
Total Rate	13.3836		
Property Characteristics			
Property Tax Deferral	Potential Additional Tax Liability		
Neighborhood	16004: Boring to Sandy all other		
Land Class Category	551: EFU farmland improved		
Building Class Category	14: Single family res, class 4		
Year Built	2007		
Acreage	7.78		
Change property ratio	5XX		
Related Properties			
No Related Properties Found			
Parties			
Role	Percent	Name	Address
Taxpayer	100	SCHOLZ JAMES E & LINDA L WAAGEN	PO BOX 2415, GRESHAM, OR 97030

Oregon Water Resources Department
Water Rights Division

Water Rights Application
Number G-15710

Final Order
Extension of Time for Permit Number G-15436

Appeal Rights

This is a final order in other than contested case. This order is subject to judicial review under ORS 183.484. Any petition 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 petition 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

The Department issued Permit G-15436 on May 29, 2003. The permit called for complete application of water to beneficial use by October 1, 2007. On March 5, 2007, Hans Nelson and Sons Nursery, Inc. submitted to the Department an Application for Extension of Time for Permit G-15436. In accordance with OAR 690-315-0050(2), on July 3, 2007, the Department issued a Proposed Final Order proposing to extend the time to fully apply water to beneficial use to October 1, 2017. The protest period closed August 17, 2007, 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 the following conditions:

CONDITIONS

1. Checkpoint Condition

The permit holder must submit a completed Diligence Progress Report to the Department by **October 1, 2012**. *A form is enclosed for your use.*

- (a) At each checkpoint, the permit holder shall submit and the Department shall review evidence of the permit holder's diligence towards completion of the project and compliance with terms and conditions of the permit and extension. If,

after this review, the Department determines the permit holder has not been diligent in developing and perfecting the water use permit, or complied with all terms and conditions, the Department shall modify or further condition the permit or extension to ensure future compliance, or begin cancellation proceedings on the undeveloped portion of the permit pursuant to ORS 537.260 or 537.410, or require submission of a final proof survey pursuant to ORS 537.250;

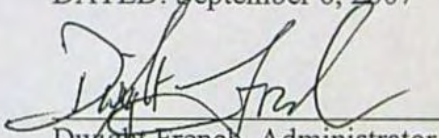
- (b) The Department shall provide notice of receipt of progress reports in its weekly notice and shall allow a 30 day comment period for each report. The Department shall provide notice of its determination to anyone who submitted comments.

The applicant has demonstrated good cause for the permit extension pursuant to ORS 537.630, 539.010(5) and OAR 690-315-0040(2).

Order

The extension of time for Application G-15710, Permit G-15436, therefore, is approved subject to conditions contained herein. The deadline for applying water to full beneficial use is extended to October 1, 2017.

DATED: September 6, 2007


Dwight French, Administrator of
Water Rights and Adjudications
for
Phillip C. Ward, Director

-
- If you have any questions about statements contained in this document, please contact Kim French at (503) 986-0813.
 - 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 Water Resources Department
725 Summer Street NE, Suite A
Salem Oregon 97301-1266
(503) 986-0900
www.wrd.state.or.us

Extension of Time Diligence Progress Reporting Form For Checkpoints

TO THE DIRECTOR OF THE OREGON WATER RESOURCES DEPARTMENT

Permit Holder: Hans Nelson and Sons Nursery, Inc.

Application G-15710

Permit G-15436

Report Due no later than October 1, 2012

Diligence Progress Report for 2012

As authorized in ORS 690-315-0050(6), this progress report is required in order to ensure diligence is exercised in the development and perfections of Permit G-15436

INSERT DATES	WORK ACCOMPLISHED and FINANCIAL INVESTEMENT SINCE OCTOBER 1, 2007 <i>List all work done after the last authorized date for complete application of water up to the date of this Diligence Progress Reporting Form</i>	FINANCIAL INVESTEMENT

2. Compliance with terms and conditions of the permit and/or previous extension.

3. Total number of acres irrigated to date= _____ (if applicable)

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

Maximum rate = _____ cfs (cubic feet per second)

Maximum rate = _____ gpm (gallons per minute)

Acre Feet Stored = _____ AF

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 use totals.

Signature _____ Date _____

For OWRD use only

Diligence Shown ☐ Yes ☐ No

Date Public Noticed: _____

Reviewed by: _____

Date: _____

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: September 6, 2007

Copies Mailed

Application G-15710

Permit G-15436

By: MS

On: 9/6/07

Original mailed to permit holder

Hans Nelson and Sons Nursery, Inc.
31020 SE Waybill Rd.
Boring, OR 97009

Copies sent to:

1. WRD - App. File G-15710/ Permit G-15436
2. WRD - Watermaster District 20, Sabrina White
3. WRD- Ken Stahr
4. WRD - Support Staff, Salem...*Permit record update*

Fee paid as specified under ORS 536.050 to receive copy:

5. None

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

6. None

CASEWORKER: KRF

**Oregon Water Resources Department
Water Rights Division**

Application for Extension of Time

In the Matter of the Application for an Extension of Time)
for Permit G-15436, Water Right Application G-15710)
in the name of Hans Nelson and Sons Nursery, Inc.)

PROPOSED FINAL ORDER

Permit Information

Application File G-15710 Permit G-15436

Basin: 3 – Sandy/ Watermaster District 20

Date of Priority: February 15, 2002

Authorized Use of Water

Source of Water:	Two Wells within the Sandy River Basin
Purpose of Use:	Nursery Use on 64.1 Acres
Maximum Rate:	0.89 Cubic Feet per Second (cfs)

**This Extension of Time request is being processed in accordance with Oregon
Administrative Rule Chapter 690, Division 315**

***Please read this Proposed Final Order in its entirety as it contains
additional conditions not included in the original permit.***

This Proposed Final Order applies only to Permit G-15436, water right Application G-15710.
A copy of Permit G-15436 is enclosed as Attachment 1.

Summary of Proposed Final Order for Extension of Time

The Department proposes to:

- grant an extension of time to apply water to full beneficial use from October 1, 2007 to October 1, 2017.
- make the extension subject to certain conditions set forth below.

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

AUTHORITY

Generally, see ORS 537.630 and OAR Chapter 690 Division 315.

ORS 537.630(1) 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; the well or other means of developing and securing ground water 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.

OAR 690-315-0050(6) requires the Department, for extensions exceeding five years, to establish checkpoints to determine if diligence is being exercised in the development and perfection of the water use permit. Intervals between checkpoints will not exceed five year periods.

FINDINGS OF FACT

Background

1. Permit G-15436 was granted by the Department on May 29, 2003. The permit authorizes the use of up to 0.89 cfs of water from two wells, for nursery use on 64.1 acres. The permit specified complete application of water was to be made on or before October 1, 2007.
2. The permit holder submitted an "Application for Extension of Time" to the Department on March 5, 2007 requesting the time to apply water to full beneficial use under the terms of Permit G-15436 be extended from October 1, 2007 to October 1, 2017. This is the first permit extension requested for Permit G-15436.
3. On March 13, 2007, the permit holder submitted additional information to supplement their Application for Extension of Time.
4. Notification of the Application for Extension of Time for Permit G-15436 was published in the Department's Public Notice dated March 13, 2007. 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, 537.630³ and/or 539.010(5)⁴.

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

5. On March 5, 2007, the Department received a completed Application for Extension of Time and the fee required by 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.

¹ ORS 537.230 applies to surface water permits only.

² ORS 537.248 applies to reservoir permits only.

³ ORS 537.630 applies to ground water permits only.

⁴ ORS 539.010(5) applies to surface water and ground water permits.

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 March 5, 2007, the remaining work to be completed consists of completing construction of the water system and complete application of water to 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, 2017, to accomplish the application of water to beneficial use under the terms of Permit G-15436 is both reasonable and necessary.

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. The following construction was completed within the time allowed in the permit or previous extension:
 - a. Prior to October 1, 2007, construction of the wells had begun.
 - b. Work was accomplished (specified in the Application for Extension of Time) during the original development time frame under Permit G-15436.

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. Since the issuance of Permit G-15436 on May 29, 2003, no water has been appropriated from the wells.
 - b. Delay of full beneficial use of water under Permit G-15436 was due, in part, to the well driller getting sick and passing away prior to completing the project. If the well driller's wife continues the business, they will complete the project. If not, the permit holders will need to find a new well driller to complete

development.

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 meter or other suitable measuring device has been installed, and (2) the required water level measurements have not been received by the Department.
 - b. Failure to comply with permit conditions constitutes illegal use of water. In order to legally perfect the use 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 March 5, 2007, the permit holder has invested approximately \$10,500, which is 3 percent of the total projected cost for complete development of this project. The permit holder anticipates an additional \$400,000 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 March 5, 2007, the permit holder has invested approximately \$10,500 which is 3 percent of the total projected cost for complete development of this project. The permit holder anticipates an additional \$400,000 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 G-15436.

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 G-15436; 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 appropriation for Permit G-15436, located within the Sandy River Basin, are not located within a limited or critical ground water area. Sandy River is located within a federal scenic waterway and above a state scenic waterway. It is located within an area ranked "high" 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. Sandy River is not 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 March 5, 2007, the permit holder has invested approximately \$10,500.
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.
19. OAR 690-315-0050(6) requires the Department to place a checkpoint condition on this extension of time to ensure diligence is exercised in the development and perfection of the water use permit. A "Checkpoint Condition" is specified under Item 1 of the "Conditions" section of this PFO to meet this condition.

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

20. 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)]

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

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

22. Unforeseen events extended the length of time needed to fully develop and perfect Permit G-15436, caused mainly by the well driller getting sick and passing away prior to completing the project. If the well driller's wife continues the business, they will complete the project. If not, the permit holders will need to find a new well driller to complete development.

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 537.630(1).
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 537.630 as required by OAR 690-315-0040(1)(b) and OAR 690-315-0040(5).
4. Full application of water to beneficial use can be accomplished by October 1, 2017⁵, as required by OAR 690-315-0040(1)(c).
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).

⁵Pursuant to ORS 537.630(4), 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 water to a beneficial use), the permittee shall submit a map of the survey and the claim of beneficial use.

6. As required by OAR 690-315-0050(6) and as described in Finding 19 above, the Department has established, as specified in the "Conditions" section of this PFO (Item 1), progress checkpoints in order to ensure future diligence is exercised in the development and perfection of Permit G-15436.

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 G-15436 from October 1, 2007 to October 1, 2017.

Subject to the following conditions:

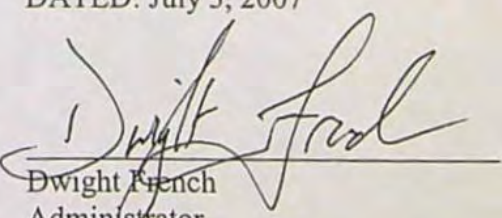
CONDITIONS

1. **Checkpoint Condition**

The permit holder must submit a completed Diligence Progress Report to the Department by **October 1, 2012**. *A form will be enclosed with your Final Order.*

- (a) At each checkpoint, the permit holder shall submit and the Department shall review evidence of the permit holder's diligence towards completion of the project and compliance with terms and conditions of the permit and extension. If, after this review, the Department determines the permit holder has not been diligent in developing and perfecting the water use permit, or complied with all terms and conditions, the Department shall modify or further condition the permit or extension to ensure future compliance, or begin cancellation proceedings on the undeveloped portion of the permit pursuant to ORS 537.260 or 537.410, or require submission of a final proof survey pursuant to ORS 537.250;
- (b) The Department shall provide notice of receipt of progress reports in its weekly notice and shall allow a 30 day comment period for each report. The Department shall provide notice of its determination to anyone who submitted comments.

DATED: July 3, 2007


Dwight French
Administrator
Water Rights & Adjudications Division

Proposed Final Order: Permit G-15436

*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 protest and request a contested case hearing on the proposed final order. Your request for contested case hearing must be in writing and must be received by the Water Resources Department no later than August 17, 2007 being 45 days from the date of publication of the proposed final order in the Department's weekly public notice.
2. A written request for contested case hearing 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;
 - 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 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 protest fee required under ORS 536.050, if petitioner is other than the water right permit holder.
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 request for contested case hearing 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 Kim French at 503-986-0813.
 - 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 Mike Reynolds 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
-

Mailing List for Extension PFO Copies

PFO Date: July 3, 2007

Application G-15710
Permit G-15436

Copies Mailed

By: AS
On: 7/3/07

Original mailed to Applicant:

Hans Nelson and Sons Nursery, Inc.
31020 SE Waybill Rd.
Boring, OR 97009

Copies sent to:

1. WRD - App. File G-15710/ Permit G-15436
2. WRD - Watermaster District 20, Sabrina White

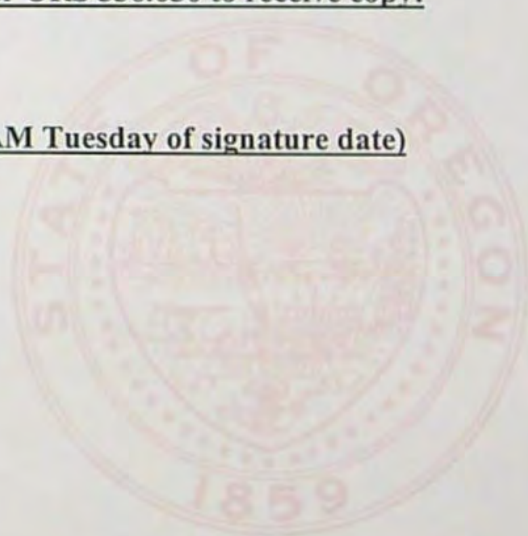
Fee paid as specified under ORS 536.050 to receive copy:

3. None

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

4. None

CASEWORKER: KRF



Extension PFO Checklist for
Other than Muni or Quasi-Municipal

Water Use Permits

(OAR 690-315-0010 through OAR 690-315-0060)

Application: G - 15710 Permit: G - 15436 Permit Amendment? No ☐ Yes ☐ T- ☐

Permit Holder's Name: HANS NELSON & SONS NURSERY INC

Permit Holder's Mailing Address: 31020 SE WAYBILL RD. BIRING, OR 97009

POD Location: Township 1S Range 4E Section 25 $\frac{1}{4}$ NW $\frac{1}{4}$

Drainage Basin: 3 County: CLACKAMAS Watermaster District: 20

Date Permit was issued: 5-29-03 Priority Date: 2-15-02 Date of PN: 3-13-07

Source: TWO WELLS IN SANDY RIVER BASIN

Use: NURSERY USE ON 64.1 ACRES

"Q": 0.89 CFS

Orig "A" Date: — Orig "B" Date: — Orig "C" Date: 10-1-07

Extension request received: 3-5-07 Last Authorized "B" Date: — Last Authorized "C" Date: —

Request Number (...1st, 2nd, 3rd): 1ST Proposed "B" Date: — Proposed C Date: 10-1-2017

Conditions of Permit:

Condition Met?	Condition Not Met?	Permit Condition
	✓	INSTALL METER
	✓	SUBMIT ^{ANNUAL} WATER LEVEL REPORTS BY MAY 15
	✓	INITIAL WATER LEVEL

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

☐ ☒ 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 acres

☐ ☒ Water right permit holder conformed with the permit or previous extension conditions; and

☒ ☐ Financial investments were made toward developing the beneficial water use.

• Permit holder has invested approximately % of the total estimated cost to complete the project.

• Amount Invested to date: \$ 10,500 Estimated Remaining Cost: \$ 400,000

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

Application G - 15710 Permit G - 15436 Township 15 Range 4E Section 25

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

Identify the closest surface water or localized water basin. SANDY RIVER

Ground Water Permits: Is the POA located...

Surface Water Permits: Is the POD located...

Yes No

- ☒ ☐ within or above a state scenic waterway? 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 critical or limited Ground Water Area? Name of area _____
- ☒ ☐ within a sensitive, threatened or endangered species area source: "/gisdata/dev/projects/salmon/div33map.aml"
- ☐ ☒ 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 (circle one) 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: 2012)

☐ 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(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 water to a beneficial use), the permittee 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(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 water to a beneficial use), the permittee 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: _____

Application # G-15710

Permit # G-15436

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: 3/8/07

◆ **Brook Geffen...**



Extension Application is Complete

(If NOT complete, send certified letter requesting add'l information.)



Added to tracking spreadsheet

If Extension Appl complete and \$250 fee submitted, route to...

◆ **Jonnine Skaug...**



Publish on Public Notice (initial 30-day comment):

Update "cdatewext.DB" Database:

Date of

notice

3-13-07 *ms*



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.



Oregon

Theodore R. Kulongoski, Governor

Water Resources Department

North Mall Office Building
725 Summer Street NE, Suite A
Salem, OR 97301-1266
503-986-0900
FAX 503-986-0904

March 14, 2007

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 # G-15710 (PERMIT # G-15436)**. 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 Brook Geffen at (503) 986-0808. 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".

Place a (✓) in the box if the item is satisfied	Division 315 - Other Than Muni or Quasi-Muni Extension of Time Application - Completeness Checklist OAR 690-315-0020	
+	The appropriate extension of time fee (as specified in ORS 536.050). \$100 - applications received prior to October 1, 2003 / \$250 - applications received on or after October 1, 2003	[OAR 690-315-0020(3)]
+	The name and mailing address of the water right permit holder(s);	[OAR 690-315-0020(3)(a)]
+	The application number and the permit number for which an extension is requested;	[OAR 690-315-0020(3)(b)]
NA	If the water right permit holder receives delivery of the subject water right permit from a municipality, municipal corporation, or other special district, the applicant shall provide the name of the entity and evidence that a copy of the application for extension of time has been provided to the entity responsible for delivering the water;	[OAR 690-315-0020(3)(c)]
+	Evidence of the actions taken to begin actual construction within the time period in the permit or previous extension: • "Actual construction" means physical work performed towards completion of the water system, which demonstrates both the present good faith of the water right permit holder and the water right permit holder's intention to complete the project with reasonable diligence; Graded wells, etc. • "Actual construction" does not include planning a diversion system, formulating a business plan, securing financing, letting contracts, purchasing but not installing equipment, or surveying.	[OAR 690-315-0020(3)(d)]
+	Evidence of progress made toward completion of the water development and application to full beneficial use, which includes but is not limited to: • The annual accomplishments toward perfecting the water right under the terms and conditions of the permit, including the dates on which each condition contained in the relevant permit and any previous extension(s) was satisfied or the reason the condition was not satisfied; N • The maximum rate of diversion, if any, made to date; and N • If for irrigation, a listing by year of the number of acres irrigated each year since permit issuance, the total number of acres irrigated to date under the permit or previous extension, and a copy of the application map showing the acres irrigated.	[OAR 690-315-0020(3)(e)]
+	A description of financial expenditures made toward completion of the water development;	[OAR 690-315-0020(3)(f)]
+	An estimate of the cost to complete the water development; see letter 3/8/07 - water right	[OAR 690-315-0020(3)(g)]
NA	A summary of any additional unforeseen events which delayed completion of the water development or application of water to full beneficial use, including other governmental requirements, if any, relating to the project which have significantly delayed completion of construction or perfection of the right;	[OAR 690-315-0020(3)(h)]
+	The date by which the water development will be completed and water put to full beneficial use;	[OAR 690-315-0020(3)(i)]
+	A summary of the applicant's plan and schedule to complete construction and/or perfect the water right;	[OAR 690-315-0020(3)(j)]
+	Justification of why the requested time is needed to complete the project and/or apply the water to full beneficial use;	[OAR 690-315-0020(3)(k)]
+	A description of any undue hardship to the applicant which will result from denial of the extension, and that there are no other reasonable alternatives for meeting water use needs; Health problems w/ well Driller (NOTE: The permit holder is not asked to answer this specific question when filling out the Extension of Time Application. The Department decided this was a finding that should be determined by staff. In order to make this determination, review the Extension of Time Application and documentation in the file record. Generally, a denied extension of time may result in possible loss of investments made in the project, loss of future property value, and/or loss of future income.	[OAR 690-315-0020(3)(l)]
NA	Any other information the applicant determines is relevant to evaluate the application in accordance with applicable statutes and these rules;	[OAR 690-315-0020(3)(m)]
NA	Any other information required in the application form that is necessary to evaluate the application in accordance with applicable statutory requirements; and	[OAR 690-315-0020(3)(n)]
+	Signature(s) of the water right permit holder(s).	

Name of Reviewer: Brook A. Giffen Date: 3/8/07



Oregon

Theodore R. Kulongoski, Governor

Water Resources Department

North Mall Office Building
725 Summer Street NE, Suite A
Salem, OR 97301-1266
503-986-0900
FAX 503-986-0904

March 8, 2007

Dan Nelson dba Hans Nelson and Sons Nursery, Inc.
31020 SE Waybill Rd.
Boring, OR 97009

REFERENCE: Water Right Application G-15710 (Permit G-15436)

Dear Mr. Nelson:

The Department received your application for extension of time and your check for \$250 on March 5, 2007. After reviewing your response to the following question:

8) *Estimated remaining cost to complete the project:* _____

It has been concluded that, although the estimate is difficult to make, a dollar amount (or estimated range), is needed for your application. In addition, the phone number on your application does not seem to be accurate (503-669-3346). Please submit your estimate and phone number to the Department at your earliest convenience.

If you have any questions or concerns regarding this matter, please feel free to contact me by telephone at (503) 986-0808.

Sincerely,

Brook A. Geffen
Water Rights and Adjudications Division

enclosure(s)

cc: Appl G-15710 (Permit G-15436)



HANS NELSON & SONS NURSERY, INC.

WHOLESALE GROWERS OF SHADE AND FLOWERING TREES

31020 S.E. WAYBILL RD. • BORING, OREGON 97009-9427

PHONE: (503) 663-3348

FAX (503) 663-0138



March 12, 2007

Brook A. Geffen
Water Rights & Adjudications Division
Oregon Water Resources Department
725 Summer Street NE, Suite A
Salem, Oregon 97301-1266

Reference: Water Right Application G-15710 (Permit G-15436)

Dear Brook Geffen:

Thank you for your letter of March 8, 2007. I have made the correction of phone number on the first page of the form "Extension of Time for Water Right Permit" to 503-663-3348.

Item #8 has also been corrected to read \$300,000 – 400,000. Our application #G-15710 is for 2 wells with the restriction of taking no water above 500 feet. I think we will need to start the well with 12 – 14" casing, which will add up quickly to the large dollar amount.

Sincerely,

Dan L. Nelson
President

DLN:lbm
Encl.

RECEIVED

MAR 13 2007

WATER RESOURCES DEPT
SALEM OREGON



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

Application for Extension of Time for a Water Right Permit

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, DAN L. NELSON dba HANS NELSON AND SONS NURSERY, INC.

NAME OF PERMIT HOLDER [OAR 690-315-0020(1) and (3)(a)]

31020 SE WAYBILL ROAD	BORING	OREGON	97009
ADDRESS	CITY	STATE	ZIP
503-663-3346		DNELSON@HANSNELSON.COM	
PHONE		E-MAIL ADDRESS	

the permit holder of: Application Number G - 15710

Permit Number G - 15436
[OAR 690-315-0020(3)(b)]

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, 2007, be
extended to October 1, 2017,

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, 2007, be extended to October 1, 2017.

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

5. Provide the maximum rate, or duty if applicable, of water diverted for beneficial use under this permit and/or prior extensions of time, if any, 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 use totals.

Maximum rate = NONE cfs (cubic feet per second) or,

Maximum rate = _____ gpm (gallons per minute) or,

Acre Feet Stored = _____ AF

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

6. Provide the total number of acres irrigated to date under this permit.

Total acres irrigated to date: NONE SO FAR.

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

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)
YEAR 2007	DRILL WELL	
YEAR 2008	INSTALL PUMP, CONSTRUCT WELL HOUSE & PIPING	
YEARS 2008-9	BURY TRANSMISSION PIPELINES	
	It is hard to estimate the costs, as we do not know how deep the well will be. We can take no water above	
	500 feet. We are planning for multi-thousand dollar	
	costs.	
year 2010	Intend to apply water to full beneficial use under the terms and conditions of this permit.	
Total Cost		

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

8. Estimated remaining cost to complete the project: \$300,000 - 400,000
(The total cost from CHART-E) 2 wells to take no water above 500'

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MAR 13 2007

WATER RESOURCES DEPT
SALEM, OREGON



Oregon

Theodore R. Kulongoski, Governor

Water Resources Department

North Mall Office Building
725 Summer Street NE, Suite A
Salem, OR 97301-1266
503-986-0900
FAX 503-986-0904

March 8, 2007

Dan Nelson dba Hans Nelson and Sons Nursery, Inc.
31020 SE Waybill Rd.
Boring, OR 97009

REFERENCE: Water Right Application G-15710 (Permit G-15436)

Dear Mr. Nelson:

The Department received your application for extension of time and your check for \$250 on March 5, 2007. After reviewing your response to the following question:

8) *Estimated remaining cost to complete the project:* _____

It has been concluded that, although the estimate is difficult to make, a dollar amount (or estimated range), is needed for your application. In addition, the phone number on your application does not seem to be accurate (503-669-3346). Please submit your estimate and phone number to the Department at your earliest convenience.

If you have any questions or concerns regarding this matter, please feel free to contact me by telephone at (503) 986-0808.

Sincerely,

Brook A. Geffen

Water Rights and Adjudications Division

enclosure(s)

cc: Appl G-15710 (Permit G-15436)

RECEIVED

MAR 13 2007

WATER RESOURCES DEPT
SALEM OREGON



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

Application for Extension of Time for a Water Right Permit

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, DAN L. NELSON dba HANS NELSON AND SONS NURSERY, INC.

NAME OF PERMIT HOLDER [OAR 690-315-0020(1) and (3)(a)]

31020 SE WAYBILL ROAD BORING OREGON 97009

ADDRESS CITY STATE ZIP

503-663-3346

PHONE

DNELSON@HANSNELSON.COM

E-MAIL ADDRESS

See attached letter dated 3/12/07 - by

the permit holder of:

Application Number G - 15710

Permit Number G - 15436

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

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, 2007, be
extended to October 1, 2017,

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, 2007, be extended to October 1, 2017.

RECEIVED

MAR 05 2007

- 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) 986-0808, 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 503-986-0801 (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

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



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

Date construction began is: JUNE 1, 2003

Details of construction: CLEARED PROPOSED WELL SITE; ADDED MATERIAL OF WELL SITE WHEN WIDENING STORAGE RESERVOIR DAM; GOT BID FROM TED PULLIAM OF OLSEN-PULLIAM WELL DRILLING.

RECEIVED

MAR 05 2007

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] NO, NOT YET

- 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
A.	NOT YET	THE METER IS ON ORDER FROM THE WELL DRILLER.
B.	NOT YET	THE METER HAS NOT BEEN INSTALLED. (ACCESS NOT NEEDED YET).
C.	NOT YET	CAN'T RECORD THE VOLUME USED UNTIL THE METER IS INSTALLED.

** 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
A-C	2007	THE CHOSEN WELL DRILLER, TED PULLIAM DIED OF CANCER THIS WEEK. IT IS NOT CERTAIN HIS WIFE WILL CONTINUE THE BUSINESS (BELIEVE ADELE WILL, SO WAITING FOR THINGS TO BE SORTED OUT.)

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

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WRAD

WATER RESOURCES DEPT
SALEM, OREGON

3. Provide evidence of physical progress made toward completion of the water system, and of progress made toward making beneficial use of water within the permitted time period (CHART-C); and if applicable, within the time period of the most recent extension granted (CHART-D).

A) CHART-C (below) must be completed for all Application for Extension of Time requests. Use chronological order.

CHART-C

INSERT DATES	WORK ACCOMPLISHED BEFORE PERMIT WAS ISSUED <i>List any work done before the permit was issued – eg. well drilled.</i>	COST
	WORK ON IMPROVING THE RESERVOIR WAS DONE (ANOTHER PERMIT).	\$10,000
	(EXCAVATED POND MATERIAL WAS USED TO RAISE THE WELL SITE).	

INSERT DATES	WORK ACCOMPLISHED AFTER PERMIT WAS ISSUED <i>and PRIOR TO DATE SPECIFIED IN PERMIT FOR COMPLETE APPLICATION OF WATER</i> <i>List work/actions done during the permitted time period.</i>	COST
	The permit was signed - find date above signature on last page of permit.	
	GRADED WELL SITE; NEGOTIATED WITH WELL DRILLER TED PULLIAM	\$500
	TED HAD BRAIN SURGERY DURING THIS PERIOD (WELL DRILLER).	
	The permit specified "Actual Construction Work" shall begin ("A-Date") - not all permits contain this date.	
	NO "A" DATE ON PERMIT.	
10/1/2007	The permit specified complete application of water to the use shall be made ("C-Date") - all permits contain this date.	

INSERT DATES	WORK ACCOMPLISHED AFTER "C-DATE" <i>COMPETE ONLY IF THIS IS YOUR 1st APPLICATION FOR EXTENSION OF TIME:</i> <i>List work done after the date specified in the permit for complete application of water up to the date of this Application for Extension of Time.</i>	COST
	NONE, HAD BEEN WAITING FOR WELL DRILLER TO RECOVER.	\$0
Total Cost to Date		\$10,500

INCLUDES RESERVOIR COSTS.

- 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

INSERT DATES	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 1" (or the most recent) Application for Extension of Time.	
	THIS IS THE FIRST REQUEST FOR AN EXTENSION OF TIME.	
10/1/____	"Extended To" date for complete application of water resulting from the 1" (or the most recent) Application for Extension of Time.	

INSERT DATES	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
	THIS IS THE FIRST EXTENSION OF TIME REQUEST.	
Total Cost to Date		

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WATER RESOURCES DEPT
SALEM, OREGON

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

4. Cost of project to date: _____ ESTIMATED TO BE \$10,500 (INCLUDES RESERVOIR COSTS).
(The total cost from CHART-C and CHART-D)

5. Provide the maximum rate, or duty if applicable, of water diverted for beneficial use under this permit and/or prior extensions of time, if any, 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 use totals.

Maximum rate = NONE cfs (cubic feet per second) or,

Maximum rate = _____ gpm (gallons per minute) or,

Acre Feet Stored = _____ AF

6. Provide the total number of acres irrigated to date under this permit.

Total acres irrigated to date: NONE SO FAR.

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)
YEAR 2007	DRILL WELL	
YEAR 2008	INSTALL PUMP, CONSTRUCT WELL HOUSE & PIPING	
YEARS 2008-9	BURY TRANSMISSION PIPELINES	
	* It is hard to estimate the costs, as we do not know how deep the well will be. We can take nowater above	
	500 feet. We are planning formulti-thousand dollar	
	costs.	
year 2010	Intend to apply water to full beneficial use under the terms and conditions of this permit.	
Total Cost		

* See attached letter for estimate dated 3/12/07 - by

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

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) 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.

THE DIFFICULTY OF MAKING THE RESERVOIR IMPROVEMENTS ALONG WITH DOING
THE WELL, HAS CAUSED DELAYS THAT WERE UN-EXPECTED.

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

We have financing secured to complete the project
over extension time period.

- 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.

OUR NURSERY HAS ALWAYS USED TED PULLIAM OF OLSEN-PULLIAM WELL
DRILLING AND PUMPS. WE HAVE REMAINED FAITHFUL THROUGH HIS BRAIN
SURGERY AND TREATMENT. HE WAS GETTING BETTER BUT THEN TOOK A
TURN FOR THE WORSE. IF HIS WIFE ADELE CONTINUES THE BUSINESS, WE
STICK WITH HER AS THEY HAVE BEEN BOTH FRIENDS & BUSINESS ASSOCIATES.

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

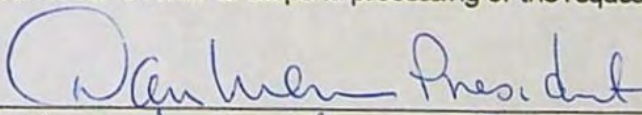
AS MENTIONED ABOVE, OUR WELL DRILLER GETTING A BRAIN TUMOR.

- [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.

IF ADELE DOESN'T CONTINUE ON WITH THE BUSINESS, WE WILL SELECT
ANOTHER WELL DRILLER AND COMPLETE THE PROJECT.

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

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 Hans Nelson and Sons Nursery Inc. Date 3-2-07

Oregon Water Resources Department
Water Rights Division

Water Rights Application
Number G-15710

Final Order

Application History

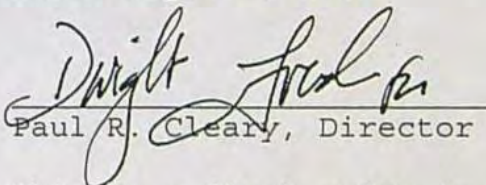
On February 15, 2002, DAN L NELSON FOR HANS NELSON AND SONS NURSERY, INC submitted an application to the Department for a water use permit. The Department issued a Proposed Final Order on February 25, 2003. The protest period closed April 11, 2003, and no protest was filed.

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

Order

Application G-15710 therefore is approved as proposed by the Proposed Final Order, and Permit G-15436 is issued as limited by the conditions proposed by the Proposed Final Order.

DATED May 29, 2003


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 Anita Huffman. 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 229.

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.

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WATER RESOURCES DEPT
SALEM, OREGON

Permit Extension Ground Water Review

Date: 3/8, 2007
To: Doug Woodcock, Ground Water Section Manager
From: Brook Geffen, Permit Extension Review
Subject: Ground Water Review for File G- 15710 / Permit G- 15436
(Date permit issued: May 29, 2003)

The above referenced permit is currently being reviewed for an extension of time. Before I can determine whether or not an extension of time should be granted, a Ground Water review for this file is necessary. Special designations affecting this permit are as follows:

NOTE: Original Division 9 review completed by: Donn Miller

- ☐ Located within a Ground Water Administrative Area (Critical, Limited, etc.)
- ☐ 5-Year Limited Permit
- ☐ Other:
- ☐ None (no special designations)

Donn Miller
4/26/07

For Ground Water / Hydrology Staff Use:

Please answer the following questions. If necessary, attach an additional sheet.

1. Does the ground water source under this permit have the potential for substantial interference with surface water? NA
[NOTE: Applies ONLY to Municipal permits issued before November 2, 1998 - see OAR 690-315-0080(1) & (2)]
2. Are there ground water supply concerns relevant to this extension of time that the Department should consider? No
[NOTE: Does NOT apply to Quasi- Municipal or Municipal permits issued before November 2, 1998 - see OAR 690-315-0080(5)]
3. Should the Department establish a new reference level for water level declines due to the failure of permittee to submit annual measurements? No. As I read the file, no wells have not been built.
4. Should any additional conditions be added to this permit? No
5. Other issues or concerns? No

Permit Condition Water Level Input

OWRD Logid Main aq Max depth Corr by LSD Elev Userid_lu Township Range S QQ Q
Well Info: CLAC 1279 Basin-Fill Sediments 435 KARL WOZNAK 740 28517 1.00 S/ 4.00 E- 35 NW NW
 Well Location 1300 FEET SOUTH AND 10 FEET EAST FROM NW CORNER SECTION 35

Owner:

Permits listing well:

Name JAMES F. KRUEGER
 Other Name KRUEGERS NURSERY
 Contact
 Address 10990 SE 362ND AVE
 City, St, Zip BORING OR 97009
 Phone, FAX (503) 663-6731
 Email
 Comments

trigger
 pc permit cert_nbr pod pod_l_id activated ref level
 G 12968 1

Logid	Source Org	SourceOWRD	Date	Time	MP Hght	Reprtd Wtr Lvl	Verified WL BLS	Export WL BLS	Method	Status
CLAC 1279	OWRD	WELL LOG	07/01/1987			280	280	280.00	REPORTED	UNKNOWN
CLAC 1279	OWRD	GWATER	04/13/1989				286.92	286.92	ETAPE	UNKNOWN
CLAC 1279	PUMP INSTALLER	PERMIT COND	05/15/1996			296.94		296.94	AIRLINE	STATIC
CLAC 1279	PUMP INSTALLER	PERMIT COND	03/25/1998			296.94		296.94	AIRLINE	STATIC
CLAC 1279	PUMP INSTALLER	PERMIT COND	04/03/1998			294.63		294.63	AIRLINE	STATIC
CLAC 1279	PUMP INSTALLER	PERMIT COND	03/26/1999			299.25		299.25	AIRLINE	STATIC
CLAC 1279	PUMP INSTALLER	PERMIT COND	03/13/2000			301.56		301.56	AIRLINE	STATIC
CLAC 1279	PUMP INSTALLER	PERMIT COND	03/16/2001			301.56		301.56	AIRLINE	STATIC
CLAC 1279	PUMP INSTALLER	PERMIT COND	03/21/2002			303.87		303.87	AIRLINE	STATIC
CLAC 1279	PUMP INSTALLER	PERMIT COND	03/14/2003			303.89		303.89	AIRLINE	STATIC
CLAC 1279	PUMP INSTALLER	PERMIT COND	03/12/2004			306.18		306.18	AIRLINE	STATIC
CLAC 1279	PUMP INSTALLER	PERMIT COND	03/24/2005			315.42		315.42	AIRLINE	STATIC
CLAC 1279	PUMP INSTALLER	PERMIT COND	03/14/2006			315.42		315.42	AIRLINE	STATIC
CLAC 1279	PUMP INSTALLER	PERMIT COND	03/20/2007			317.73		317.73	AIRLINE	STATIC

This nearby well is declining. Per the well construction requirement in permit G-15436, these wells (when constructed) will develop a deeper source (>500' bgl).

STATE OF OREGON
WATER WELL REPORT
(as required by ORS 537.785)

CLAC

01279

JUL 21 1987

15/4E-35

WATER RESOURCES DEPT.
SALEM, OREGON

(1) OWNER:

Name Krueger's Nursery & Landscaping
Address 38707 S.E. Lusted RD
City Boring State ore Zip _____

(2) TYPE OF WORK:

☒ New Well ☐ Deepen ☐ Recondition ☐ Abandon

(3) DRILL METHOD

☒ Rotary Air ☐ Rotary Mud ☐ Cable
☐ Other _____

(4) PROPOSED USE:

☒ Domestic ☐ Community ☐ Industrial ☒ Irrigation
☐ Thermal ☐ Injection ☐ Other _____

(5) BORE HOLE CONSTRUCTION:

Special Construction approval Yes No Depth of Completed Well 435 ft.
Explosives used ☐ Yes ☒ No Type _____ Amount _____

HOLE			SEAL			Amount sacks or pounds
Feet	From	To	Material	From	To	
14	0	65	cement	0	65	36 sacks
8	65	237				
77/8	237	427				
6	427	435				

How was seal placed: Method ☐ A ☐ B ☒ C ☐ D ☐ E
☐ Other _____

Backfill placed from _____ ft. to _____ ft. Material _____
Gravel placed from 237 ft. to 427 ft. Size of gravel 3/8 pea

(6) CASING/LINER:

	Diameter	From	To	Gauge	Steel	Plastic	Welded	Threaded
Casing:	8	1	237	250	☒	☐	☒	☐
					☐	☐	☐	☐
					☐	☐	☐	☐
					☐	☐	☐	☐
Liner:	6	187	427	250	☒	☐	☒	☐
					☐	☐	☐	☐

Location of shoe(s) 237

(7) PERFORATIONS/SCREENS:

☒ Perforations Method torch
☐ Screens Type _____ Material _____

From	To	Slot size	Number	Diameter	Tele/pipe size	Casing	Liner
327	427	3/6	800			☐	☒
						☐	☐
						☐	☐
						☐	☐
						☐	☐

(8) WELL TESTS: Minimum testing time is 1 hour

Yield gal/min	Drawdown	Drill stem at	Time
138		420	1 hr.
89		380	1 hr.
50		340	1 hr.

Temperature of water _____ Depth Artesian Flow Found _____

Was a water analysis done? ☐ Yes By whom _____

Did any strata contain water not suitable for intended use? ☐ Too little

☐ Salty ☐ Muddy ☐ Odor ☐ Colored ☐ Other _____

Depth of strata: _____

(9) LOCATION OF WELL by legal description:

County Clack Latitude _____ Longitude _____
Township 1S N or S, Range 4E E or W, WM.
Section 35 1/4 _____ 1/4 _____
Tax Lot _____ Lot _____ Block _____ Subdivision _____
Street Address of Well (or nearest address) 10990 SE. 362nd
Boring ore 97009

(10) STATIC WATER LEVEL:

280 ft. below land surface. Date 7-1-87
Artesian pressure _____ lb. per square inch. Date _____

(11) WATER BEARING ZONES:

Depth at which water was first found _____

From	To	Estimated Flow Rate	SWL
50	52	50	35
310	435	138	280

(12) WELL LOG:

Ground elevation _____

Material	From	To	SWL
top soil	0	3	
brown clay	3	16	
red clay	16	29	
red clay and sand	29	51	35
cement gravel & large bould	51	165	
gravel and ribs of rock	165	185	
yellow clay & gravel	185	190	
gray sandstone	190	210	
hard black basalts	210	275	
black basalts yellow clay	275	280	
cement gravel yellow clay	280	290	
fine black cement gravel	290	310	
small cement gravel	310	350	280
fine black sandstone	350	370	280
black sandstone & gravel	370	410	280
coarse sandstone med gravel	410	425	280
cement gravel	425	435	280

Recommended pump setting at 357 ft
at not more than 130 gpm

Date started 6-23-87 Completed 7-2-87

(unbonded) Water Well Constructor Certification:

I certify that the work I performed on the construction, alteration, or abandonment of this well is in compliance with Oregon well construction standards. Materials used and information reported above are true to my best knowledge and belief.

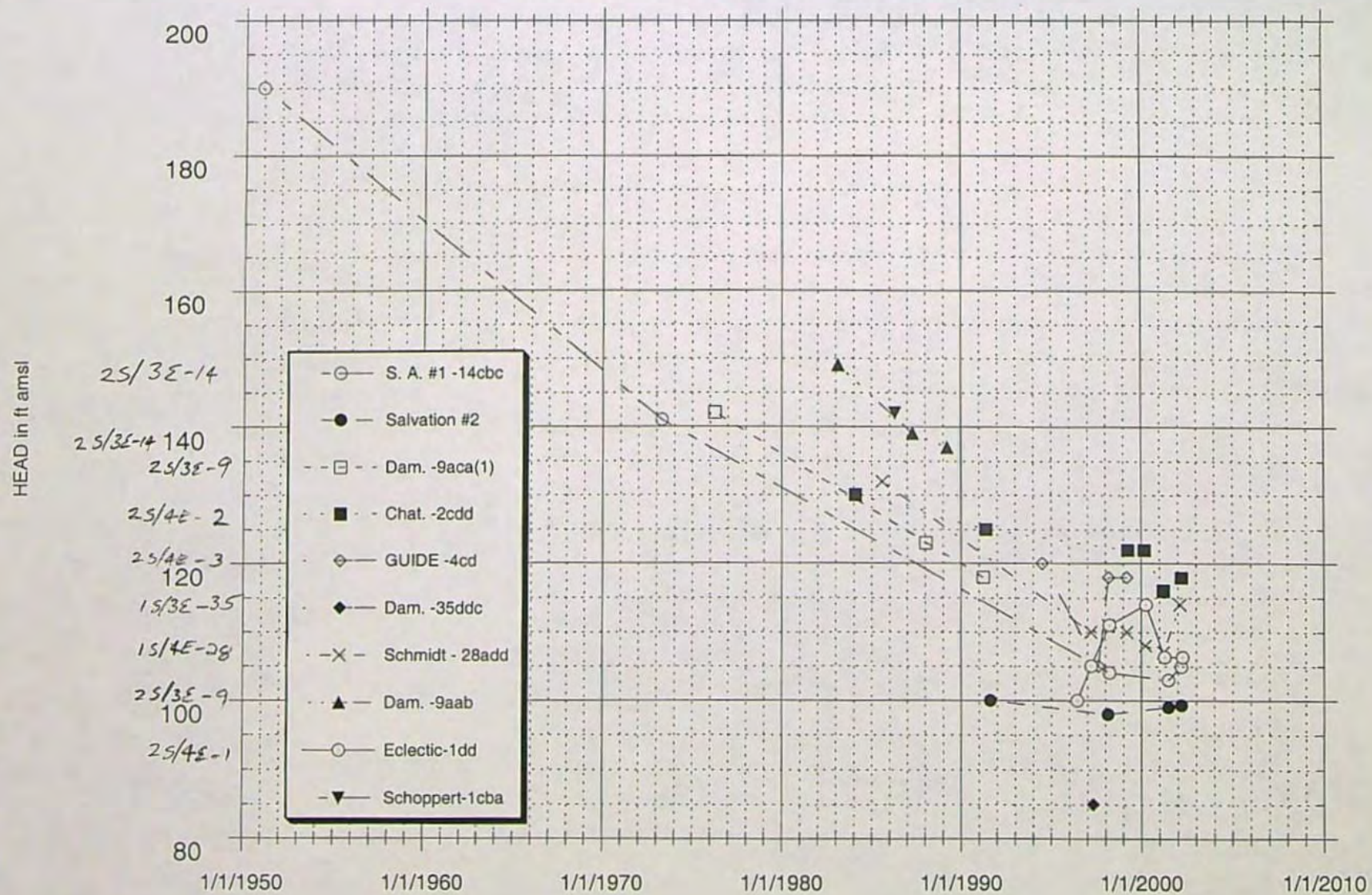
Signed _____ WWC Number _____
Date _____

(bonded) Water Well Constructor Certification:

I accept responsibility for the construction, alteration, or abandonment work performed on this well during the construction dates reported above. All work performed during this time is in compliance with Oregon well construction standards. This report is true to the best of my knowledge and belief.

Signed [Signature] WWC Number 676
Date 7-7-87

SANDY/BORING DEEP BASALT WELLS



most of this
data is airline

TO: Water Rights Section

March 13, 2002

FROM: Groundwater/Hydrology Section

Reviewer's Name

SUBJECT: Application G-15710

GROUNDWATER/SURFACE WATER CONSIDERATIONS

1. PER THE Sandy Basin rules, one or more of the proposed POA's is is not within 1/4 feet/mile of a surface water source () and taps a groundwater source hydraulically connected to the surface water.
2. BASED UPON OAR 690-09 currently in effect, I have determined that the proposed groundwater use
- a. ☐ will, or have the potential for substantial interference with the nearest
 - b. ☐ will not surface water source, namely ; or
 - c. ☒ will if properly conditioned, adequately protect the surface water from interference:
 - i. ☒ The permit should contain condition #(s) 7 F;
 - ii. ☐ The permit should contain special condition(s) as indicated in "Remarks" below;
 - iii. ☒ The permit should be conditioned as indicated in item 4 below; or
 - d. ☐ will, with well reconstruction, adequately protect the surface from substantial interference.

GROUNDWATER AVAILABILITY CONSIDERATIONS

3. BASED UPON available data, I have determined that groundwater for the proposed use
- a. ☐ will, or likely be available in the amounts requested without injury to prior rights
 - b. ☐ will not and/or within the capacity of the resource; or
 - c. ☒ will if properly conditioned, avoid injury to existing rights or to the groundwater resource:
 - i. ☒ The permit should contain condition #(s) 7 G;
 - ii. ☒ The permit should contain special condition(s) as indicated in "Remarks" below;
 - iii. ☐ The permit should be conditioned as indicated in item 4 below; or
4. a. ☐ THE PERMIT should allow groundwater production from no deeper than _____ ft. below land surface;
- b. ☒ The permit should allow groundwater production from no shallower than 500 ft. below land surface;
- c. ☐ The permit should allow groundwater production only from the _____ groundwater reservoir between approximately _____ ft. and _____ ft. below land surface;
- d. ☐ Well reconstruction is necessary to accomplish one or more of the above conditions.
- e. ☐ One or more POA's commingle 2 or more sources of water. The applicant must select one source of water per POA and specify the proportion of water to be produced from each source.

REMARKS:

See Attached Sheet

(Well Construction Considerations on Reverse Side)

WELL CONSTRUCTION (If more than one well doesn't meet standards, attach an additional sheet.)

5. THE WELL which is the point of appropriation for this application does not meet current well construction standards based upon:

- a. review of the well log;
- b. field inspection by _____;
- c. report of CWRE _____;
- d. other: (specify) _____

6. THE WELL construction deficiency:

- a. constitutes a health threat under Division 200 rules;
- b. commingles water from more than one groundwater reservoir;
- c. permits the loss of artesian head;
- d. permits the de-watering of one or more groundwater reservoirs;
- e. other: (specify) _____

7. THE WELL construction deficiency is described as follows: _____

8. THE WELL a. was, or constructed according to the standards in effect at the time of
b. was not original construction or most recent modification.
c. I don't know if it met standards at the time of construction.

RECOMMENDATION:

A. I recommend including the following condition in the permit:

"No water may be appropriated under terms of this permit until the well(s) has been repaired to conform to current well construction standards and proof of such repair is filed with the Enforcement Section of the Water Resources Department."

B. I recommend withholding issuance of the permit until evidence of well reconstruction is filed with the Enforcement Section of the Water Resources Department.

C. REFER this review to Enforcement Section for concurrence.

THIS SECTION TO BE COMPLETED BY ENFORCEMENT PERSONNEL

I concur in G/H's recommendation A or B above relating to conditioning or withholding the permit

_____, 199____
(Signature)

I do not concur in G/H's recommendation A or B above relating to conditioning or withholding the permit for the following reasons: _____

_____, 199____
(Signature)

WATER RESOURCES DEPARTMENT MEMORANDUM

TO: Ground Water/Hydrology
 FROM: Doug Woodcock *Down Miller*
 SUBJECT: Groundwater Application G- *15710*

Date *3/12/02*

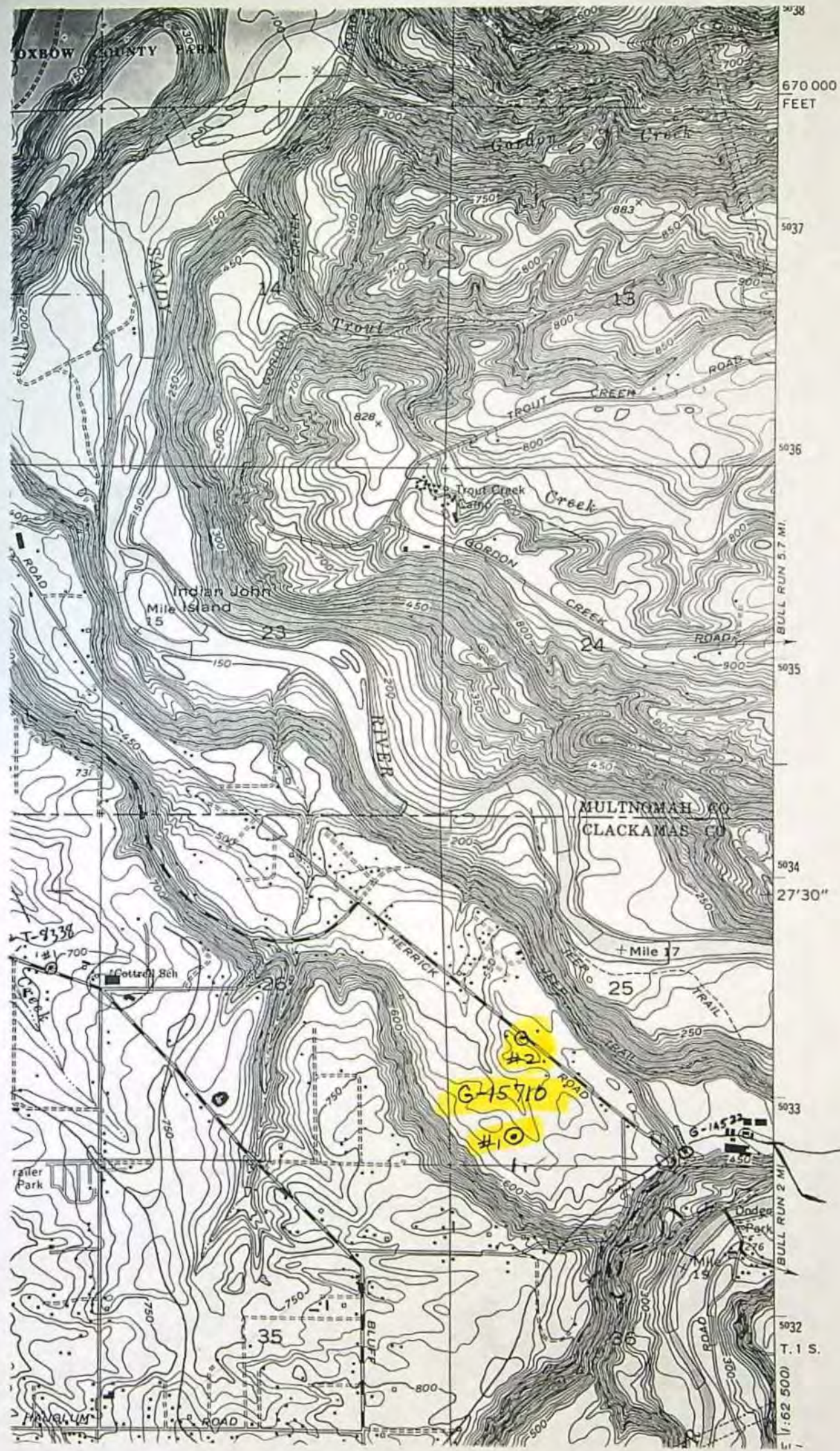
Applicant(s) seek _____ gpm (*0.892* cfs) from *Two* wells in the *Sandy* basin
 Applicants Name: *Hans Nelson and Sons Nursery* sub basin
 Proposed Use: *Nursery* sub basin

Well *#1* WRD# *TO BE BUILT* T *15* R *40* S *25* QQ *CC* County *Clack.*
 Legal Description *400' N + 960' E from SW corner Sec 25*
 Well is *3000* ft from *Sandy R.* (river/stream)
 Well is *3000* ft from _____ (river/stream)
 Well Elevation *575* ft River/Stream elevation *250* ft.
 Well Elevation - River/Stream elevation *325* ft.
 Well depth *900-1000* ft SWL *XX* ft on _____
 Sealed to *18'* ft Est Depth first water found *800-1000* ft
 Cased to *?* ft Perforations/screens _____ ft
 Lined to *?* ft Perforations/screens _____ ft
 Well test and types _____
 (Confined/Semi-confined/Unconfined) Direct hydraulic connection? *YES / NO*
 Potential to cause substantial interference? _____

Well *#2* WRD# *TO BE BUILT* T *15* R *40* S *25* QQ *CB* County *Clack.*
 Legal Description *1930' N + 1100' E from SW corner Sec 25*
 Well is *1800* ft from *Sandy R.* (river/stream)
 Well is _____ ft from _____ (river/stream)
 Well Elevation *580* ft River/Stream elevation *190* ft.
 Well Elevation - River/Stream elevation *390* ft.
 Well depth *900-1000* ft SWL *XX* ft on _____
 Sealed to *18'* ft Est Depth first water found *800-1000* ft
 Cased to *?* ft Perforations/screens _____ ft
 Lined to *?* ft Perforations/screens _____ ft
 Well test and types _____
 (Confined/Semi-confined/Unconfined) Direct hydraulic connection? *YES / NO*
 Potential to cause substantial interference? _____

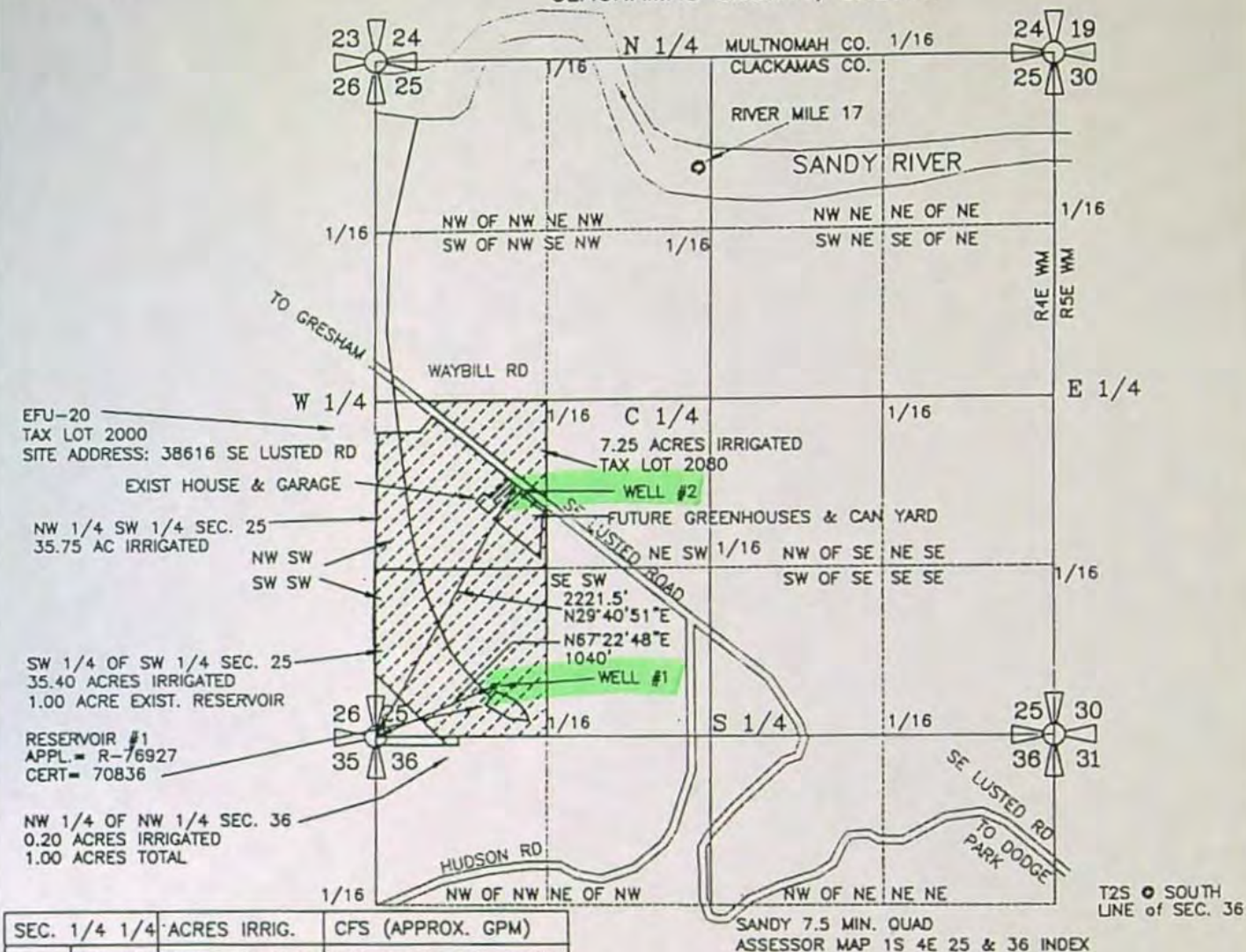
Comments: *OFB says that top of older rocks (CRB) is ~150' msl at these locations. Top of Cb 2 is ~400' msl + is 400-700' thick. Top of Troutdale Sst aquifer is ~475' msl 0-199' thick. Top of Troutdale Grand aquifer is at land surface is 0-199' thick. Spoke to Ted Pullian, duillen, on 3/13/02. He said that the wells will NOT develop deep Troutdale but deep rock source (CRB?) below 500'. The deep rock source has heads less than 150' msl per the experience at the Shrubbs, Clatskanie, Electric, Guide Dog & Salvation Army wells and more.*
 References Used: *USGS WRI 90-4196 USGS OFB 90-126*
USGS WSP 2470-A

There are decline concerns in this source (WQ too). There is an explorative element here.



CORPORATE
BOUNDARY LINE
DONATION LAND
CLAIM (DLC #)

W 1/2 of the SW 1/4 of SECTION 25
NW 1/4 of the NW 1/4 of SECTION 36
T1S, R4E of the WM
CLACKAMAS COUNTY, OREGON



Renewal 12/31/2003

Signed *Edward A. Crane*

SURVEYED FEB. 6, 2002
BY EDWARD A. CRANE, CWRE

K:\CAD\347-003\34700301.DWG EAC 2/08/2002



WELL #1 (NEW) IS LOCATED 400 FEET NORTH & 960 FEET EAST FROM THE SOUTHWEST CORNER OF SECTION 25, TOWNSHIP 1 SOUTH RANGE 4 EAST of the WM, CLACKAMAS COUNTY, OREGON

WELL #2 (NEW) IS LOCATED 1930 FEET NORTH AND 1100 FEET EAST OF THE SOUTHWEST CORNER OF SECTION 25, TOWNSHIP 1 SOUTH RANGE 4 EAST of the WM, CLACKAMAS COUNTY, OREGON

PREPARATION OF THIS MAP WAS FOR THE PURPOSE OF IDENTIFYING THE LOCATION OF THE WATER RIGHTS ONLY AND HAS NO INTENT TO PROVIDE DIMENSIONS OR LOCATION OF PROPERTY OWNERSHIP LINES.

APPLICATION FOR A PERMIT
GROUND WATER PERMIT G-

PREPARED BY EDWARD A. CRANE, CWRE

DATE

FEB. 2002

PROJECT NO.

347-003



CRANE & WERSETH
Engineering/Surveying

SUITE "D"
6566 SE LAKE ROAD
MILWAUKIE, OREGON 97222

BUS: (503) 654-2005
FAX: (503) 654-2575

APPLICATION FOR PERMIT NUMBER G-

PERMIT NUMBER G- IN THE NAME OF:

DAN NELSON dba HANS NELSON
& SONS NURSERY, INC. TEL: 503-663-3348
31020 SE WAYBILL RD., BORING, OR 97009

SHEET

1/1

PERMITTED WELLS WITHIN 1 MILE OF APPLICATION G 15710

\$RECNO	APPLICATION	PERMIT	LOC-QQ	USE	RATE	DIV-UNITS
1	G	13293	G 11911	1.00S 4.00E26SESW IR	0.0230	C
1	G	13293	G 11911	1.00S 4.00E26SESW IR	0.7800	C
1	G	13293	G 11911	1.00S 4.00E26SESW NU	0.0230	C
1	G	13293	G 11911	1.00S 4.00E26SESW NU	0.7800	C
2	GR	2131	GR 3849	1.00S 4.00E25SESW IR	35.0000	G
3	G	6169	G 5247	1.00S 4.00E35NWNW DI	0.2000	C
4	G	11957	G 11066	1.00S 4.00E35SESW NU	0.9300	C
4	G	12505	G 12505	1.00S 4.00E35SESW AG	0.2200	C
4	G	12505	G 12505	1.00S 4.00E35SESW AG	0.6000	C
4	G	12505	G 12505	1.00S 4.00E35SESW IS	0.2200	C
4	G	12505	G 12505	1.00S 4.00E35SESW IS	0.6000	C
5	G	11957	G 11066	1.00S 4.00E35SWNE NU	0.3100	C
5	G	12505	G 12505	1.00S 4.00E35SWNE AG	0.3100	C
5	G	12505	G 12505	1.00S 4.00E35SWNE IS	0.3100	C
6	G	12505	G 12505	1.00S 4.00E35NESW AG	0.2500	C
6	G	12505	G 12505	1.00S 4.00E35NESW IS	0.2500	C
7	G	13751	G 12426	1.00S 4.00E35NESE CM	0.0300	C
7	G	13751	G 12426	1.00S 4.00E35NESE CM	0.1400	C
7	G	13751	G 12426	1.00S 4.00E35NESE IR	0.0300	C
7	G	13751	G 12426	1.00S 4.00E35NESE IR	0.1400	C

CONDITIONED WELLS WITHIN 5 MILES OF APPLICATION G 15710

\$RECNO	APPLICATION	PERMIT	LOC-QQ	CONDITION-CODE
1	G	12635	G 11445	1.00S 4.00E16NESE 4G
2	G	12863	G 12008	1.00S 4.00E18SWSE 4KG
2	GR	95	GR 91	1.00S 4.00E18SWSE
3	G	13150	G 12014	1.00S 4.00E17SWSW 4IG
3	G	13150	G 12014	1.00S 4.00E17SWSW 4IR
3	G	13150	G 12014	1.00S 4.00E17SWSW 4KG
3	G	13172	G 12015	1.00S 4.00E17SWSW 4IG
3	G	13172	G 12015	1.00S 4.00E17SWSW 4IR
4	G	12403	G 11397	1.00S 4.00E17SWSE 4G
5	G	12791	G 11663	1.00S 4.00E19SESW 4GG
5	G	12791	G 11663	1.00S 4.00E19SESW 4GG
6	G	13276	G 11981	1.00S 4.00E29SWNE 4IG
6	G	13276	G 11981	1.00S 4.00E29SWNE 4IR
6	G	13276	G 11981	1.00S 4.00E29SWNE 4IG
6	G	13276	G 11981	1.00S 4.00E29SWNE 4IR
7	G	13935	G 12682	1.00S 4.00E30NWSW 7BG
7	G	13935	G 12682	1.00S 4.00E30NWSW 7BR
7	G	13935	G 12682	1.00S 4.00E30NWSW 7HG
7	G	13935	G 12682	1.00S 4.00E30NWSW 7HR
7	G	13935	G 12682	1.00S 4.00E30NWSW 7BG
7	G	13935	G 12682	1.00S 4.00E30NWSW 7BR
7	G	13935	G 12682	1.00S 4.00E30NWSW 7HG
7	G	13935	G 12682	1.00S 4.00E30NWSW 7HR
7	GR	865	GR 838	1.00S 4.00E30NWSW
8	G	13938	G 12707	1.00S 4.00E31NWNW 7BG
8	G	13938	G 12707	1.00S 4.00E31NWNW 7BR
8	G	13938	G 12707	1.00S 4.00E31NWNW 7HG
8	G	13938	G 12707	1.00S 4.00E31NWNW 7HR
8	G	13938	G 12707	1.00S 4.00E31NWNW 7BG
8	G	13938	G 12707	1.00S 4.00E31NWNW 7BR
8	G	13938	G 12707	1.00S 4.00E31NWNW 7HG
8	G	13938	G 12707	1.00S 4.00E31NWNW 7HR
9	G	12505	G 12505	1.00S 4.00E35NESW 7GG
9	G	12505	G 12505	1.00S 4.00E35NESW 7GR
9	G	12505	G 12505	1.00S 4.00E35NESW 7JG
9	G	12505	G 12505	1.00S 4.00E35NESW 7JR
9	G	12505	G 12505	1.00S 4.00E35NESW 7GG
9	G	12505	G 12505	1.00S 4.00E35NESW 7GR
9	G	12505	G 12505	1.00S 4.00E35NESW 7JG
9	G	12505	G 12505	1.00S 4.00E35NESW 7JR

APPLICATION G 15710 FALLS WITHIN THESE QUAD(S)

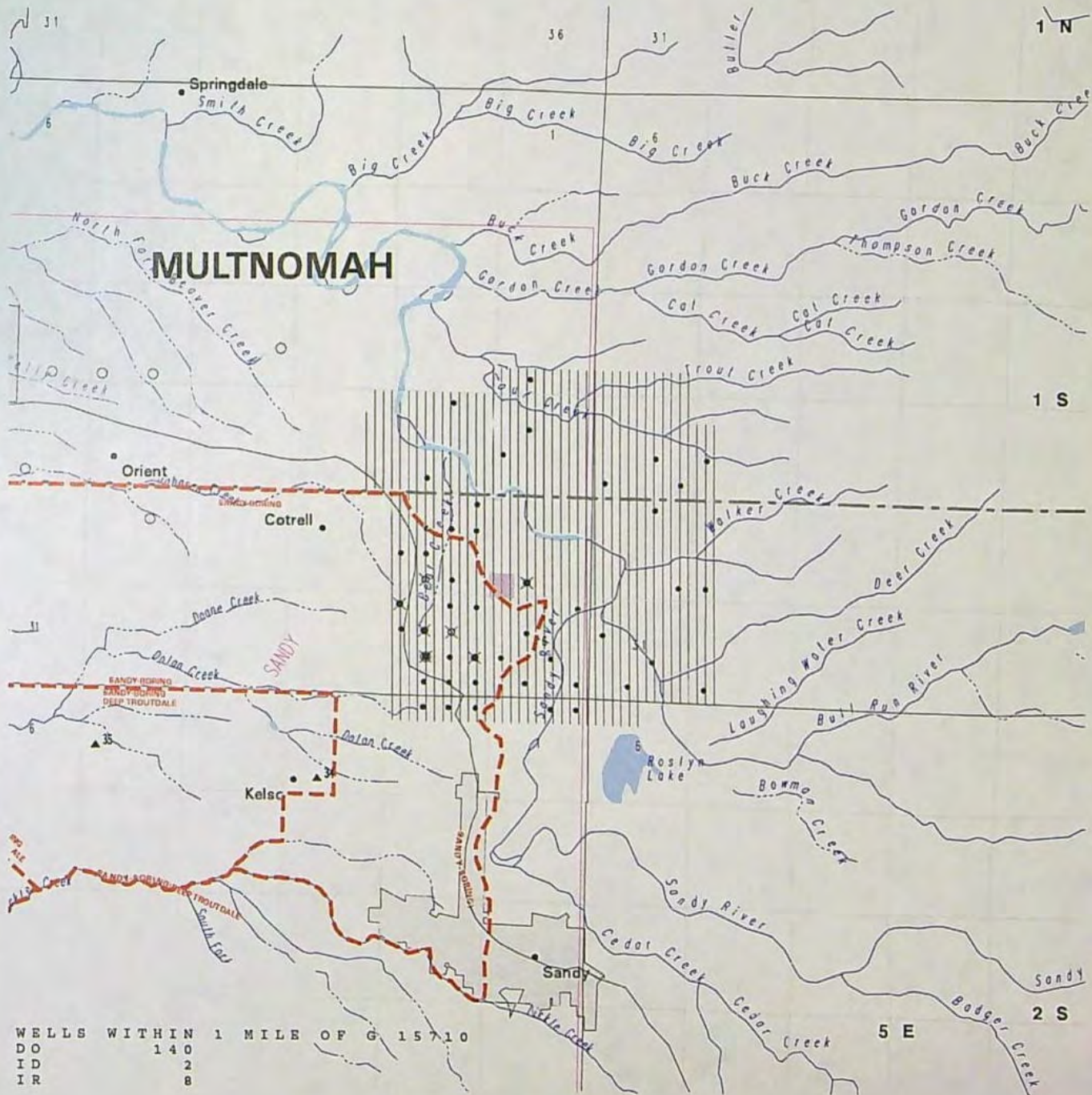
SANDY

The following OWRD Groundwater Management Areas are within the map extent:

\$RECNO	NAME1	NAME2	SUB-AREA	STATUS
1	SANDY-BORING			LIMI
2	SANDY-BORING	DEEP TROUTDALE		LIMI
3	SANDY-BORING			LIMI

Wells in the vicinity of application G 15710

- Application well(s) in this 1/4-1/4 section
- Well(s) identified in this section from OWRD's well log database within 1 mi. radius of application well(s)
- Well(s) identified in this 1/4-1/4 section from OWRD's well log database within 1 mi. radius of application well(s)
- Permitted well(s) in this 1/4-1/4 section within 1 mi. radius of application well(s)
- Conditioned, permitted well(s) in this 1/4-1/4 section within 5 mi. radius of application well(s)
- OWRD Observation well and well-id within 5 mi. radius of application well(s)
- Critical GW Area
- Regulated GW Area



Mailing List for FO Copies

Application #G-15710

Mailing List Print Date: May 15, 2003

Original mailed to(when permit issued, include copy of permit map):

Applicant: DAN L NELSON, HANS NELSON & SONS NURSERY,
INC., 31020 SE WAYBILL RD, BORING, OR 97009-9427

Copies Mailed	
By: <u>[Signature]</u>	(SUPPORT STAFF)
on: <u>6/1/03</u>	(DATE)

For FO w/Permit - Copies sent to:

1. WRD - File # G-15710
2. WRD - Ken Stahr
3. WRD - NW REGION WELL INSPECTOR

For FO w/ Permit - FO w Permit and Map Copies sent to (Remember to reduce copy margins):

3. WRD - Data Center
4. WRD - Watermaster District #: 20
5. WRD - Regional Manager: NWR

For FO w/Draft Permit, w/Permit, or for Denial - Copies to Other Interested Persons (*CWRE, Agent, Well Driller, Commenter, etc.*)

1. EDWARD CRANE, CWRE # 156 _____
2. _____
3. _____

For FO w/Draft Permit or w/Permit - "\$10 LETTER" sent to Interested Persons who have not protested or paid for copies

1. _____
2. _____

CASEWORKER: AMH

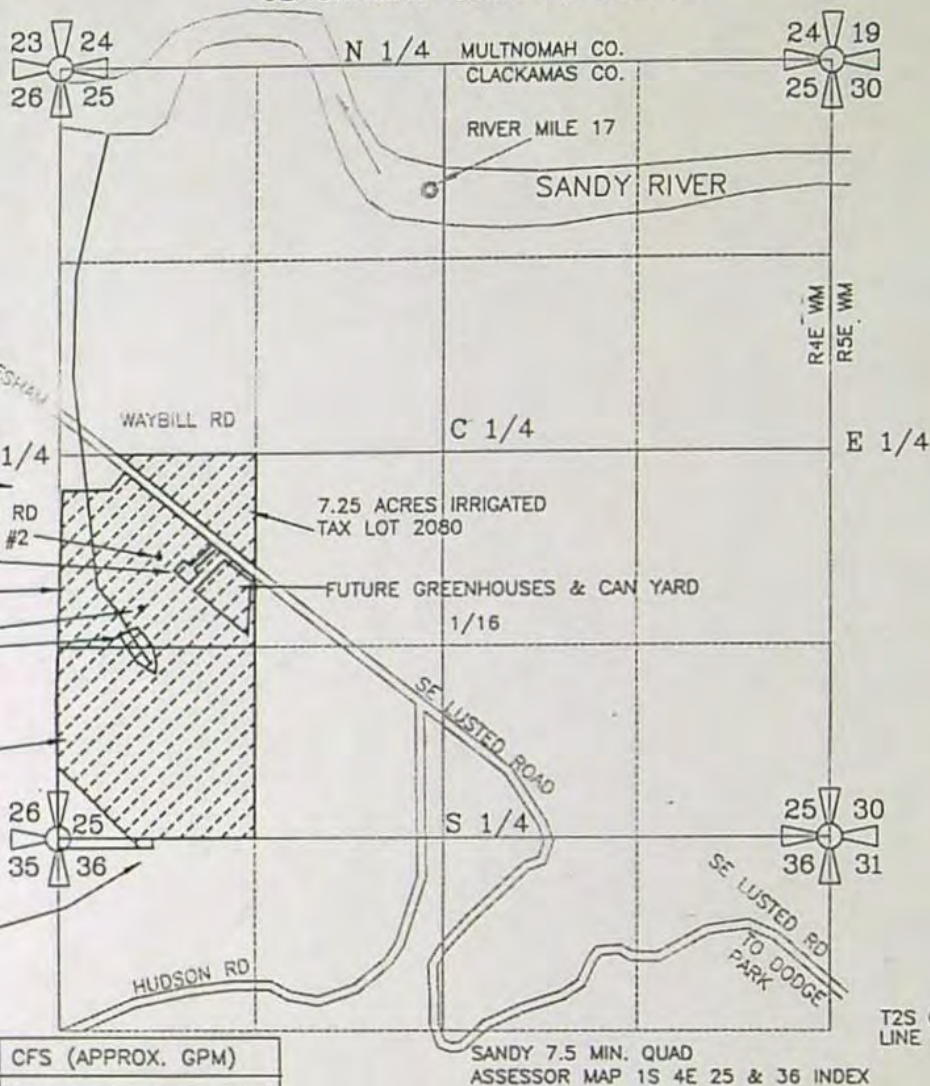
REMINDER TO CASEWORKER:

If this application has a fish screening requirement, include a copy of the ODFW fish screen requirement sheet at
s:\groups\wr\Resource Center -
permits\forms\general\fishscreencriteria.wpd

SUPERCEDING

CORPORATE
BOUNDARY LINE
DONATION LAND
CLAIM (DLC #)

W 1/2 of the SW 1/4 of SECTION 25
NW 1/4 of the NW 1/4 of SECTION 36
T1S, R4E of the WM
CLACKAMAS COUNTY, OREGON



EFU-20
TAX LOT 2000
SITE ADDRESS: 38616 SE LUSTED RD
EXIST HOUSE & GARAGE
NW 1/4 SW 1/4 SEC. 25
35.75 AC IRRIGATED
WELL #1
RESERVOIR #1
APPL. = R-76927
CERT. = 70836

SW 1/4 OF SW 1/4 SEC. 25
35.40 ACRES IRRIGATED
1.00 ACRE EXIST. RESERVOIR

NW 1/4 OF NW 1/4 SEC. 36
0.20 ACRES IRRIGATED
1.00 ACRES TOTAL

SEC. 1/4 1/4	ACRES IRRIG.	CFS (APPROX. GPM)
25 NW SW	35.75 AC IRRIG	0.4469 CFS (200 GPM)
25 SW SW	35.40 AC IRRIG	0.4425 CFS (199 GPM)
36 NW NW	0.20 AC IRRIG	0.0025 CFS (1.12 GPM)
TOTAL IRRIG.	71.35 ACRES	0.892 CFS (400 GPM)

WELL #1 (NEW) IS LOCATED 1590 FEET NORTH & 580 FEET EAST FROM THE SOUTHWEST CORNER OF SECTION 25, TOWNSHIP 1 SOUTH RANGE 4 EAST of the WM, CLACKAMAS COUNTY, OREGON

WELL #2 (NEW) IS LOCATED 1940 FEET NORTH AND 700 FEET EAST OF THE SOUTHWEST CORNER OF SECTION 25, TOWNSHIP 1 SOUTH RANGE 4 EAST of the WM, CLACKAMAS COUNTY, OREGON

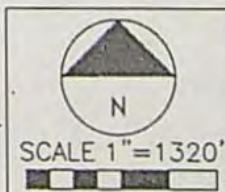
PREPARATION OF THIS MAP WAS FOR THE PURPOSE OF IDENTIFYING THE LOCATION OF THE WATER RIGHTS ONLY AND HAS NO INTENT TO PROVIDE DIMENSIONS OR LOCATION OF PROPERTY OWNERSHIP LINES.

APPLICATION FOR A PERMIT GROUND WATER PERMIT G-

PREPARED BY EDWARD A. CRANE, CWRE

Certified Water Right Examiner
#156
Edward A. Crane
Edward A. Crane
May 17, 1988
STATE OF OREGON
Renewal 12/31/2003
Signed *12.13.2007*

SURVEYED FEB. 6, 2002
BY EDWARD A. CRANE, CWRE



DATE
FEB. 2002
DEC. 2002
PROJECT NO.
347-003



CRANE & MERSETH
Engineering/Surveying
SUITE "D"
6566 SE LAKE ROAD
MILWAUKIE, OREGON 97222
BUS: (503) 654-2005
FAX: (503) 654-2575

APPLICATION FOR PERMIT NUMBER G-15436
PERMIT NUMBER G-15716 IN THE NAME OF:
DAN NELSON dba HANS NELSON
& SONS NURSERY, INC. TEL: 503-663-3348
31020 SE WAYBILL RD., BORING, OR 97009

SHEET
1/1

6-15436

FO CHECKLIST

FILE # G15710
 PFO WEEK # 396
 FO WEEK # 376

PFO TO FO CONVERSION

REVIEW DATE: 5/15/03
 INITIALS: AW
 WM District 20
 Region Mgr NWR
 ODFW Bio _____

Applicant Name and Mailing (if assignment or changes to address make sure to list new information)

Address: Hans Nelson & Sons

In preparing to create the FO, you should check the following:

1. Y / ☒ N Were comments received? If so, **from whom** and **when**? _____

Respond to significant comments, issues, or disputes related to the proposed use of water (see notes, if any, listed above)

2. ☒ On the PFO CC list, verify names and mailing addresses of **ALL** commentors (regardless of comment date, **affected landowners**, and **those who paid the \$10 fee**.)

Ed Crane #156

3. Y / N / ☒ NA Have affected land owners been notified? If not, refer to #9.

4. Y / N / ☒ NA Has ODFW asked for self certification of screening condition?
 If so, write "ODFW CERT" in the permit block on the front of the file.

5. Y / ☒ N Do the PFO conclusions require modification? Why? _____

6. ☒ Correct PFO errors (such as POD or POU location (verify from map)

7. ☒ Include or exclude permit conditions.

8. ☒ Verify Payment of recording fees (*circle the appropriate option*)

(1) Issue FO w/permit if fees are paid — Prepare refund request for excess fees, **including standing fees if no protest is filed and no modifications are being made to the PFO.**

(2) Issue FO w/o permit if fees are lacking.

1st CFS/AF 150
 Addnl. _____
 TOTAL Q 150

Exam Fee Paid	<u>2150</u>
Q fee	<u>150</u>
Subtotal	<u>400</u>
Recording Fee	<u>175</u>
Total	<u>575</u>
Amount Paid	<u>575</u>
Amount due/refund	<u>0</u>

9. ☒ Y / N Is further processing possible? If not state reason: _____

FO Type: (circle types) DENIAL

FO w/o PERMIT (REASON: Lacks Fees Lacks Easement
Lacks Approved Dam Plans and Specifications)

FO & PERMIT (Permit # 6 15236)

Once FO document is completed:

10. ☒ Save WordPerfect document in M:\GROUPS\WR\FO\WEEK 376.
11. ☐ Print final draft of document and submit for peer review
12. Complete routing list

The purpose of this checklist is to be used as a working document by Department staff to aid in the production of the related Initial Review, Proposed Final Order, or Final Order. It is not intended to be a complete record of all factors which were considered to produce the document, nor is it intended to serve any purpose other than that stated above.

The related Initial Review, Proposed Final Order, or Final Order is intended to stand alone as the record of factors considered in its production

Mailing List for PFO Copies

Application #G-15710

PFO Date February 25, 2003

Original mailed to:

Applicant: DAN L. NELSON FOR HANS NELSON AND SONS NURSERY INC, 31020 SE WAYBILL RD, BORING, OREGON 97009-9427

Copies sent to:

- 1. WRD - File # G-15710
- 2. Water Availability: Ken Stahr
- 3. Regional Well Inspector: NWR

PFO and Map Copies sent to:

- 4. WRD - Watermaster # 20
- 5. Regional Manager: NWR
- 6. Oregon State Parks

Copies sent to Other Interested Persons (*CWRE, Agent, Well Driller, Commenter, etc.*)

- 7. Edward Crane, CWRE; Crane & Merseth 6566 SE Lake Rd, STE D, Milwaukie, OR 97222

#156

"\$10 LETTER" sent to Interested Persons who have not protested or paid for copies

CASEWORKER: Huffmaam- WEEK 396

Copies Mailed

By: TCB
(SUPPORT STAFF)

on: 2/25/03
(DATE)

Oregon Water Resources Department
Water Rights Division

Water Rights Application
Number G-15710

Proposed Final Order

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

Application History

On FEBRUARY 15, 2002, DAN L. NELSON FOR HANS NELSON AND SONS NURSERY, INC submitted an application to the Department for the following water use permit:

- Amount of Water: 0.89 CUBIC FOOT PER SECOND (CFS)
- Use of Water: NURSERY USE ON 71.35 ACRES
- Source of Water: TWO WELLS IN SANDY RIVER BASIN
- Area of Proposed Use: CLACKAMAS County within SECTION 25 and SECTION 36, TOWNSHIP 1 SOUTH, RANGE 4 EAST, W.M.

On August 2, 2002, the Department mailed the applicant notice of its Initial Review, determining that "The use of 0.89 CUBIC FOOT PER SECOND from TWO WELLS IN SANDY RIVER BASIN for NURSERY USE ON 71.35 ACRES is allowable year-round." The applicant did not notify the Department to stop processing the application within 14 days of that date.

On August 7, 2002, the applicant requested the Department remove the reference to 7.25 ACRES in the NW 1/4 SW 1/4, Section 25, Township 1S, Range 4E, W.M. In addition, the applicant notified the Department that the location of the wells would change and a new location would be identified.

On August 20, 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.

On December 17, 2002, the applicant submitted a map depicting the new location of the wells. The well locations are now identified as:

WELL #1 NW 1/4 NW 1/4, 1590 FEET NORTH & 580 FEET EAST FROM THE SW CORNER SECTION 25; TOWNSHIP 1 SOUTH, RANGE 4 EAST, W.M.

WELL #2 NW 1/4 NW 1/4, 1940 FEET NORTH AND 700 FEET EAST FROM THE SW CORNER, SECTION 25; TOWNSHIP 1 SOUTH, RANGE 4 EAST, W.M.

A second groundwater review was completed January 21, 2003. No significant changes were identified.

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
- designations of any critical groundwater areas
- the Scenic Waterway requirements of ORS 390.835
- applicable statutes, administrative rules, and case law
- any general basin-wide standard for flow rate and duty of water allowed
- the need for a flow rate and duty higher than the general standard
- any comments received

Findings of Fact

The Sandy Basin Program allows NURSERY USE (IRRIGATION).

TWO WELLS IN SANDY RIVER BASIN are above the Sandy River State Scenic Waterway.

The Groundwater Section finds, per OAR 390.835(9), there is not a preponderance of evidence that the proposed use of groundwater will measurably reduce the surface water flows necessary to maintain the free-flowing character of a scenic waterway in quantities necessary for recreation, fish and wildlife.

The Department determined, based upon OAR 690-09, that the proposed groundwater use will, if properly conditioned, adequately protect the surface water from interference.

An assessment of groundwater availability has been completed by the Department's Groundwater/Hydrology section. A copy of this assessment is

in the file. The proposed use of groundwater will, if properly conditioned, avoid injury to existing rights and the resource.

The Department finds that the amount of water requested, 0.89 CFS, is an acceptable amount.

The proposed well is not within a designated critical ground water area.

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 Sandy 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.

No proposed flow rate and duty of water higher than the general basin-wide standard is needed.

For these reasons, the required presumption has been established.

Under the provisions of ORS 537.621, once the presumption has been established, 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 would not ensure the preservation of the public welfare, safety and health as demonstrated in comments, in a protest . . . or in a finding of the department that shows:
 - (A) The specific aspect of the public welfare, safety and

- health under ORS 537.525 that would be impaired or detrimentally affected; and
- (B) Specifically how the identified aspect of the public welfare, safety and health under ORS 537.525 would be impaired or be adversely affected.

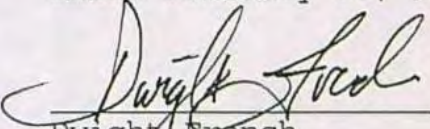
In this application, all criteria for establishing the presumption have been satisfied, as noted above. The presumption has not been overcome by a preponderance of evidence that the proposed use would impair or be detrimental to the public interest.

The Department therefore concludes that water is available in the amount necessary for the proposed use; the proposed use will not result in injury to existing water rights; and the proposed use would ensure the preservation of the public welfare, safety and health as described in ORS 537.525.

Recommendation

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

DATED February 25, 2003



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 537.621(6), 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 **April 11, 2003**.

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 Anita Huffman. 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 229.

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
Fax: (503)378-6203

Huffmaam- WEEK 396

PFO CHECKLIST

Application #: G 15710

Basin: 3-Sandy WID:
County CLACK Township 1S Range 4E Section 25 1/4 1/4 NWSW
36 SWSW
NWNW

1. Is the file complete by the Minimum Requirements Checklist? Y N
2. Shortcomings (items needed before a permit and/or FO can be issued) Y N
Check file for indicators that the process **should not** continue until a later date (ie - protest, letter to file indicating hold, or other)
3. Groundwater Review A B C D River/Stream Name Conditions 7F, 7G -
 - a. Groundwater Availability A B C
 - b. Is second groundwater review necessary? (comments) Y N Done
 - c. Is HB 1033 review complete? Y N
 - d. Is the well located in a GWLA or CA? (If applicable, include map with POD) Y N Construct no shallower, than 500' BLS.
4. Is use from a B.O.R. or Douglas County project? Y N Contract in file? Y N Contract #
5. Is the use allowed by the Basin Program? Y N Limited? Y N 698-503-050(1) - no review based on gwr
6. Water Availability Data OK / REDONE / NA 50% before July 17, 1992; 80% live flow & 50% storage after July 17, 1992)
7. Is the source withdrawn or limited by statute or Department withdrawal order? Y N
8. Is the Proposed Use located in or above a Scenic Waterway? Y N 7J - Sandy L.
9. Division 33: Above Bonn (after July 17, 1992) Y N NA
Below Bonn (after April 8, 1994; June 3, 1994) Y N / NA
Statewide - (in shaded areas on T, E, and S Map - after June 3, 1994) Y N / NA
10. Per the IR, is the Proposed Source on the DEQ 303d List? Y N If so, any comments received? Y N
Is the Proposed Use in an existing or draft Dept of Ag. Water Quality Management Plan Area? Y N
11. Have conflicts been addressed? Y N no conflicts
12. Rate 1/80 Duty 2/2 Irrigation Season 3/1-10/31
13. Period of Allowed Use NU USE - YR
14. Allowed Rate of Use 0.89 cfs
15. Is the use **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)?
If the use is Municipal and ≤ 0.1 CFS, use **Large** condition.
16. Conditions See above 7F, 7G construction addl gw cond.
Is the proposed use within the New River Basin? Y N If yes, include New River Agreement Conditions.
17. IR Public Notice Date 8/20/02 Comments Received? Y N letter from applicant removing 7.25/12
18. Was the application filed on or after October 23, 1999? Y N If yes, then no A date.
19. Final Report Checklist
 - Documents used in determination are attached to this checklist and highlighted
 - Fill out PFO CC List (don't forget to check for other property owners)
 - a. Re-notify Water Availability? (Rate, Duty and Period of Allowed Use changes) Y N
 - b. Check Watermaster Dist. on the CC list and draft permit.
 - Spell Check and Accuracy Check
 - Final PFO report hard copy check (format, margins, etc.)
 - Final PFO has been saved to m:\groups\wr\pfo\done\week#\application #

Name: Date: 2/19/03

Water Right Conditions Tracking Slip

Groundwater/Hydrology Section

FILE ~~xx~~ G - 15710

ROUTED TO: WR'S

TOWNSHIP/

RANGE-SECTION: 1S/4E-25

CONDITIONS ATTACHED? ☒ yes ☐ no

REMARKS OR FURTHER INSTRUCTIONS:

Review pursuant to
application amendment
(wells relocations)

Reviewer: Don Miller

TO: Water Rights Section

FROM: Groundwater/Hydrology Section

Reviewer's Name

SUBJECT: Application G- 15710

Jan. 21 2003

GROUNDWATER/SURFACE WATER CONSIDERATIONS

1. PER THE Sandy Basin rules, one or more of the proposed POA's is/is not within 1/4 ~~foot~~ mile of a surface water source () and taps a groundwater source hydraulically connected to the surface water.
2. BASED UPON OAR 690-09 currently in effect, I have determined that the proposed groundwater use
 - a. will, or have the potential for substantial interference with the nearest
 - b. will not surface water source, namely ; or
 - c. ☒ X will if properly conditioned, adequately protect the surface water from interference:
 - i. ☒ X The permit should contain condition #(s) 7F;
 - ii. The permit should contain special condition(s) as indicated in "Remarks" below;
 - iii. ☒ X The permit should be conditioned as indicated in item 4 below; or
 - d. will, with well reconstruction, adequately protect the surface from substantial interference.

GROUNDWATER AVAILABILITY CONSIDERATIONS

3. BASED UPON available data, I have determined that groundwater for the proposed use
 - a. will, or likely be available in the amounts requested without injury to prior rights
 - b. will not and/or within the capacity of the resource; or
 - c. ☒ X will if properly conditioned, avoid injury to existing rights or to the groundwater resource:
 - i. ☒ X The permit should contain condition #(s) 7G;
 - ii. ☒ X The permit should contain special condition(s) as indicated in "Remarks" below;
 - iii. The permit should be conditioned as indicated in item 4 below; or
4.
 - a. THE PERMIT should allow groundwater production from no deeper than ft. below land surface;
 - b. ☒ X The permit should allow groundwater production from no shallower than 500 ft. below land surface;
 - c. The permit should allow groundwater production only from the groundwater reservoir between approximately ft. and ft. below land surface;
 - d. Well reconstruction is necessary to accomplish one or more of the above conditions.
 - e. One or more POA's commingle 2 or more sources of water. The applicant must select one source of water per POA and specify the proportion of water to be produced from each source.

REMARKS:

(Well Construction Considerations on Reverse Side)

WELL CONSTRUCTION (If more than one well doesn't meet standards, attach an additional sheet.)

5. THE WELL which is the point of appropriation for this application does not meet current well construction standards based upon:

- a. ☐ review of the well log;
- b. ☐ field inspection by _____;
- c. ☐ report of CWRE _____;
- d. ☐ other: (specify) _____

6. THE WELL construction deficiency:

- a. ☐ constitutes a health threat under Division 200 rules;
- b. ☐ commingles water from more than one groundwater reservoir;
- c. ☐ permits the loss of artesian head;
- d. ☐ permits the de-watering of one or more groundwater reservoirs;
- e. ☐ other: (specify) _____

7. THE WELL construction deficiency is described as follows: _____

8. THE WELL a. ☐ was, or constructed according to the standards in effect at the time of
b. ☐ was not original construction or most recent modification.
c. ☐ I don't know if it met standards at the time of construction.

RECOMMENDATION:

A. ☐ I recommend including the following condition in the permit:

"No water may be appropriated under terms of this permit until the well(s) has been repaired to conform to current well construction standards and proof of such repair is filed with the Enforcement Section of the Water Resources Department."

B. ☐ I recommend withholding issuance of the permit until evidence of well reconstruction is filed with the Enforcement Section of the Water Resources Department.

C. ☐ REFER this review to Enforcement Section for concurrence.

THIS SECTION TO BE COMPLETED BY ENFORCEMENT PERSONNEL

I concur in G/H's recommendation A or B above relating to conditioning or withholding the permit

_____, 199_____
(Signature)

I do not concur in G/H's recommendation A or B above relating to conditioning or withholding the permit for the following reasons: _____

_____, 199_____
(Signature)

STATE OF OREGON
WATER RESOURCES DEPARTMENT

INTEROFFICE MEMO

TO: APPLICATION G-15710
FROM: DONN MILLER *Donn*
SUBJECT: RECOMMENDED PERMIT CONDITION

DATE: 1/21/03

The use of water under terms of this permit or certificate is subject to regulation concurrent with or prior to regulation of a senior right competing for water from the same source when regulation is the result of water level declines that exceed limits specified in the senior right.

Relocated
wells

WATER RESOURCES DEPARTMENT MEMORANDUM

TO: Ground Water/Hydrology
FROM: ~~Doug Woodcock~~ Donna Miller
SUBJECT: Groundwater Application G- 15710

Date 1/10/03

Applicant(s) seek _____ gpm (0.892 cfs) from two wells in the

Sandy R basin

Applicants Name: Hans Nelson + Sons Nursery

Proposed Use: Nursery

_____ sub basin

_____ sub basin

Well #1 WRD# TO BE BUILT T 15 R 4E S 25 QQ ch County Clackamas

Legal Description 1590' N + 580' E from SW corner Sec 25

Well is 2300 ft from Sandy R (river/stream)

Well is _____ ft from _____ (river/stream)

Well Elevation 550 ft River/Stream elevation 190 ft.

Well Elevation - River/Stream elevation 360 ft.

Well depth 1000 ft SWL E 435 ft on _____

Sealed to 18+ ft Depth first water found 800-1000 ft

EST Cased to _____ ft Perforations/screens _____ ft

Lined to _____ ft Perforations/screens _____ ft

Well test and types _____

(Confined/Semi-confined/Unconfined) Direct hydraulic connection? YES / NO

Potential to cause substantial interference? _____

Well #2 WRD# TO BE BUILT T 15 R 4E S 25 QQ County Clackamas

Legal Description 1940' N + 700' E from SW corner Sec 25

Well is 2000 ft from Sandy R (river/stream)

Well is _____ ft from _____ (river/stream)

Well Elevation 560 ft River/Stream elevation 190 ft.

Well Elevation - River/Stream elevation 370 ft.

Well depth 1000 ft SWL E 445 ft on _____

EST Sealed to 18+ ft Depth first water found 800-1000 ft

Cased to _____ ft Perforations/screens _____ ft

Lined to _____ ft Perforations/screens _____ ft

Well test and types _____

(Confined/Semi-confined/Unconfined) Direct hydraulic connection? YES / NO

Potential to cause substantial interference? _____

Comments: Per Barry's email (attached) I am asked to look at this application (amendment) as if I was assessing it on 3/13/02. That's a big deal since that date's review was less thorough than now (assuming no OAR 690-09-040(S) analysis). The Sandy River will experience an impact per that provision. The wells are likely to experience declines per the experience of other borehole wells in the area. The Sandy has no data available any more.

References Used: Barry Norris' email dated 1/17/03.

STATE OF OREGON
Water Resources Department
158 12th St. N.E.
Salem, OR 97310

REVIEWER Don Miller

DATE: 1/10/03

DIVISION 9 CHECKLIST

Application # G- 15710

NEW WELL LOCATION

0.892 cfs

OAR 690-09-040

Hydraulically Connected to Sandy R (surface water source)

(2) the point of appropriation is a horizontal distance less than 1/4 mile from the surface water source (to which it is connected) **and** develops an unconfined aquifer? Y or N

(4)(a) the point of appropriation is a horizontal distance less than 1/4 mile from the surface water source (to which it is connected)? Y or N

(b) the rate of appropriation is greater than five cubic feet per second **and** less than one mile from the surface water source (to which it is connected)? Y or N

(c) the rate of appropriation is greater than one percent of the pertinent adopted minimum perennial streamflow or instream water right **and** less than one mile from the surface water source (to which it is connected)? Y or N

the rate of appropriation is greater than one percent of the discharge that is equaled or exceeded 80 percent of the time, as determined or estimated by the Department **and** less than one mile from the surface water source (to which it is connected)? Y or N

(d) the ground water appropriation, if continued for a period of 30 days, would result in stream depletion greater than 25 percent of the rate of appropriation and the point of appropriation is less than one mile from the surface water source? Y or N

(5) Other Considerations

*Not considered by Barry Norris
email of 1/17/03*

(a) the potential for a reduction in streamflow or surface water supply

(b) the potential to impair or detrimentally affect the public interest as expressed by an applicable closure on surface water appropriation, minimum perennial streamflow, or instream water right with a senior priority

(c) the percentage of the ground water appropriation that was, or would have become, surface water

(d) the potential interference would be immediate or delayed

(e) the potential for a cumulative adverse impact on streamflow or surface water supply

X-Sender: norrisbf@mailhub.wrd.state.or.us
X-Mailer: QUALCOMM Windows Eudora Version 5.2.0.9
Date: Fri, 17 Jan 2003 16:03:08 -0800
To: Donn Miller <Donn.W.MILLER@wrd.state.or.us>
From: Barry Norris <Barry.F.NORRIS@wrd.state.or.us>
Subject: Re: Help with G-15710 (Hans Nelson and Sons Nursery)
Cc: Frederick.G.LISSNER@wrd.state.or.us

Donn

I think your look should be limited to considering the application in the same manner as you did the first time. If the relocation provides new evidence that would have made your first review not favorable, that make a finding accordingly. If your first review would have been favorable as before, that find accordingly.

Barry

At 05:12 PM 1/16/2003 -0800, you wrote:

Hi,

The captioned application has come back to me since the applicant wants to relocate the proposed wells for financial reasons. I am being asked to make a determination if the new well sites will change the original findings or result in additional/new permit conditions. No permit has been issued but the application got a favorable IR.

Here are some points:

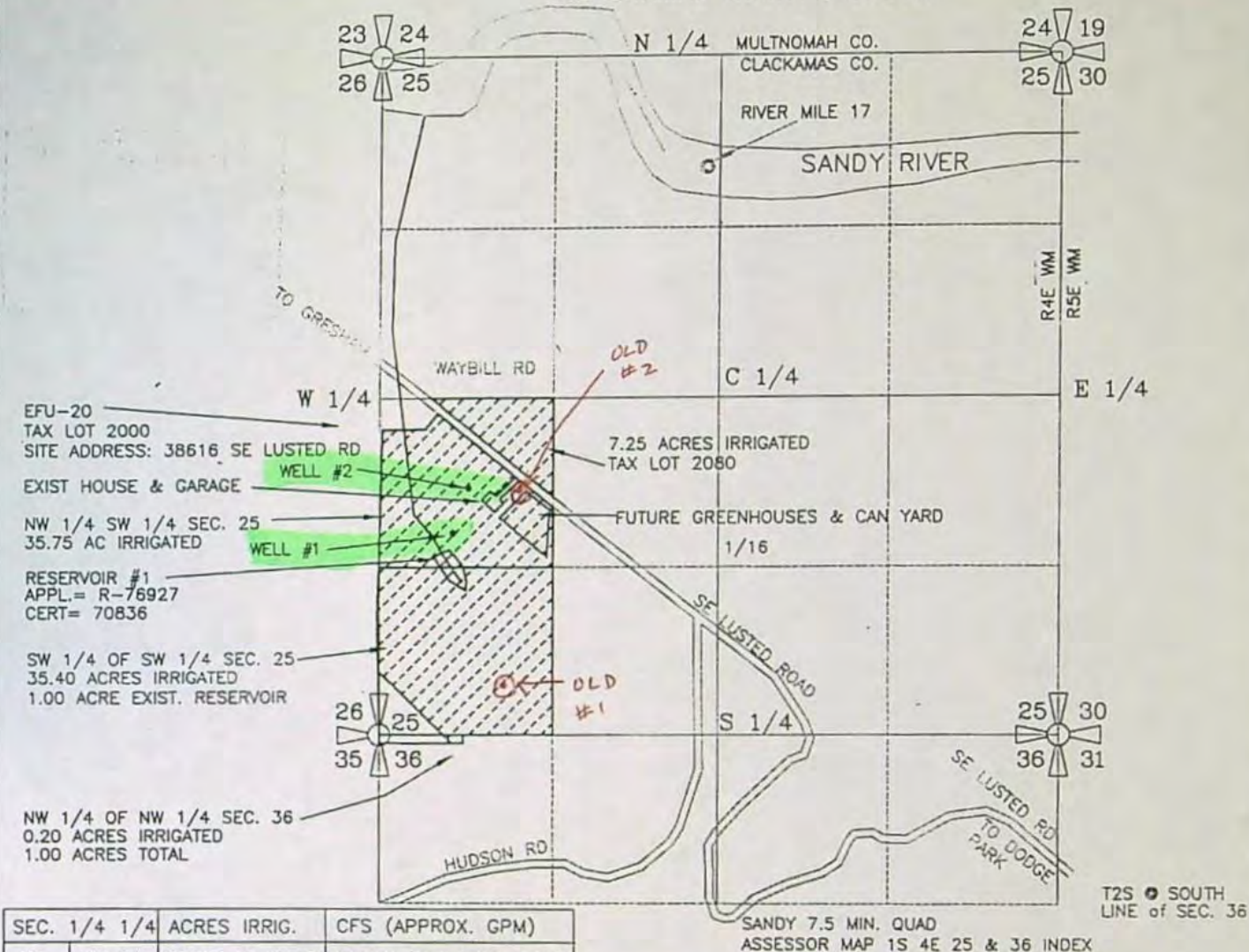
1. My original review is dated 3/13/02. It used conditioning to protect surface water and prior rights. It did not consider paragraph 5.
2. The application is for two, 1000 feet deep wells in the Columbia River Basalt.
3. The locations are less than 1 mile from the Sandy River.
4. Under paragraph 4, there continues to be no potential for substantial interference.
5. Using the Portland Basin model, there would be interference with the Sandy River.
6. At 80% exceedance, the Sandy River still has no water available for 12 months.

I'm not sure how to proceed. I assume that I am being asked to take a **fresh** look at this application. If it's a **reformatted old look**, that's a different matter.

Should I wait for the new approach for paragraph 5 to be finalized in order to best review this?

CORPORATE
BOUNDARY LINE
DONATION LAND
CLAIM (DLC #)

W 1/2 of the SW 1/4 of SECTION 25
NW 1/4 of the NW 1/4 of SECTION 36
T1S, R4E of the WM
CLACKAMAS COUNTY, OREGON



SEC.	1/4 1/4	ACRES IRRIG.	CFS (APPROX. GPM)
25	NW SW	35.75 AC IRRIG	0.4469 CFS (200 GPM)
25	SW SW	35.40 AC IRRIG	0.4425 CFS (199 GPM)
36	NW NW	0.20 AC IRRIG	0.0025 CFS (1.12 GPM)
TOTAL IRRIG.		71.35 ACRES	0.892 CFS (400 GPM)

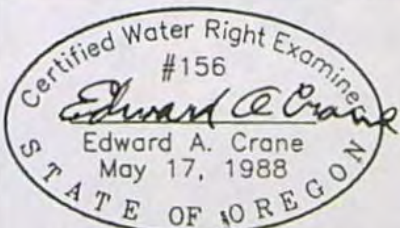
WELL #1 (NEW) IS LOCATED 1590 FEET NORTH & 580 FEET EAST FROM THE SOUTHWEST CORNER OF SECTION 25, TOWNSHIP 1 SOUTH RANGE 4 EAST of the WM, CLACKAMAS COUNTY, OREGON

WELL #2 (NEW) IS LOCATED 1940 FEET NORTH AND 700 FEET EAST OF THE SOUTHWEST CORNER OF SECTION 25, TOWNSHIP 1 SOUTH RANGE 4 EAST of the WM, CLACKAMAS COUNTY, OREGON

PREPARATION OF THIS MAP WAS FOR THE PURPOSE OF IDENTIFYING THE LOCATION OF THE WATER RIGHTS ONLY AND HAS NO INTENT TO PROVIDE DIMENSIONS OR LOCATION OF PROPERTY OWNERSHIP LINES.

APPLICATION FOR A PERMIT
GROUND WATER PERMIT G-

PREPARED BY EDWARD A. CRANE, CWRE

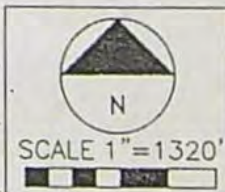


Renewal 12/31/2003

Signed 12.13.2007

SURVEYED FEB. 6, 2002
BY EDWARD A. CRANE, CWRE

K:\CAD\347-003\34700301.DWG ENC 12/12/2002



DATE
FEB. 2002
DEC. 2002
PROJECT NO.
347-003



CRANE & MERSETH
Engineering/Surveying
SUITE "D"
6566 SE LAKE ROAD
MILWAUKIE, OREGON 97222
BUS: (503) 654-2005
FAX: (503) 654-2575

APPLICATION FOR PERMIT NUMBER G-
PERMIT NUMBER G- IN THE NAME OF:

DAN NELSON dba HANS NELSON
& SONS NURSERY, INC. TEL: 503-663-3348
31020 SE WAYBILL RD., BORING, OR 97009

SHEET
1/1

WATER AVAILABILITY TABLE
Water Availability as of 1/10/2003 for
SANDY R > COLUMBIA R - AB UNN STR

Watershed ID #: 72145 Basin: SANDY Exceedance Level: 80
Time: 18:37 Date: 01/10/2003

Item #	Watershed ID #	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	Sto
1	71480	NO	NO	NO	NO	NO	NO	NO	NO	NO	NO	NO	NO	YES
2	72145	NO	NO	NO	NO	NO	NO	NO	NO	NO	NO	NO	NO	YES

STREAM NAMES
Water Availability as of 1/10/2003 for
SANDY R > COLUMBIA R - AB UNN STR

Watershed ID #: 72145 Basin: SANDY Exceedance Level: 80

Item	Watershed ID	Stream Name
1	71480	SANDY R > COLUMBIA R - AT MOUTH
2	72145	SANDY R > COLUMBIA R - AB UNN STR

LIMITING WATERSHEDS
Water Availability as of 1/10/2003 for
SANDY R > COLUMBIA R - AB UNN STR

Watershed ID #: 72145 Basin: SANDY Exceedance Level: 80
Time: 18:37 Date: 01/10/2003

Mnth	Limiting Watershed	Stream Name	Water Avail?	Net Water Available
1	71480	SANDY R > COLUMBIA R - AT MOUTH	NO	-1219.0
2	72145	SANDY R > COLUMBIA R - AB UNN STR	NO	-974.0
3	72145	SANDY R > COLUMBIA R - AB UNN STR	NO	-1024.0
4	72145	SANDY R > COLUMBIA R - AB UNN STR	NO	-984.0
5	72145	SANDY R > COLUMBIA R - AB UNN STR	NO	-1064.0
6	72145	SANDY R > COLUMBIA R - AB UNN STR	NO	-1034.0
7	72145	SANDY R > COLUMBIA R - AB UNN STR	NO	-325.0
8	72145	SANDY R > COLUMBIA R - AB UNN STR	NO	-175.0
9	72145	SANDY R > COLUMBIA R - AB UNN STR	NO	-260.0
10	72145	SANDY R > COLUMBIA R - AB UNN STR	NO	-484.0
11	72145	SANDY R > COLUMBIA R - AB UNN STR	NO	-1520.0
12	72145	SANDY R > COLUMBIA R - AB UNN STR	NO	-975.0
Stor	72145	SANDY R > COLUMBIA R - AB UNN STR	YES	35500.0

DETAILED REPORT ON THE WATER AVAILABILITY CALCULATION

Water Availability as of 1/10/2003 for

SANDY R > COLUMBIA R - AT MOUTH

Watershed ID #: 71480

Basin: SANDY

Exceedance Level: 80

Time: 18:37

Date: 01/10/2003

Month	Natural Stream Flow	CU + Stor Prior to 1/1/93	CU + Stor After 1/1/93	Expected Stream Flow	Reserved Stream Flow	Instream Water Rights	Net Water Available
1	1810.00	1080.00	52.60	681.00	0.00	1900.00	-1219.00
2	2040.00	1060.00	52.50	931.00	0.00	1900.00	-969.00
3	2000.00	966.00	0.20	1030.00	0.00	2000.00	-966.00
4	2190.00	1130.00	0.23	1060.00	0.00	2000.00	-936.00
5	1940.00	986.00	0.39	954.00	0.00	2000.00	-1046.00
6	1190.00	507.00	0.47	683.00	0.00	1400.00	-717.00
7	726.00	241.00	0.85	484.00	0.00	800.00	-316.00
8	539.00	156.00	0.85	382.00	0.00	400.00	-18.30
9	503.00	205.00	0.40	298.00	0.00	500.00	-202.00
10	561.00	333.00	0.08	228.00	0.00	650.00	-422.00
11	1160.00	952.00	52.20	156.00	0.00	1500.00	-1344.00
12	1880.00	1110.00	52.70	721.00	0.00	1500.00	-779.00
Stor	1510000	524000	12700	975000	0	997000	56400

DETAILED REPORT OF CONSUMPTIVE USES AND STORAGES

Water Availability as of 1/10/2003 for

SANDY R > COLUMBIA R - AT MOUTH

Watershed ID #: 71480

Basin: SANDY

Exceedance Level: 80

Time: 18:37

Date: 01/10/2003

Mo	Storage	Irrig	Munic	Ind/Man	Commer	Domest	Agricul	Other	Total
1	1.09	0.00	1069.21	1.38	0.00	5.25	52.03	0.00	1130.00
2	1.00	0.00	1049.21	1.38	0.00	5.25	52.03	0.00	1110.00
3	0.13	0.04	959.21	1.38	0.00	5.25	0.04	0.00	966.00
4	0.15	0.13	1119.21	1.38	0.00	5.25	0.04	0.00	1130.00
5	0.13	1.31	978.21	1.38	0.00	5.25	0.04	0.00	986.00
6	0.06	2.10	498.24	1.38	0.00	5.25	0.04	0.00	507.00
7	0.00	3.98	231.39	1.38	0.00	5.25	0.04	0.00	242.00
8	0.03	3.17	147.39	1.38	0.00	5.35	0.04	0.00	157.00
9	0.00	1.08	197.39	1.38	0.00	5.25	0.04	0.00	205.00
10	0.00	0.13	326.21	1.38	0.00	5.25	0.04	0.00	333.00
11	0.50	0.00	945.21	1.38	0.00	5.25	52.03	0.00	1000.00
12	1.22	0.00	1099.21	1.38	0.00	5.25	52.03	0.00	1160.00

DETAILED REPORT ON THE WATER AVAILABILITY CALCULATION

Water Availability as of 1/10/2003 for

SANDY R > COLUMBIA R - AB UNN STR

Watershed ID #: 72145

Basin: SANDY

Exceedance Level: 80

Time: 18:37

Date: 01/10/2003

Month	Natural Stream Flow	CU + Stor Prior to 1/1/93	CU + Stor After 1/1/93	Expected Stream Flow	Reserved Stream Flow	Instream Water Rights	Net Water Available
1	1760.00	1070.00	0.32	685.00	0.00	1900.00	-1215.00
2	1980.00	1050.00	0.28	926.00	0.00	1900.00	-974.00
3	1940.00	964.00	0.19	976.00	0.00	2000.00	-1024.00
4	2140.00	1120.00	0.21	1020.00	0.00	2000.00	-984.00
5	1920.00	983.00	0.19	936.00	0.00	2000.00	-1064.00
6	1170.00	503.00	0.15	666.00	0.00	1700.00	-1034.00
7	712.00	237.00	0.23	475.00	0.00	800.00	-325.00
8	528.00	153.00	0.34	375.00	0.00	550.00	-175.00
9	493.00	202.00	0.23	290.00	0.00	550.00	-260.00
10	547.00	331.00	0.06	216.00	0.00	700.00	-484.00
11	1130.00	950.00	0.18	180.00	0.00	1700.00	-1520.00
12	1830.00	1100.00	0.36	725.00	0.00	1700.00	-975.00
Stor	1480000	522000	166	956000	0	1050000	35500

DETAILED REPORT OF CONSUMPTIVE USES AND STORAGES

Water Availability as of 1/10/2003 for

SANDY R > COLUMBIA R - AB UNN STR

Watershed ID #: 72145

Basin: SANDY

Exceedance Level: 80

Time: 18:37

Date: 01/10/2003

Mo	Storage	Irrig	Munic	Ind/Man	Commer	Domest	Agricul	Other	Total
1	0.28	0.00	1070.00	0.35	0.00	4.67	0.04	0.00	1080.00
2	0.24	0.00	1049.21	0.35	0.00	4.67	0.02	0.00	1050.00
3	0.13	0.00	959.21	0.35	0.00	4.67	0.02	0.00	964.00
4	0.15	0.02	1119.21	0.35	0.00	4.67	0.02	0.00	1120.00
5	0.13	0.16	978.21	0.35	0.00	4.67	0.02	0.00	984.00
6	0.06	0.25	498.24	0.35	0.00	4.67	0.02	0.00	504.00
7	0.00	0.48	231.39	0.35	0.00	4.67	0.02	0.00	237.00
8	0.00	0.38	147.39	0.35	0.00	4.77	0.02	0.00	153.00
9	0.00	0.13	197.39	0.35	0.00	4.67	0.02	0.00	203.00
10	0.00	0.02	326.21	0.35	0.00	4.67	0.02	0.00	331.00
11	0.13	0.00	945.21	0.35	0.00	4.67	0.02	0.00	950.00
12	0.32	0.00	1099.21	0.35	0.00	4.67	0.02	0.00	1100.00

DETAILED REPORT OF RESERVATIONS FOR CONSUMPTIVE USE

Water Availability as of 1/10/2003 for

SANDY R > COLUMBIA R - AB UNN STR

Watershed ID #: 72145

Basin: SANDY

Exceedance Level: 80

Time: 18:37

Date: 01/10/2003

--Reservations--								
APP #	0	0	0	0	0	0	0	TOTAL
Status Use								
1	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
2	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
3	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
4	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
5	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
6	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
7	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
8	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
9	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
10	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
11	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
12	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00

DETAILED REPORT OF INSTREAM REQUIREMENTS

Water Availability as of 1/10/2003 for

SANDY R > COLUMBIA R - AB UNN STR

Watershed ID #: 72145

Basin: SANDY

Exceedance Level: 80

Time: 18:37

Date: 01/10/2003

--ISWRs--								
APP #	-90301A	72145A	0	0	0	0	0	MAXIMUM
Status	SWW	Cert.						
1	1900.00	1900.00	0.00	0.00	0.00	0.00	0.00	1900.00
2	1900.00	1900.00	0.00	0.00	0.00	0.00	0.00	1900.00
3	2000.00	2000.00	0.00	0.00	0.00	0.00	0.00	2000.00
4	2000.00	2000.00	0.00	0.00	0.00	0.00	0.00	2000.00
5	2000.00	2000.00	0.00	0.00	0.00	0.00	0.00	2000.00
6	1700.00	1600.00	0.00	0.00	0.00	0.00	0.00	1700.00
7	800.00	800.00	0.00	0.00	0.00	0.00	0.00	800.00
8	550.00	550.00	0.00	0.00	0.00	0.00	0.00	550.00
9	550.00	550.00	0.00	0.00	0.00	0.00	0.00	550.00
10	700.00	700.00	0.00	0.00	0.00	0.00	0.00	700.00
11	1700.00	1700.00	0.00	0.00	0.00	0.00	0.00	1700.00
12	1700.00	1700.00	0.00	0.00	0.00	0.00	0.00	1700.00

INTEROFFICE MEMORANDUM

Water Rights Section

TO: Fred Lissner
FROM: Anita Huffman, Ext. 229

December 23, 2002

RE: GW File Number G-15710

Please have someone on your staff review the attached file. Donn Miller appears to be most familiar with the file. The additional review is necessary because:
The applicant would like to site the proposed wells closer to existing power lines. The proposed locations are quite a distance from the original sites thus mandating a review of the new site as it may impact the findings of groundwater availability. Please have your staff member make a determination if the new well sites will change the original findings or result in additional/new permit conditions.

Please route to Anita Huffman in Water rights when finished.

Thanks.

6-15527 8#1
#2

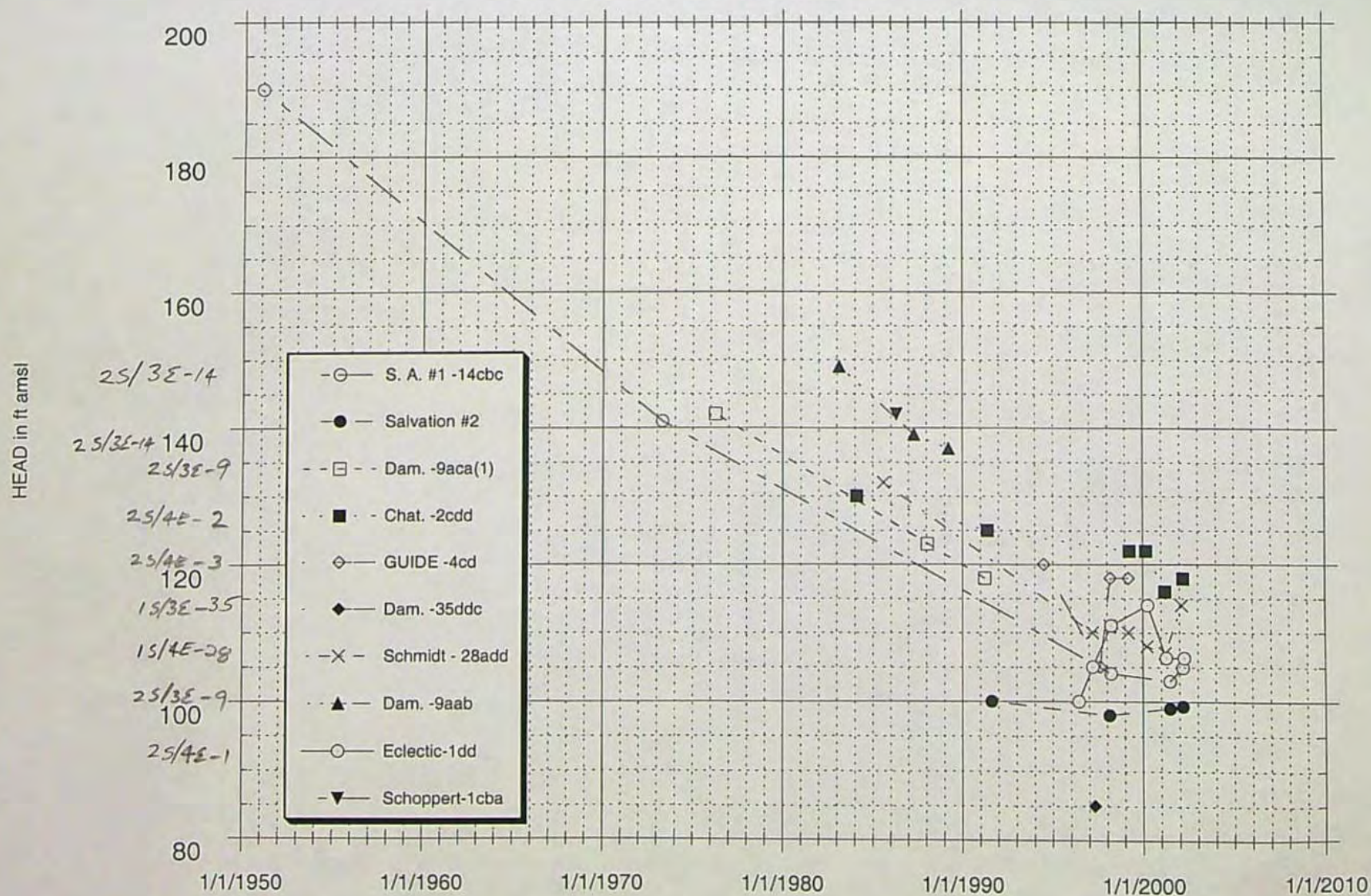
SANDY QUADRANGLE
OREGON
7.5 MINUTE SERIES (TOPOG)

NE/4 SANDY 15' QUADRANGLE

1575 III SE (WASHOUGAL) 554 555 17'30" CORBETT 3.1 MI. 557 R. 4 E. 1550 000 FEET



SANDY/BORING DEEP BASALT WELLS



most of this
data is airline

IR CHECKLIST

Application #: 615710
 Diversion Info: County CLACK Basin: 2-WIU WID: N/A
 Township 2S Range 4E Section 25 1/4 1/4 S
15

well #1 SWSW
 well #2 NWSW

- ☒ 10. Groundwater Review
☒ a. PSI A B C D River/Stream Name _____
☒ b. Groundwater Availability A B C
☒ c. Is the well located in a GWLA or CGWA or T1N R3E Sec 20, 21, 28, 29? Y (N) If in an area include map showing POD)
- ☒ 30. Allowed under Basin Program Y (N) Limitations? Y (N) 690 503 (650) 503 (650) (1)
- ☒ 40. Withdrawn? Y (N) season allowed _____
- ☒ 50. SWW Y (N) (if Y notify state parks) 75
- ☒ 60. Surface Water Availability (80% live flow / 50% storage) (NA)
- ☒ 70. 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 _____
- ☒ 80. Rate/Duty/Season Requested Y/R NW 71.35 / 400 GPM 0.89 cfs
 Allowable Y/R NW OK Q. allowable = 10.70 cfs
- ☒ 90. B.O.R. or Doug Co. project Y (N) contract # _____
- ☒ 100. Condition S ($\leq 0.1, \leq 9.2$), M (≥ 0.1 or ≤ 1.5 CFS, or ≥ 9.2 or ≤ 100 AF), L ($\geq 1.5, \geq 100$), BOR, GW, etc. Y (N) _____
- ☒ 110. Land use approval (OK'd) needs approval county notified NA
- ☒ 120. 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)
- ☒ 130. DOA 1010 Y (N) adoted 303D Y (N) CTUIR Y (N)
- ☒ 140. Is the use located within Oregon Streamflow Restoration Area? Y (N) (NA)
- ☒ 150. Letter format - Good - Limited - Bad - Bad w/ IRshort - Bad w/ HC Opportunity
- ☒ 160. CWRE, representative, etc. to notify? Y (N) Ed Crane, CWRE

no conflicts
 see 85058

Name: [Signature] Date: 5/24/02

The purpose of this checklist is to be used as a working document by Department staff to aid in the production of the related Initial Review, Proposed Final Order, or Final Order. It is not intended to be a complete record of all factors which were considered to produce the document, nor is it intended to serve any purpose other than that stated above.

The related Initial Review, Proposed Final Order, or Final Order is intended to stand alone as the record of factors considered in its production.

March 14, 1991

OREGON ADMINISTRATIVE RULES
WATER RESOURCES DEPARTMENT
CHAPTER 690
DIVISION 503
SANDY BASIN PROGRAM

[ED. NOTE: This Division was renumbered from OAR 690-080 by WRD 4-1991, f. & cert. ef. 3-14-91.]

Definitions

690-503-010 As used in this rule, unless the context requires otherwise:

(1) The Sandy Basin is as shown by Water Resources Department Map No. 3.6 or 2C.6.

(2) "Classification" or "classified" means the allowed and preferred beneficial use(s) of a given surface or groundwater source for which future uses of water shall be permitted. Except as otherwise provided by the Commission, the Department shall not issue permits to appropriate, and no use shall be initiated of, any of the surface or groundwaters of the Sandy Basin for any uses except those for which the waters are classified. A classification does not affect legal uses existing on the date of adoption or alteration of the classification. A classification does not affect the transfer to another beneficial use of any water right with a priority date prior to adoption of these rules.

(3) "Aesthetic Use" means use of water within its natural course for maintaining and enhancing scenic values.

(4) "Aquifer" means a water-bearing body of naturally occurring earth materials that is sufficiently permeable to yield useable quantities of water to wells or springs.

(5) "Commission" means the Water Resources Commission.

(6) "Department" means the Water Resources Department.

(7) "Commercial Use" means use of water at a place where commodities or services are bought or sold, such as a gas station, restaurant, motel, etc.

(8) "Domestic Use" means use of water for human consumption, household purposes, watering livestock necessary for the sustenance of a family and related accessory uses.

(9) "Group Domestic Use" means delivery and use of water through a delivery system supplying water for domestic purposes to more than one residence or dwelling unit.

(10) "Fish Life" includes use of water to support natural or artificial propagation of fish and other aquatic life.

(11) "Industrial Use" means use of water associated with the production or manufacture of a product including other related miscellaneous uses.

(12) "Irrigation Use" means the application of water to crops or plants by artificial means to promote growth, nourish plants, leach minerals, control frost, etc.

(13) "Livestock Use" means use of water for domesticated animals and wild animals held in captivity as pets or for profit.

(14) "Mining Use" means the use of water to extract metals or minerals including placer mining as defined in OAR Chapter 690, Division 11, and leaching operations.

(15) "Municipal Use" means the delivery and use of water through the water

Note: These rules were filed with the Office of the Secretary of State and took effect on March 14, 1991. The rules are subject to non-substantive modifications such as renumbering and correction of typographical errors pursuant to ORS 183.360 (2)(a) when published by the Secretary of State.

service system of an incorporated municipality or nonprofit corporation and includes quasi-municipal uses as defined in OAR Chapter 690, Division 11.

(16) "Public Park Use" includes use of water for domestic, irrigation, and visual display of water in a public park.

(17) "Recreation" as a public use of water means any form of play relaxation, or amusement, mostly done during leisure, that occurs in or in conjunction with streams, lakes and reservoirs, including but not limited to boating, fishing, swimming, wading, and viewing scenic attractions.

(18) "Statutorily Exempt Uses" means uses of groundwater as defined in ORS 537.545.

Stat. Auth.: ORS 536.220, 536.300 & 536.310

Hist.: WRD 4-1991, f. & cert. ef. 3-14-91

Policies

690-503-020 The surface water resources of the Sandy River Basin are important for maintaining instream and scenic values. The groundwater and surface waters are used for municipal, domestic, industrial and agricultural uses. The Bull Run Watershed is the main source of water for the city of Portland and the Portland metropolitan area. The protection and maintenance of water resources for these uses will promote the economic and general welfare of the people of the state. Therefore, it shall be the policy of the Commission:

(1) To limit future surface water appropriations, except for storage, in the Sandy Basin mainly to municipal and nonconsumptive, instream uses for the purpose of protecting and enhancing those statutorily preferred uses and values such as municipal, fish life, wildlife, recreation and aesthetics.

(2) To carry out the state groundwater management policy by addressing groundwater declines near Sandy, controlling interference with surface supplies and protecting the quality of shallow aquifers.

(3) To uphold, subject to senior claims, the city of Portland's exclusive right to the waters of the Bull Run and Little Sandy rivers for municipal use. The Commission supports further development of the Bull Run and Little Sandy rivers for municipal use under a planned approach, designed to best meet the needs of the city and region, while encouraging water use efficiency and conservation and protecting the naturally high quality of the water.

Stat. Auth.: ORS 536.220, 536.300 & 536.310

Hist.: WRD 4-1991, f. & cert. ef. 3-14-91

Objectives

690-503-030 The objectives of the Commission in managing the surface and groundwater resources of the Sandy Basin are to:

(1) Uphold existing legislative withdrawals and grants, and state scenic waterway designations, consistent with statutory direction.

(2) Protect existing rights.

(3) Maintain and enhance instream and scenic values in the Sandy River Scenic Waterway and Columbia Gorge and throughout the Sandy Basin by limiting new out-of-stream appropriation from natural summer flows and protecting remaining instream flows in the Sandy River main stem and its tributaries.

(4) Minimize groundwater/surface water hydraulic interference.

(5) Condition permits to regulate future use of groundwater in areas of documented declines near Sandy.

Stat. Auth.: ORS 536.220, 536.300 & 536.310
Hist.: WRD 4-1991, f. & cert. ef. 3-14-91

Surface Water Classifications

690-503-040 (1) By act of the Oregon Legislature, the following streams are closed to further appropriation unless otherwise indicated:

(a) The main stems and tributaries of the Bull Run and Little Sandy rivers are protected for the exclusive use of the city of Portland; subject to senior rights or claims predating February 24, 1909 (ORS 538.420);

(b) Hackett Creek, a tributary of the Sandy River located in Clackamas County, and its tributaries, are withdrawn from appropriation except for fish life (ORS 538.150);

(c) Except as provided in ORS 538.210, the following streams forming waterfalls near the Columbia River Highway and flowing directly into the Columbia River shall not be diverted or interrupted for any purposes (ORS 538.200):

(A) Latourell Creek — Forming Latourell Falls;

(B) An unnamed stream whose waterfall is approximately at the southwest quarter of the southwest quarter of the northwest quarter of section 28, township one north, range five east, at the northern edge of Tax Lot 27/28. The fall is on the south side of the old Columbia River Highway, 0.7 mile west of the highway bridge at Young Creek;

(C) An unnamed stream whose waterfall is approximately at the southeast quarter of the southwest quarter of the northwest quarter of section 28, township one north, range five east, at the northern intersection of Tax Lot 27/26. The falls are on the south side of the old Columbia River Highway, 0.6 mile west of the highway bridge at Young Creek;

(D) An unnamed stream whose waterfall is approximately at the northeast quarter of the northeast quarter of the northwest quarter of section 28, township one north, range 5 east, Tax Lot 3. The falls are on the south side of the old Columbia River Highway, 0.1 mile west of the highway bridge at Young Creek;

(E) Young Creek — Forming Shepperd Dell Falls;

(F) Bridal Veil Creek — Forming Bridal Veil Falls;

(G) Coopey Falls Creek;

(H) Mist Falls Creek;

(I) Wahkeena Creek — Forming Wahkeena Falls, formerly known as Gordon Falls;

(J) Multnomah Creek — Forming Multnomah Falls;

(K) Oneonta Creek — Forming Oneonta Falls and Gorge;

(L) Horse Tail Creek — Forming Horse Tail Falls;

(M) Tumalt Creek;

(N) McCord Creek, formerly known as Kelly Creek — Forming Elwah Falls;

(O) Moffatt Creek — Forming Wahe Falls;

(P) Tanner Creek — Forming Wahclella Falls.

(2) Except as otherwise provided in sections (1) and (3) of this rule, all the surface waters of the Sandy Basin are classified only for fish life, domestic, stock, municipal, aesthetic, recreation and public park uses.

(3) In addition to uses in section (2) of this rule, all tributaries of the Sandy River but not the main stem Sandy River are open for storage from December 1 to June 1 of each year. Water stored during this period may be used at any time for any beneficial use.

(4) No permit shall be issued if the proposed use is found detrimental to the scenic waterway values as described in ORS 390.835.

Stat. Auth.: ORS 536.220, 536.300 & 536.310
Hist.: WRD 4-1991, f. & cert. ef. 3-14-91

Groundwater Classification

690-503-050 Permits to use groundwater may be issued only for the following classified uses:

(1) Except as provided in sections (2) and (3) of this rule, the groundwater resources of the Sandy Basin are classified for commercial, group domestic, industrial, irrigation, mining, municipal, and statutorily exempt groundwater uses.

(2) Groundwater from the shallow Troutdale aquifer in the Sandy — Boring Groundwater Management Area, as shown in Figure 1, is classified for exempt uses only.

(3) Groundwater hydraulically connected to, and within 1/4 mile of, surface water shall be classified for the same uses as the surface water source and for uses exempted by ORS 537.545.

Stat. Auth.: ORS 536.220, 536.300 & 536.310
Hist.: WRD 4-1991, f. & cert. ef. 3-14-91

Special Permit Conditions

690-503-060 Permits issued to appropriate groundwater from aquifers in the Sandy Basin shall be specially conditioned. The conditions shall specify:

(1) Use of water from the well, as allowed herein, shall be regulated if the well displays:

(a) An average water level decline of three or more feet per year for five consecutive years; or

(b) A total water level decline of fifteen or more feet; or

(c) A hydraulic interference decline of fifteen or more feet in any neighboring well providing water for senior exempt uses or wells covered by prior rights.

(2) The permittee/appropriator shall install a meter or other measuring device suitable to the Director, and shall keep a complete record of water uses.

(3) The permittee/appropriator shall be responsible for complying with each of the following requirements for measuring water levels in the well:

(a) Use of water from a new well shall not begin until the initial water level in the well has been measured. A measurement of initial water level shall be made at the time a pump is installed, but before pumping begins;

(b) In addition to the measurement required in subsection (a) of this section, a water level measurement shall be made each year at the time of spring high water during the period March 15 through April 15;

(c) All water level measurements shall be made by a qualified individual. Qualified individuals include certified water rights examiners, licensed water well drillers, registered geologists, registered professional engineers, registered land surveyors, or the permittee/appropriator;

(d) Any qualified individual measuring a well shall use standard methods of procedure and equipment designed for the purpose of well measurement. The equipment used shall be well suited to the conditions of construction at the well. A list of standard methods of procedure and suitable equipment shall be available from the Department;

(e) The permittee/appropriator shall submit a record of the measurement to the Department on a form available from the Department. The record of measurement shall be received not later than 30 days from the date of measurement.

(4) The Department shall determine when any of the declines cited in section (1) of this rule are evidenced by the well measurement required in section (3) of this rule.

Stat. Auth.: ORS 536.220, 536.300 & 536.310
Hist.: WRD 4-1991, f. & cert. ef. 3-14-91

FIGURE I
(690-503-050)

SANDY-BORING GROUNDWATER MANAGEMENT AREA

Sandy-Boring Groundwater Management Area: The aquifer of concern is within the Troutdale Formation.

The boundary of the overall area is as follows:

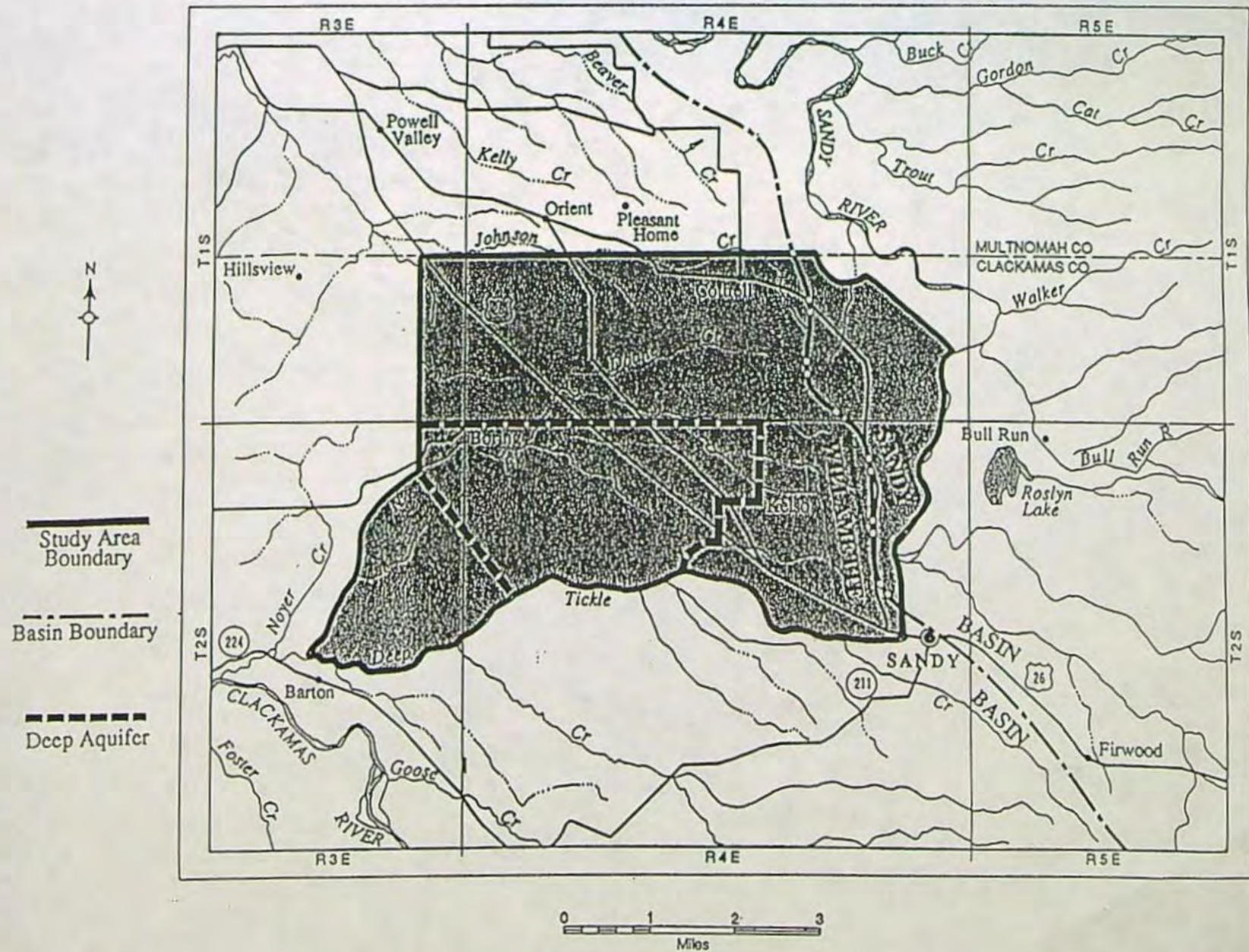
Beginning at the north quarter corner of Section 25, T1S, R3E, WM, said point being on the Clackamas-Multnomah County line, thence east along the county line to a point at an elevation of 600 feet mean sea level, near the intersection of the county line and Dodge Park Boulevard, thence southerly along the 600 foot elevation contour to Tickle Creek, near the east quarter corner of Section 14, T2S, R4E, WM, thence westerly along Tickle Creek and Deep Creek to the mouth of North Fork Deep Creek, thence northeasterly along North Fork Deep Creek to the north-south center line of Section 1, T2S, R3E, WM, thence north to the point of beginning.

The boundary of the Special Deep Troutdale Aquifer Area is as follows:

Beginning at the north quarter corner of Section 1, T2S, R3E, WM, thence east along the section line to the north quarter corner of Section 3, T2S, R4E, WM, thence south to the south quarter corner of Section 3, T2S, R4E, WM, thence south to the south quarter corner of said Section 3, thence west along the section line to the southwest corner of said Section 3, thence south along the section line to a tributary of Tickle Creek near the west quarter corner of Section 10, T2S, R4E, WM, thence westerly along the channels of the tributary and Tickle Creek to the south line of Section 7, T2S, R4E, WM, thence northwesterly to the south quarter corner of Section 1, T2S, R4E, WM, thence north to the point of beginning.

Figure 1

SANDY-BORING GROUNDWATER MANAGEMENT AREA



Analysis for Application: G15710

Location: 2.00 S-4.00 E-25-sws

Uses: NU 35.400 (P) , AG 0.000 (P) , IR 35.400 (P)

Basins

BASIN_NUM	BASIN_NAME
2	Willamette

Records Found: 1

WaterMaster Districts

WATERDIST	REGION	ACRES	SQ_MILES	WMASTER	ADDRESS	CITY	ZIP	PHONE	E
20	NW	1190163	1859	Mike McCord	1678 S. Beaver Creek Rd	Oregon City	97045	503-657-6811	

Records Found: 1

WAB

BASIN	WID	LINK_1
2	89	Water Availability: 50% 80%

Records Found: 1

County

COUNTY	FIPS
Clackamas	41005

Records Found: 1

Groundwater Restricted Records Found: 0

Division 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: 2.00 S-4.00 E-25-nws

Uses: NU 35.750 (P) , AG 0.000 (P) , IR 35.750 (P)

Basins

BASIN_NUM	BASIN_NAME
2	Willamette

Records Found: 1

WaterMaster Districts

WATERDIST	REGION	ACRES	SQ_MILES	WMASTER	ADDRESS	CITY	ZIP	PHONE	E
20	NW	1190163	1859	Mike McCord	1678 S. Beaver Creek Rd	Oregon City	97045	503-657-6811	

Records Found: 1

WAB

BASIN	WID	LINK_1
2	89	Water Availability: 50% 80%

Records Found: 1

County

COUNTY	FIPS
Clackamas	41005

Records Found: 1

Groundwater Restricted Records Found: 0**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: 0303D Lakes Records Found: 0**Location: 2.00 S-4.00 E-36-nwnw**

Uses: AG 0.000 (P) , IR 0.200 (P) , NU 0.200 (P)

Basins

BASIN_NUM	BASIN_NAME
2	Willamette

Records Found: 1

WaterMaster Districts

WATERDIST	REGION	ACRES	SQ_MILES	WMASTER	ADDRESS	CITY	ZIP	PHONE	E
20	NW	1190163	1859	Mike McCord	1678 S. Beaver Creek Rd	Oregon City	97045	503-657-6811	

Records Found: 1

WAB

BASIN	WID	LINK_1
2	89	Water Availability: 50% 80%

Records Found: 1

County

COUNTY	FIPS
Clackamas	41005

Records Found: 1

Groundwater Restricted Records Found: 0**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 Right Conditions
Tracking Slip

Groundwater/Hydrology Section

FILE ## G-15710

ROUTED TO: Anita H.

TOWNSHIP/

RANGE-SECTION: _____

CONDITIONS ATTACHED? ☒ yes ☐ no

REMARKS OR FURTHER INSTRUCTIONS:

Reviewer: D. M. H.

TO: Water Rights Section

March 13, 2002

FROM: Groundwater/Hydrology Section

Reviewer's Name

SUBJECT: Application G- 15710

GROUNDWATER/SURFACE WATER CONSIDERATIONS

1. PER THE Sandy Basin rules, one or more of the proposed POA's is/is not within 1/4 feet/mile of a surface water source () and taps a groundwater source hydraulically connected to the surface water.
2. BASED UPON OAR 690-09 currently in effect, I have determined that the proposed groundwater use
 - a. ☐ will, or have the potential for substantial interference with the nearest
 - b. ☐ will not surface water source, namely ; or
 - c. ☒ will if properly conditioned, adequately protect the surface water from interference:
 - i. ☒ The permit should contain condition #(s) 7 F ;
 - ii. ☐ The permit should contain special condition(s) as indicated in "Remarks" below;
 - iii. ☒ The permit should be conditioned as indicated in item 4 below; or
 - d. ☐ will, with well reconstruction, adequately protect the surface from substantial interference.

GROUNDWATER AVAILABILITY CONSIDERATIONS

3. BASED UPON available data, I have determined that groundwater for the proposed use
 - a. ☐ will, or likely be available in the amounts requested without injury to prior rights
 - b. ☐ will not and/or within the capacity of the resource; or
 - c. ☒ will if properly conditioned, avoid injury to existing rights or to the groundwater resource:
 - i. ☒ The permit should contain condition #(s) 7 G ;
 - ii. ☒ The permit should contain special condition(s) as indicated in "Remarks" below;
 - iii. ☐ The permit should be conditioned as indicated in item 4 below; or
4.
 - a. ☐ THE PERMIT should allow groundwater production from no deeper than ft. below land surface;
 - b. ☒ The permit should allow groundwater production from no shallower than 500 ft. below land surface;
 - c. ☐ The permit should allow groundwater production only from the groundwater reservoir between approximately ft. and ft. below land surface;
 - d. ☐ Well reconstruction is necessary to accomplish one or more of the above conditions.
 - e. ☐ One or more POA's commingle 2 or more sources of water. The applicant must select one source of water per POA and specify the proportion of water to be produced from each source.

REMARKS:

See Attached Sheet

(Well Construction Considerations on Reverse Side)

WELL CONSTRUCTION (If more than one well doesn't meet standards, attach an additional sheet.)

5. ✓ THE WELL which is the point of appropriation for this application does not meet current well construction standards based upon:
- a. ☐ review of the well log;
 - b. ☐ field inspection by _____;
 - c. ☐ report of CWRE _____;
 - d. ☐ other: (specify) _____
6. ✓ THE WELL construction deficiency:
- a. ☐ constitutes a health threat under Division 200 rules;
 - b. ☐ commingles water from more than one groundwater reservoir;
 - c. ☐ permits the loss of artesian head;
 - d. ☐ permits the de-watering of one or more groundwater reservoirs;
 - e. ☐ other: (specify) _____
7. ✓ THE WELL construction deficiency is described as follows: _____
8. ✓ THE WELL
- a. ☐ was, or constructed according to the standards in effect at the time of
 - b. ☐ was not original construction or most recent modification.
 - c. ☐ I don't know if it met standards at the time of construction.

RECOMMENDATION:

- A. ☐ I recommend including the following condition in the permit:
"No water may be appropriated under terms of this permit until the well(s) has been repaired to conform to current well construction standards and proof of such repair is filed with the Enforcement Section of the Water Resources Department."
- B. ☐ I recommend withholding issuance of the permit until evidence of well reconstruction is filed with the Enforcement Section of the Water Resources Department.
- C. ☐ REFER this review to Enforcement Section for concurrence.

THIS SECTION TO BE COMPLETED BY ENFORCEMENT PERSONNEL

I concur in G/H's recommendation A or B above relating to conditioning or withholding the permit
_____, 199_____
(Signature)

I do not concur in G/H's recommendation A or B above relating to conditioning or withholding the permit for the following reasons: _____

_____, 199_____
(Signature)

STATE OF OREGON
WATER RESOURCES DEPARTMENT

INTEROFFICE MEMO

TO: APPLICATION G-15710

FROM: DONN MILLER Dwm

SUBJECT: RECOMMENDED PERMIT CONDITION

DATE: 3/13/02

The use of water under terms of this permit or certificate is subject to regulation concurrent with or prior to regulation of a senior right competing for water from the same source when regulation is the result of water level declines that exceed limits specified in the senior right.

New Application Route Slip

Receipting

C.U.

Data Center

M.R. 2-22-02

Ground Water

YES ☒ Don NO ☐
3/13/02

Bill Fujii

YES ☐ NO ☒

→ If for "Municipal" or "Quasi-Muni,"

John Falk

YES ☐ NO ☒

→ Please Note — if application is for:

A "Standard Reservoir" storing 9.2 acre-feet or more of water, or has a dam height of 10.0 feet or greater, make a copy of application & supplemental forms and Route to: John Falk, Dam Safety

Water Rights
Support

Mark contents of Application File; Update Powerbuilder with caseworker, etc.; Route to filing cabinet

**CASEWORKER
ASSIGNED:**

ANITA
HUTTMAN

EXT
229

Don

Mailing List for IR Copies

Application #G-15710

IR Date: August 2, 2002

Original mailed to:

~~Applicant:~~ HANS NELSON AND SONS NURSERY INC, 31020 SE WAYBILL RD,
BORING, OREGON 97009-9427

Copies sent to:

- ~~1.~~ WRD - File # G-15710
- ~~2.~~ WRD - Water Availability: Ken Stahr
- ~~3.~~ WRD - Enforcement

IR, Map, and Fact Sheet Copies sent to:

- ~~4.~~ WRD - Watermaster # 20
- ~~5.~~ WRD - Regional Manager: NWR
- ~~6.~~ DOA (N.Salem/Keizer): Paul Measeles
- ~~7.~~ STATE PARKS

Copies sent to Other Interested Persons (*CWRE, Agent, Well Driller, Commenter, etc.*)

- ~~8.~~ Edward Crane, CWRE _____
- 9. _____

Copies Mailed
By: <u>JB</u>
(SUPPORT STAFF)
on: <u>8/2/02</u>
(DATE)

ID# AMH

COPY#HT.1R

INVOICE

RECEIVED FROM: Hans Nelson & Sons

BY:

APPLICATION	G-15710
-------------	---------

PERMIT

TRANSFER

CASH: CHECK: # OTHER: (IDENTIFY)

TOTAL REC'D	\$ 575.00
-------------	-----------

0417	WRD MISC CASH ACCT
------	--------------------

ADJUDICATIONS

PUBLICATIONS / MAPS

OTHER: (IDENTIFY)

OTHER: (IDENTIFY)

REDUCTION OF EXPENSE

CASH ACCT.

PCA AND OBJECT CLASS

VOUCHER #

0427	WRD OPERATING ACCT
------	--------------------

MISCELLANEOUS

0407 COPY & TAPE FEES

0410 RESEARCH FEES

0408 MISC REVENUE: (IDENTIFY)

(New) TC162 DEPOSIT LIAB. (IDENTIFY)

WATER RIGHTS:

0201 SURFACE WATER

0203 GROUND WATER

0205 TRANSFER

WELL CONSTRUCTION

0218 WELL DRILL CONSTRUCTOR

LANDOWNER'S PERMIT

OTHER (IDENTIFY)

0437	WELL CONST. START FEE
------	-----------------------

0211 WELL CONST START FEE

0210 MONITORING WELLS

OTHER (IDENTIFY)

0539 LOTTERY PROCEEDS

1302 LOTTERY PROCEEDS

0467 HYDRO ACTIVITY

LIC NUMBER

0233	POWER LICENSE FEE (FW/WRD)
------	----------------------------

0231 HYDRO LICENSE FEE (FW/WRD)

HRDRO APPLICATION

DATED: 2/15/02 BY:

Distribution-White Copy-Customer, Yellow Copy-Fiscal, Blue Copy-File, Buff Copy-Fiscal

HANS NELSON & SONS NURSERY, INC.

21330

ACCOUNT NO.	VENDOR	CHECK NO.	CHECK DATE
VOUCHER	INVOICE NUMBER	REFERENCE	AMOUNT PAID
INV. DATE	INVOICE AMOUNT	DISCOUNT TAKEN	NET CHECK AMOUNT
02-2-11	2/11/02	Ground water application	575.00
	575.00		575.00
	Examination fee	250.00	
	1 cubic foot/second	150.00	
	Permit recording fee	175.00	
TOTAL		575.00	
RECEIVED			
FEB 15 2002			
WATER RESOURCES DEPT SALEM, OREGON			
CHECK TOTAL	575.00		

Application No. 6-15710
Permit No.

GW-1 Feb. 24 1999



State of Oregon
Water Resources Department
158 12th Street NE, Salem, OR 97310
(503)378-8455 • (800)624-3199
www.wrd.state.or.us

Application for a Permit to Use Ground Water

Please type or print in dark ink. If your application is found to be incomplete or inaccurate, we will return it to you. If any requested information does not apply to your application, insert "n/a." Please read and refer to the instructions when completing your application. Thank you.

RECEIVED

FEB 15 2002

WATER RESOURCES DEPT.
SALEM, OREGON

1. APPLICANT INFORMATION

A. Individuals

Applicant: _____
First Last

Co-applicant: _____
First Last

Mailing address: _____

City State Zip

Phone: _____
Home Work Other

*Fax: _____ *E-Mail address: _____

B. Organizations

(Corporations, associations, firms, partnerships, joint stock companies, cooperatives, public and municipal corporations)

Name of organization: HANS NELSON & SONS NURSERY, INC.

Name and title of person applying: DAN NELSON, PRESIDENT

Mailing address of organization: 31020 SE WAYBILL ROAD

BORING OREGON 97009-9427
City State Zip

Phone: 503-663-3348 CELL: 503-310-9708
Day Evening

*Fax: 503-663-0138 *E-Mail address: _____

*Optional information

For Department Use

App. No. _____ Permit No. _____ Date _____

Application No G-15710
Permit No. _____

2. PROPERTY OWNERSHIP

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WATER RESOURCES DEPT.
SALEM, OREGON

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

☐ Yes (Skip to section 3 "Ground water Development.")

☒ No Please check the appropriate box below.

☐ I have a recorded easement or written authorization permitting access.

☐ I do not currently have written authorization or easement permitting access.

List the names and mailing addresses of all affected landowners.*

NELSON & SONS ARE BUYING THIS PROPERTY NOW. THE PROPERTY WILL CLOSE AT THE
END OF FEBRUARY (NOTE & TRUST DEED). THE PRESENT OWNERS ARE:
WILLIAM E. RANNON (BROTHER) & CHRISTINA R. VAERETTI (SISTER)
P.O. BOX 1506, SANDY, OR 97055 (TEL: 503-668-5325).

*If more than 25 landowners are involved, a list is not required. See instructions.

3. GROUND WATER DEVELOPMENT

A. Number of well(s): TWO B. Name of nearest surface water body: SANDY RIVER

C. Distance from well(s) to nearest stream or lake: 1) WELL #1 = ABOUT 4100FT

2) WELL #2 = ABOUT 1800FT 3) _____ 4) _____

D. If distance from surface water is less than one mile, indicate elevation difference between nearest surface water and well head. 1) WELL #1 = ABOUT 380FT

2) WELL # 2 = ABOUT 380FT 3) _____ 4) _____

E. Well Characteristics

Wells must be constructed according to standards set by the Department for the construction and maintenance of water wells. If the well is already constructed, please enclose a copy of the well constructor's log and the well ID number, if available, for each well with this application. Identify each well with a number corresponding to the wells designated on the map and proceed to question F in this section of the form. If the well has not been constructed, or if you do not have a well log, please complete the following:

Well(s) will be constructed by: TED PULLIAM OF OLSEN-PULLIAM WELL DRILLING & PUMPS

Address: 9480 SE 172ND AVENUE, BORING, OR 97009

TEL: 503-665-3353; FAX: 503-665-5285; CELL: 503-789-5764

Completion date: NOT SCHEDULED YET

Application No. 6-15710

Permit No.

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WATER RESOURCES DEPT.
SALEM, OREGON

2. Please provide a description of your well development. (Attach additional sheets if needed)

Well No.	Diameter	Type and size of casing	No. of feet of casing	Intervals casing is perforated (in feet)	Seal depth	Est. depth to water	Est. depth to water bearing stratum	Type of access port or measuring device	Total well depth
1.	HOLE 14" BORE	STEEL 10" BLK 1/4"			18' MIN	800-1000	SAME	1/2" IPT TAP	1000'
2.	HOLE 14" BORE	STEEL 10" BLK 1/4"			18" MIN	800-1000	SAME	1/2" IPT TAP	1000'

F. Artesian Flows

If your water well is flowing artesian, describe your water control and conservation works:

NA THIS AREA

4. WATER USE

Please read the instruction booklet for more details on "type of use" definitions, how to express how much water you need and how to identify the water source you propose to use. You must fill out a supplemental form for some uses as they require specific information for that type of use.

A. Type(s) of Use(s)

See list of beneficial uses provided in the instructions.

- If your proposed use is **domestic**, indicate the number of households to be supplied with water: _____
- If your proposed use is **irrigation**, please attach Form I
- If your proposed use is **mining**, attach Form R
- If your proposed use is **municipal or quasi-municipal**, attach Form M
- If your proposed use is **commercial/industrial**, attach Form Q

Application No. 6-15710 Permit No.

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B. Amount of Water

Provide the production rate in gallons per minute (gpm) and the total annual amount of water you need from each well, from each source or aquifer, for each use. You do not need to provide source information if you are submitting a well log with your application.

Well No.	Source or aquifer	Type of use	Total rate of water requested (in gpm)	Total annual quantity (in gallons)	Production rate of well (in gpm)
1.	DEEP TROUDALE	IRRIGATION	400GPM	141,120,000	400+/-
2.	DEEP TROUTDALE	IRRIGATION-NURSERY	400GPM	141,120,000	400+/-
(WELL #2 WILL BE DRILLED ONLY IF WELL #1 HAS LOW FLOW OR A DRY HOLE)					

C. Maximum Rate of Use Requested

What is the maximum, instantaneous rate of water that will be used? 400GPM
(The fees for your application will be based on this amount.)

D. Period of Use

Indicate the time of year you propose to use the water: GENERAL NURSERY USE MAR. 1 TO OCT. 31
GENERAL AGRICULTURAL USE NOV. 1 TO END FEB.
(For seasonal uses like irrigation give dates when water use would begin and end, e.g. March 1-October 31.)

E. Acreage

If you will be applying water to land, please give the total number of acres where water will be applied or used: 71.35 ACRES
(This number should be consistent with your application map.)

5. WATER MANAGEMENT

A. Diversion

What equipment will you use to pump water from your well(s)?

- ☒ Pump (give horsepower and pump type) ABOUT 175HP MINIMUM
☐ Other means (describe) _____

B. Transport

How will you transport water to your place of use?

- ☒ Ditch or canal (give average width and depth)
Width _____ Depth _____
Is the ditch or canal to be lined? ☒ Yes ☐ No
- ☒ Pipe (give diameter and total length)
Diameter 4" TRANSMISSION Length 500FT
6" TRANSMISSION 1500FT
- ☐ Other (describe) _____

Application No. 6-15710
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C. Application/Distribution Method

What equipment will you use to apply water to your place of use? ABOUT 175HP MIN. SUBMERSIBLE
PUMP TO DIRECTLY APPLY OR DISCHARGE INTO AN EXISTING RESERVOIR, 6" & 4" TRANS. PIPES.

Irrigation or land application method (check all that apply):

- | | | |
|--|---|---|
| ☐ Flood | ☒ High-pressure sprinkler | ☐ Low pressure sprinkler |
| ☒ Drip | ☐ Water cannons | ☐ Center pivot system |
| ☒ Hand lines | ☐ Wheel lines | |
| ☐ Siphon tubes or gated pipe with furrows | | |
| ☒ Other, describe <u>DRIP IRRIGATION & SOAKER HOSES AS MUCH AS POSSIBLE.</u> | | |

Distribution method

- | | |
|--|---|
| ☒ Direct pipe from source | EXIST. RESERVOIR APPL. R-76927, CERT. 70836 |
| ☒ In-line storage (tank or pond) | ☐ Open canal |

D. Conservation

What methods will you use to conserve water? Why did you choose this distribution or application method? For example, if you are using sprinkler irrigation rather than drip irrigation, explain. If you need additional space, attach a separate sheet.

USE AUTOMATIC IRRIGATION CONTROLLERS WHERE POSSIBLE, USE 1" TUNA CAN TO MEASURE
VOLUME APPLIED, USE DRIP IRRIGATION & SOAKER HOSES TO LIMIT AREA APPLIED, WATER
AT NIGHT TO REDUCE EVAPORATION AND OPERATING COSTS.

6. PROJECT SCHEDULE

Indicate the anticipated dates that the following construction tasks should begin. If construction has already begun, or is completed, please indicate that date.

Proposed date construction will begin MARCH 1, 2003

Proposed date construction will be completed MARCH 1, 2005

Proposed date beneficial water use will begin MARCH 1, 2007

7. REMARKS

If you would like to clarify any information you have provided in the application, please do so here and reference the specific application question you are addressing.

TO REDUCE THE SUBMERSIBLE PUMP HORSEPOWER, THE WELL WILL PROBABLY DISCHARGE TO
THE EXISTING RESERVOIR AND AN END SUCTION CENTRIFUGAL PUMP BE USED TO IRRIGATE.

Application No. 6-15710
Permit No.

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SALEM, OREGON

8. MAP REQUIREMENTS

The Department cannot process your application without accurate information showing the source of water and location of water use. You must include a map with this application form that clearly indicates the township, range, section, and quarter/quarter section of the proposed well location and place of use. The map must provide tax lot numbers. See the map guidelines sheet for detailed map specifications.

9. SIGNATURE

By my signature below I confirm that I understand:

- I am asking to use water specifically as described in this application.
- Evaluation of this application will be based on information provided in the application packet.
- I cannot legally use water until the Water Resources Department issues a permit to me.
- If I get a permit, I must not waste water.
- If development of the water use is not according to the terms of the permit, the permit can be canceled.
- The water use must be compatible with local comprehensive land use plans.
- Even if the Department issues a permit to me, I may have to stop using water to allow senior water right holders to get water they are entitled to, and

I swear that all information provided in this application is true and correct to the best of my knowledge:

Signature of Applicant

Date

Signature of Co-applicant

Date

Before you submit your application be sure you have:

- Answered each question completely.
- Attached a legible map which includes township, range, section, quarter/quarter and tax lot number.
- Included a Land Use Information Form or receipt stub signed by a local official.
- Included the legal description of all the property involved with this application. You may supply a copy of the deed, land sales contract, or title insurance policy, to meet this requirement.
- Included a check payable to the Oregon Water Resources Department for the appropriate amount.



HANS NELSON & SONS NURSERY, INC.

WHOLESALE GROWERS OF SHADE AND FLOWERING TREES

31020 S.E. WAYBILL RD. • BORING, OREGON 97009-9427

PHONE: (503) 663-3348

FAX (503) 663-0138



December 13, 2002

Ms. Anita M. Huffman
Water Resources Department
Commerce Building
158 12th Street NE
Salem, Oregon 97301-4172

Re: Application G 15710

Dear Anita:

Enclosed is a new map for application number G 15710.

This map shows a change of where I want to place wells #1 and #2. I want to make these well location changes based on how much it will cost to run electric power to these old locations. The 2 new locations on the enclosed map are very close to existing 480 volt power lines.

I did have to move one of these existing poles 30 feet at a cost in excess of \$3,500.00. Running power back to the original well #1 would have cost many thousands of dollars.

If you should have any questions about the new map, you can call Ed Crane. His phone number is listed on the map. My number is listed above.

Thank you for your help in this matter.

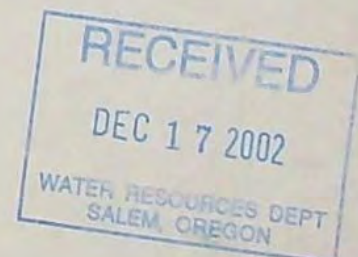
Sincerely,

Dan L. Nelson
President

DLN:lbh

cc: Ed Crane

app # 6-15710





HANS NELSON & SONS NURSERY, INC.

WHOLESALE GROWERS OF SHADE AND FLOWERING TREES

31020 S.E. WAYBILL RD. • BORING, OREGON 97009-9427

PHONE: (503) 663-3348

FAX (503) 663-0138



August 6, 2002

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AUG 07 2002

WATER RESOURCES DEPT.
SALEM, OREGON

Oregon Water Resources Department
Commerce Building
158 12th Street NE
Salem, Oregon 97301-4172

Re: File G 15710

To Whom It May Concern:

I received a letter from you dated 8/2/02 requesting additional information on the above file number G 15710. Following is the information you requested:

The 7.25 acres located across S.E. Lusted Road from 38616 SE Lusted Road should be deleted from this original application. When I filed the application with Ed Crane's help, I was interested in purchasing the 7.25 acres. Since our initial application date, the possibility of purchasing the 7.25 acres has changed and I am no longer considering this purchase.

Ed Crane of Crane & Merseth, 6566 SE Lake Road, Suite D, Milwaukie, Oregon 97222 will be forwarding a new map to show you the change as described above.

Sincerely,

Dan L. Nelson
President

DLN:lbm

cc: Ed Crane

app # G. 15710



Oregon

John A. Kitzhaber, M.D., Governor

**CERTIFIED MAIL
RETURN RECEIPT REQUESTED**

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

August 2, 2002

HANS NELSON AND SONS NURSERY INC
31020 SE WAYBILL RD
BORING, OREGON 97009-9427

(503) 663-3348

Reference: File G-15710

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 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 use of water from TWO WELLS IN SANDY RIVER BASIN for IRRIGATION (NURSERY USE) ON 71.35ACRES is allowable under OAR 690-503-050(1), the Sandy Basin Program.
3. The Department has determined, based upon OAR 690-09, that the proposed groundwater use will, if properly conditioned, adequately protect the surface water from interference.
4. The Department has also determined, based upon available data, that the use of groundwater in the amount of 0.89 CUBIC FOOT PER SECOND for NURSERY USE if properly conditioned, will not injure existing rights or the groundwater resource.
5. The Department has identified additional information that is required to obtain a permit to use water. Please refer to the **ADDITIONAL INFORMATION REQUIRED** section below for details.

app#
G-15710

Summary of Initial Determinations

The use of 0.89 CUBIC FOOT PER SECOND from TWO WELLS IN SANDY RIVER BASIN for NURSERY USE ON 71.35 ACRES is allowable year-round.

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, August 16, 2002**. For your convenience you may use the enclosed "STOP PROCESSING" form.

ADDITIONAL INFORMATION REQUIRED:

OAR 690-310-050((4)(b) requires the application map submitted to the Department to show the location of pipelines, ditches or other means of transporting water for the proposed use. It is noted that there is a County road transversing the property involved. Please indicate the location of the *main line* proposed under this application. If there will be water transported across or under the road, you must provide the Department with the mailing address and a written authorization or easement to cross the road.

Please submit the required information by *September 19, 2002*. If you are unable to submit the above listed information, you may request a "time out from processing" for up to an additional 180 days. You must submit the request in writing, stating how much more time you will need and why you need additional time. If a time out is granted, your application will not be processed further until the requested information is received or the extended deadline has passed.

If we do not receive the items requested above by this date, or a request for time out from processing, we may reject your application consistent with ORS 537.153. If your application is

rejected, any fees submitted in excess of the examination fee will be refunded; however, the examination fee is non-refundable and will not be returned. In addition, the priority date associated with your application will be lost.

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.
 - 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.
 - C. The Director may require the permittee to keep and maintain a record of the amount (volume) of water used and may require the permittee to report water use on a periodic schedule as established by the Director. In addition, the Director may require the permittee to report general water use information, the periods of water use and the place and nature of use of water under the permit. The Director may provide an opportunity for the permittee to submit alternative reporting procedures for review and approval.
2. Use of water under authority of this permit may be regulated if analysis of data available after the permit is issued discloses that the appropriation will measurably reduce the surface water flows necessary to maintain the free-flowing character of a scenic waterway in quantities necessary for recreation, fish and wildlife in effect as of the priority date of the right or as those quantities may be subsequently reduced.
3. If the number, location, or construction of any well deviates from that proposed in the permit application or permit conditions, the conclusions of the Proposed Final Order and Final Order under which this permit was granted may be revised, conditions may be appropriately revised, or this permit may not be valid.
4. (1) Use of water from the well, as allowed herein, shall be regulated if the well displays:
 - (a) An average water level decline of three or more feet per year for five consecutive years; or
 - (b) A total water level decline of fifteen or more feet; or
 - (c) A hydraulic interference decline of fifteen or more feet in any neighboring well providing water for senior exempt uses or wells covered by prior rights.

- (2) The permittee/appropriator shall install a meter or other measuring device suitable to the Director, and shall keep a complete record of water uses.
- (3) The permittee/appropriator shall be responsible for complying with each of the following requirements for measuring water levels in the well.
 - (a) Use of water from a new well shall not begin until the initial water level in the well has been measured. A measurement of initial water level shall be made at the time a pump is installed, but before pumping begins.
 - (b) In addition to the measurement required in subsection (a) of this section, a water level measurement shall be made each year at the time of spring high water during the period March 15 through April 15.
 - (c) All water level measurements shall be made by a qualified individual. Qualified individuals include certified water rights examiners, licensed water well drillers, registered geologists, registered professional engineers, registered land surveyors, licensed well constructor, pump installer licensed by the Construction Contractors Board, or the permittee/appropriator.
 - (d) Any qualified individual measuring a well shall use standard methods of procedure and equipment designed for the purpose of well measurement. The equipment used shall be well suited to the conditions of construction at the well. A list of standard methods of procedure and suitable equipment shall be available from the Department.
 - (e) The permittee/appropriator shall submit a record of the measurement to the Department on a form available from the Department. The record of measurement shall include both measurements and calculations, shall include a certification as to their accuracy signed by the individual making the measurements, and shall be received not later than 30 days from the date of measurement. The Department shall determine when any of the declines cited in section (1) are evidenced by the well measurement required in section (3).
5. The permit shall allow groundwater production from no shallower than 500 feet below land surface.
6. The use of water under this permit or certificate is subject to regulation concurrent with or prior to regulation of a senior right competing for water from the same source when regulation is the result of water level declines that exceed limits specified in the senior right.
7. The priority date for this application is FEBRUARY 15, 2002.

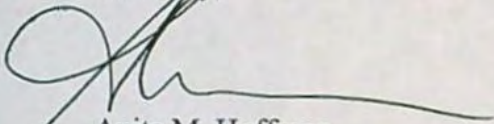
The water source identified in your application is in an area that has an approved Agricultural Water Quality Management Area Plan. These plans have been developed by the Oregon

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 Paul Measeles, (503) 986-4778 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 229 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,

A handwritten signature in black ink, appearing to read 'Anita M. Huffman', with a long horizontal flourish extending to the right.

Anita M. Huffman
Senior Water Rights Technician

enclosures: Flow Chart of Water Right Process
 Stop Processing Form

G-15710
wab 03-
pou 03-
gw c



HANS NELSON & SONS NURSERY, INC.

WHOLESALE GROWERS OF SHADE AND FLOWERING TREES

31020 S.E. WAYBILL RD. • BORING, OREGON 97009-9427

PHONE: (503) 663-3348

FAX (503) 663-0138



RECEIVED

MAR 07 2002

WATER RESOURCES DEPT.
SALEM, OREGON

March 5, 2002

Ms. Anita Huffman
Oregon Water Resources Department
Application & Permit Section
158 - 12th Street N.E.
Salem, Oregon 97310-0210

Dear Ms. Huffman:

Enclosed are two copies of a trust deed for the property we applying for water rights on. Te application numbers are as follows:

Surface water #S 85058

Ground water #G 15710

Both applications were submitted on 2/11/02. At that time we had not closed the real estate transaction. Please include this information with the other information I submitted earlier.

Thank you for your help in this matter.

Sincerely,

Dan L. Nelson
President

DLN:lbm
Encl.

RECORDING REQUESTED BY
Fidelity National Title Company of Oregon

GRANTOR'S NAME
Dan L. Nelson and Linda B. Nelson Family Trust

BENEFICIARY
Christina R. Vaeretti and William A. Rannow

AFTER RECORDING RETURN TO:
WESTSTAR LOAN SERVICING
180 SW HARRISON STREET
PORTLAND OR 97201

Application #
6 15710

SPACE ABOVE THIS LINE FOR RECORDER'S USE

TRUST DEED

THIS TRUST DEED, made February 20, 2002, between Dan L. Nelson and Linda B. Nelson as Trustees of the Dan L. Nelson and Linda B. Nelson Family Trust dated December 18, 1992, as Grantor, Fidelity National Title Company of Oregon, as Trustee, and Christina R. Vaeretti and William E Rannow, as Beneficiary,

WITNESSETH:

Grantor irrevocably grants, bargains, sells and conveys to trustee in trust, with power of sale, the property in Clackamas, Oregon, described as:

PARCEL 2, PARTITION PLAT 2002-009, IN THE COUNTY OF CLACKAMAS AND STATE OF OREGON.

together with all and singular the tenements, hereditaments and appurtenances and all other rights belonging or in anyway now or after appertaining, and the rents, issues and profits and all fixtures used in connection with the property.

FOR THE PURPOSE OF SECURING PERFORMANCE of each agreement of grantor and payment of the sum of FOUR HUNDRED NINE THOUSAND AND 00/100 Dollars, with interest according to the terms of a promissory note of even date, payable to beneficiary and made by grantor, the final payment of principal and interest, if not sooner paid, to be due and payable February 1, 2002. March 1, 2007 JER CN

The date of maturity of the debt secured by this instrument is the date, stated above, on which the final installment of the note becomes due and payable. In the event the within described property, or any interest therein is sold, agreed to be sold, conveyed, assigned or alienated by the grantor without first having obtained the written consent or approval of the beneficiary, then at the beneficiary's option, all obligations secured by this instrument, irrespective of the maturity dates expressed, shall become immediately due and payable.

To protect the security of this trust deed, grantor agrees:

1. To protect, preserve and maintain the property in good condition and repair; not to remove or demolish any building or improvement; not to commit or permit any waste of the property.

2. To complete or restore promptly and in good and habitable condition any building or improvement which now exists or may be constructed, and which is damaged or destroyed, and pay when due all costs incurred.

3. To comply with all laws, ordinances, regulations, covenants, conditions and restrictions affecting the property; if the beneficiary so requests, to join in executing such financing statements pursuant to the Uniform Commercial Code as the beneficiary may require and to pay for filing the same in the proper public office or offices, as well as the cost of all lien searches made by filing officers or searching agencies as may be deemed desirable by the beneficiary.

4. To provide and continuously maintain insurance on the buildings now or hereafter erected on the property against loss of damage by fire and such other hazards as the beneficiary may from time to time require, in an amount not less the insurable value, written in companies acceptable to the beneficiary, with loss payable to the latter; all policies of insurance shall be delivered to the beneficiary as soon as insured; if the grantor shall fail for any reason to procure any such insurance and to deliver the policies to the beneficiary at least fifteen days prior to the expiration of any policy of insurance now or hereafter placed on the buildings, the beneficiary may procure the same at grantor's expense. The amount collected under any fire or other insurance policy may be applied by beneficiary upon any indebtedness secured and in such order as beneficiary may determine, or at the option of beneficiary the entire amount so collected, or any part, may be released to grantor. Such application or release shall not cure or waive any default or notice of default or invalidate any act done pursuant to such notice.

RECEIVED

MAR 07 2002

WATER RESOURCES DEPT.
SALEM, OREGON

INITIALS *WJ*

5. To keep the property free from construction liens and to pay all taxes, assessments and other charges assessed upon or against the property before any part of such taxes, assessments and other charges become past due or delinquent and promptly delivered receipts to beneficiary; should the grantor fail to make payment of any taxes, assessments, insurance premiums, liens or other charges payable by grantor, either by direct payment or by providing beneficiary with funds with which to make such payment, beneficiary may, at its option, make payment, and the amount so paid, with interest at the rate set forth in the note secured, together with the obligations described in paragraphs 6 and 7 of this trust deed, shall be added to and become a part of the debt secured by this trust deed, without waiver of any rights arising from breach of any of the covenants and for such payments, with interest as aforesaid, the property described, as well as the grantor, shall be bound to the same extent that they are bound for the payment of the obligation described, and all such payments shall be immediately due and payable without notice, and the nonpayment shall, at the option of the beneficiary, render all sums secured by this trust deed immediately due and payable and constitute a breach of this trust deed.

6. To pay all costs, fees and expenses of this trust including the cost of title search as well as other costs and expenses of the trustee incurred in connection with or in enforcing this obligation and trustee's fees and attorney's fees actually incurred.

7. To appear in and defend any action or proceeding purporting to affect the security rights or powers of beneficiary or trustee; and in any suit, action or proceeding in which the beneficiary or trustee may appear, including any suit for the foreclosure of this trust deed, to pay all costs and expenses, including evidence of title and the beneficiary's or trustee's attorney's fees; the amount of attorney's fees mentioned in this paragraph 7 in all cases shall be fixed by the trial court and in the event of any appeal from any judgment or decree of the trial court, grantor further agrees to pay such sum as the appellate court shall adjudge reasonable as the beneficiary's or trustee's attorney's fees on such appeal.

It is mutually agreed that:

8. In the event that any portion or all of the property shall be taken under the right of eminent domain or condemnation, beneficiary shall have the right, if it so elects, to require that all or any portion of the monies payable as compensation for such taking which are in excess of the amount required to pay all reasonable costs, expenses and attorney's fees necessarily paid by grantor in such proceedings, shall be paid to beneficiary and applied by it first upon any reasonable costs and expenses and attorney's fees, both in the trial and appellate courts, necessarily paid or incurred by beneficiary in such proceedings, and the balance applied upon the indebtedness secured; and grantor agrees, at its own expense, to take such actions and execute such instruments as shall be necessary in obtaining such compensation, promptly upon beneficiary's request.

9. At any time and from time to time upon written request of beneficiary, payment of its fees and presentation of this deed and the note for endorsement (in case of full reconveyances, for cancellation), without affecting the liability of any person for the payment of the indebtedness, trustee may (a) consent to the making of any map or plat of the property; (b) join in granting any easement or creating any restriction; (c) join in any subordination or other agreement affecting this deed or the lien or charge; (d) reconvey, without warranty, all or any part of the property. The grantee in any reconveyance may be described as the "person or persons legally entitled thereto," and the recitals of any matters or facts shall be conclusive proof of their truthfulness.

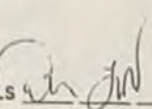
10. Upon any default by grantor, beneficiary may at any time by a receiver to be appointed by a court, and without regard to the adequacy of any security for the indebtedness secured, enter upon and take possession of the property or any part, in its own name sue or otherwise collect rents, issues and profits, including those past due and unpaid, and apply the same, less cost and expenses of operation and collection, including reasonable attorney's fees upon any indebtedness secured, and in such order as beneficiary may determine.

11. The entering upon and taking possession of the property, the collection of such rents, issues and profits, or the proceeds of fire and other insurance policies or compensation or awards for any taking or damage of the property, and the application or release, shall not cure or waive any default or invalidate any act done pursuant to such notice.

12. Upon default by grantor in payment of any indebtedness secured or in grantor's performance of any agreement, time being of the essence with respect to such payment and/or performance, the beneficiary may declare all sums secured immediately due and payable. In such an event the beneficiary may elect to proceed to foreclose this trust deed in equity as a mortgage or direct the trustee to foreclose this trust deed by advertisement and sale, or may direct the trustee to pursue any other right or remedy, either at law or in equity, which the beneficiary may have. In the event the beneficiary elects to foreclose by advertisement and sale, the beneficiary or the trustee shall execute and cause to be recorded a written notice of default and election to sell the property to satisfy the obligation secured and the trustee shall fix the time and place of sale, give notice as then required by law and proceed to foreclose this trust deed in the manner provided by law.

13. After the trustee has commenced foreclosure by advertisement and sale, and at any time prior to the time provided by law before the date the trustee conducts the sale, the grantor or any other person so privileged, may cure the default or defaults. If the default consists of a failure to pay, when due, sums secured by the trust deed, the default may be cured by paying the entire amount due at the time of the cure other than such portion as would not then be due had no default occurred. Any other default that is capable of being cured may be cured by tendering the performance required under the obligation or trust deed. In any case, in addition to curing the default or defaults, the person effecting the cure shall pay to the beneficiary all costs and expenses actually incurred in enforcing the obligation of the trust deed together with trustee's and attorney's fees not exceeding the amounts provided by law.

14. Otherwise, the sale shall be held on the date and at the time and place designated in the notice of sale or the time to which the sale may be postponed as provided by law. The trustee may sell the property either in one parcel or in separate parcels, and shall sell the parcel or parcels at auction to the highest bidder for cash, payable at the time of sale. Trustee shall deliver to the purchaser its deed in form as required by law conveying the property so sold, but without any covenant or warranty, express or implied. The recitals in the deed of any matters of fact shall be conclusive proof of their truthfulness. Any person, excluding the trustee, but including the grantor and beneficiary, may purchase at the sale.

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WATER RESOURCES DEPT.
SALEM, OREGON

15. When trustee sells pursuant to the powers provided, trustee shall apply the proceeds of sale to payment of (1) the expenses of sale, including the compensation of the trustee and a reasonable charge by trustee's attorney, (2) to the obligation secured by the trust deed, (3) to all persons having recorded liens subsequent to the interest of the trustee in the trust deed as their interests may appear in the order of their priority and (4) the surplus, if any, to the grantor or to the grantor or to any successor in interest entitled to such surplus.

16. Beneficiary may from time to time appoint a successor or successors to any trustee named or to any successor trustee appointed. Upon such appointment, and without conveyance to the successor trustee, the latter shall be vested with all title, powers and duties conferred upon any trustee named or appointed. Each such appointment or substitution shall be made by written instrument executed by beneficiary, which, when recorded in the records of the county or counties in which the property is situated, shall be conclusive proof of proper appointment of the successor trustee.

17. Trustee accepts this trust when this deed, duly executed and acknowledged, is made a public record as provided by law. Trustee is not obligated to notify any party of pending sale under any other deed of trust or of any action proceeding in which grantor, beneficiary or trustee shall be a party unless such action or proceeding is brought by trustee.

The grantor covenants and agrees to and with the beneficiary and the beneficiary's successor in interest that the grantor is lawfully seized in fee simple of the real property and has a valid, unencumbered title, excepting and subject to:

none

and that the grantor will warrant and forever defend the same against all persons.

The grantor warrants that the proceeds of the loan represented by the above described note and this trust deed are:

(a) primarily for grantor's personal, family or household purposes (see Important Notice below).

This deed applies to, inures to the benefit of and binds all parties, their heirs, legatees, devisees, administrators, executors, personal representatives, successors and assigns. The term beneficiary shall mean the holder and owner, including pledges, of the contract secured, whether or not named as a beneficiary.

In construing this trust deed, it is understood that the Grantor or Beneficiary may be more than one person; that if the context so requires, the singular shall be taken to mean and include the plural, and that generally all grammatical changes shall be made, assumed and implied to make the provisions apply equally to corporations and to individuals.

NOTE: The Trust Deed Act provides that the trustee must be either an attorney, who is an active member of the Oregon State Bar, a bank, trust company or savings and loan association authorized to do business under the laws of Oregon or the United States, a title insurance company authorized to insure title to real property of this state, its subsidiaries, affiliates, agents or branches, the United States or any agency thereof, or an escrow agent licensed under state law.

*IMPORTANT NOTICE: Delete, by lining out, whichever warranty (a) or (b) is not applicable; if warranty (a) is applicable and the beneficiary is a creditor as such word is defined in the Truth-in-Lending Act Regulation Z, the beneficiary MUST comply with the Act and Regulation by making required disclosure. If compliance with the Act is not required, disregard this notice.

WARNING

Unless you provide us with evidence of the insurance coverage as required by our contract or loan agreement, we may purchase insurance at your expense to protect our interest. This insurance may, but need not, also protect your interest. If the collateral becomes damaged, the coverage we purchase may not pay any claim you make or any claim made against you. You may later cancel this coverage by providing evidence that you have obtained property coverage elsewhere.

You are responsible for the cost of any insurance purchased by us. The cost of this insurance may be added to your contract or loan balance. If the cost is added to your contract or loan balance, the interest rate on the underlying contract or loan will apply to this added amount. The effective date of coverage may be the date your prior coverage lapsed or the date you failed to provide proof of coverage.

The coverage we purchase may be considerably more expensive than insurance you can obtain on your own and may not satisfy any need for property damage coverage or any mandatory liability insurance requirements imposed by applicable law.

DATED: February 12, 2002

Dan L. and Linda B. Nelson Family Trust

By: [Signature]
Dan L. Nelson, Trustee

By: [Signature]
Linda B. Nelson, Trustee

STATE OF OREGON Clackamas
COUNTY OF

This instrument was acknowledged before me on
February 21 2002

by Dan L. Nelson Trustee and Linda B. Nelson,
Trustee's of the Dan L. Nelson and Linda B. Nelson
Family Trust

NOTARY PUBLIC FOR OREGON
MY COMMISSION EXPIRES: 10/03/03



INITIALS [Signature]

RECEIVED
MAR 07 2002
WATER RESOURCES DEPT.
SALEM, OREGON

REQUEST FOR FULL RECONVEYANCE

To: Fidelity National Title Insurance Company, Trustee

The undersigned is the legal owner and holder of the Note or Notes for the total original sum of \$409,000.00 and of all other indebtedness secured by Deed of Trust dated February 20, 2002 executed by Dan L. Nelson and Linda B. Nelson, Trustees of the Dan L. Nelson and Linda B. Nelson Family Trust, as Trustor, to Fidelity National Title Insurance Company, as Trustee, and recorded on , in Book at Page or as Fee No. 2002- of Official Records, in the office of the County Recorder of Clackamas County, Oregon.

The Note or Notes, together with all other indebtedness secured by the Deed of Trust, have been fully paid and satisfied; and you are requested and directed, upon payment to you of any sums owing to you under the terms of the Deed of Trust, to cancel the Note or Notes above mentioned, and all other evidences of indebtedness secured by the Deed of Trust delivered to you, together with the Deed of Trust, and to reconvey, without warranty, to the parties designated by the terms of the Deed of Trust, all the estate now held by you under the same.

Mail Reconveyance to: _____

DATED: February 19, 2002

Christina R. Vaeretti
Christina R. Vaeretti

William E. Rannow
William E Rannow

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MAR 07 2002

WATER RESOURCES DEPT.
SALEM, OREGON

////////////////////////////////////
/ ATTENTION /
/ WATER RIGHTS SECTION!!! /
////////////////////////////////////

The following point of diversions may have been filed on a restricted stream

Application	Stream	Restriction
G 15710	SANDY R > COLUMBIA R	WTHDRWN ORS 538.251
G 15710	SANDY R > COLUMBIA R	WTHDRWN ORS 538.251
G 15710	SANDY R > COLUMBIA R	WTHDRWN ORS 538.251
G 15710	SANDY R > COLUMBIA R	WTHDRWN ORS 538.251
G 15710	SANDY R > COLUMBIA R	WTHDRWN ORS 538.251
G 15710	SANDY R > COLUMBIA R	WTHDRWN ORS 538.251
R 85057	COX CR > WILLAMETTE R	WTHDRWN SEO V7 P98
R 85057	COX CR > WILLAMETTE R	WTHDRWN SEO V7 P98
S 85056	COX CR > WILLAMETTE R	WTHDRWN SEO V7 P98
S 85056	COX CR > WILLAMETTE R	WTHDRWN SEO V7 P98
S 85058	SANDY R > COLUMBIA R	WTHDRWN ORS 538.251
S 85058	SANDY R > COLUMBIA R	WTHDRWN ORS 538.251
S 85058	SANDY R > COLUMBIA R	WTHDRWN ORS 538.251



Crane & Merseith Engineering/Surveying

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FFR 15 2002

WATER RESOURCES DEPT.
SALEM, OREGON

6566 S.E. Lake Road, Suite D • Milwaukie, OR 97222-2138 • Phone: (503) 654-2005 • Fax: (503) 654-2575

Application and Permit Section
Oregon Water Resources Department
158 12th Street, N.E.
Salem, Oregon 97310-0210

February 8, 2002

SUBJECT: **Property Located at 38615 SE Lusted Road**
Ground Water Application - Wells #1 & #2
Rights for Tax Lot 2000 & 2080, W1/2 of SW 1/4 Sec.25
and NW1/4 of NW1/4 of Sec. 36, both in T1S, R4W WM
Well #1 is located in SW 1/4 of SW 1/4
Well #2 is located in NW 1/4 of SW 1/4, both in
Sec. 25, T1S, R4E of WM, Clackamas Co. OR
Project Number: 347-003 L:\WP_PROJ\347-003\OWRD3.DOC

Dear Sir/Madam:

Dan Nelson is submitting the enclosed "Application for a Permit to Appropriate Groundwater" to withdraw water for irrigation under both General Nursery Irrigation Use (Mar. 1st to Oct. 31st) and General Agricultural Irrigation Use (Nov. 1st to the end of February). The sources of the proposed irrigation water will be from proposed Wells #1 & #2. The attached well application is for **0.892 cubic foot per second (cfs) (or 400 gpm)** on 71.35 acres irrigated at an 1/80 cfs/ac/day rate from Well #1 and Well #2.

I personally inspected his acreage and well sites on February 6, 2002. Attached for your review and approval are the groundwater application, application map and supporting data that shows the location of the wells and other features on the property.

Please contact Dan Nelson at 503-663-3348 if you have any questions about their existing reservoir or proposed wells. I'd be available to answer any questions or concerns that you may have about the Application and can be reached at 503-654-2005.

Sincerely,
CRANE & MERSETH ENGINEERING\SURVEYING

Edward A. Crane
Edward A. Crane, CWRE
Vice President

cc: Dan Nelson, President dba
Nelson & Sons Nursery Inc.
31020 SE Waybill Road
Boring, OR 97009-9427

TEL: 503-663-3348
Fax: 503-663-0138

Application No. *G-15710*
Permit No.



Standard Application "Completeness" Checklist

Minimum Requirements (OAR 690-310-040)

Application # P 15710

County: CLATSOP

Priority Date: _____

Township: 1S

Range: 4E

Use(s): GEN NURSERY IRRIG

Section: 25

GEN AGRI IRRIG
TEMP CONTROL

POD ¼¼: _____

Rate: _____

POU ¼¼: _____

0.892 CFS

☒ Applicant/Organization Name, Mailing Address and Telephone Number. If applicant is other than a private landowner, Organizations section must be completed.

☒ Source and tributary listed? _____

☒ Property ownership indicated? If applicant does not own all the land, is the affected landowner's name and mailing address listed? (Including: Lands, not owned by applicant, upon which the source is locatedor..... any Lands, not owned by applicant, which are crossed by the diversion works.) **NOTE:** An easement or agreement DOES NOT need to be submitted at this time, but will be required before a permit will be issued.

NO
INCLUDED
ADDRESSES

☒ If a groundwater application...is the groundwater development section completed? YES

☒ Proposed Use of the water.... Is each proposed use identified? NURSERY, AGRIC, TEMP

☒ Has the appropriate "Supplemental Form" for each proposed use been completed?

☒ Form I (Irrigation)

____ Form M (Municipal or Quasi-Municipal)

____ Form R (Mining)

____ Form Q (Commercial or Industrial)

____ Spring Description Sheet (if source is a Spring)

☒ Amount of water from each source listed in GPM, CFS or AF? _____

0.892 CFS

☒ Acreage being proposed, if applicable. 71.35 ACRES

☒ Season being requested by applicant. _____

☒ The water management section has been completed? If system has not been designed, the applicant may estimate this information. _____

☒ Resource protection system completed on Surface Water application? _____

☒ Are the dates of construction indicated? _____
If system already completed, applicant should indicate existing.

☒ Is the application signed in ink by the applicant? If the application is in the name of an organization or corporation, the authorized agent must sign the application.

☒ Is a copy of the deed, land sales contract or title insurance policy included? We cannot accept a copy of the tax bill. *NOTES & RECORDS SALE TAKING PLACE DEED TO FOLLOW*

☒ A completed Land-Use Form or receipt signed by the appropriate planning department officials enclosed? Does the use on land-use form match the proposed use on the application?

☒ Does the map meet map requirements of OAR 690-310-050? *ED CRANE MAP CWRE*

☒ Town, Range, Sec, $\frac{1}{4}$ and Tax Lot # ☒ Scale of the Map ☒ Reference corner on map

☒ North Directional Symbol ☒ $\frac{1}{4}$'s clearly identified ☒ POD clearly identified

☒ POU clearly identified ☒ Location Coordinates for each POD

☒ Location of House, if Domestic ☒ Number of acres per $\frac{1}{4}$, if Irrigation

☒ Location of Bldg, if Comm/Indus ☒ Location of Stock Tanks, if Livestock

☒ Muni/Quasi-Muni Service Boundaries ☒ Other _____

☒ Correct fees enclosed? Refer to worksheet to calculate fees.

Total Paid \$ *575*

COMPLETE

Total Amount of

Water Requested: *0.892 CFS*

Base Fee \$ *250*

plus *150*

plus _____

Total Exam Fee \$ *400*

Total Exam Fee \$ *400*

Recording Fee \$ *175*

Completeness Check by: *HJM*

Date: *2-19-2002*



Application No. 6-15710
Permit No.

Oregon Water Resources Department

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WATER RESOURCES DEPT.
SALEM, OREGON

FORM I

FOR IRRIGATION WATER USE

1. Please indicate whether you are requesting a primary or supplemental irrigation water right.

☒ Primary ☐ Supplemental

If supplemental, please indicate the number of acres that will be irrigated for each type of use.

Primary: 71.35 AC. Acres

Secondary: _____ Acres

List the permit or certificate number of the primary water right: no. APPLYING FOR NOW

2. Please list the anticipated crops you will grow and whether you will be irrigating them for a full or partial season:

1. GENERAL NURSERY USES ☐ Full season ☒ Partial season (from: MAR. 1 to OCT. 31)

2. GENERAL AGRICULTURAL USES ☐ Full season ☒ Partial season (from: NOV. 1 to END FEB.)

3. _____ ☐ Full season ☐ Partial season (from: _____ to _____)

4. _____ ☐ Full season ☐ Partial season (from: _____ to _____)

3. Indicate the maximum total number of acre-feet you expect to use in an irrigation season:

433 acre-feet

(1 acre-foot equals 12 inches of water spread over one acre, or 43,560 cubic feet, or 325,851 gallons.)

4. How will you schedule your applications of water? Will you be applying water in the evenings, twice a week, daily?

☐ Daily during daytime hours

PLANTED NEW CROP, CAN YARDS, GREENHOUSES

☒ Daily during nighttime hours

☐ Two or three times weekly during daytime

ESTABLISHED CROPS

☒ Two or three times weekly during nighttime

☐ Weekly, during daytime hours

☐ Weekly, during nighttime hours

☒ Other, explain: WILL USE DRIP IRRIGATION & SOAKERS HOSES AS MUCH AS POSSIBLE

FEB 15 2002

WATER RESOURCES DEPT.
SALEM, OREGON

Order No. 07-77661-28

EXHIBIT "ONE"

PARCEL I:

A tract of land situated in the Southwest one-quarter of Section 25 and the Northwest one-quarter of Section 36, Township 1 South, Range 4 East of the Willamette Meridian, Clackamas County, Oregon, more particularly described as follows:

Below Lusted Rd

Beginning at the Southwest corner of said Section 25; thence North $01^{\circ}08'47''$ West, along the West line thereof, 962.19 feet to a $5/8$ " iron rod with a yellow plastic cap stamped "Marx Assocs"; thence North $05^{\circ}52'37''$ East 74.90 feet to a $5/8$ " iron rod with a yellow plastic cap stamped "Marx Assocs"; thence North $01^{\circ}31'58''$ West 1358.09 feet to the Northwest corner of that certain tract of land described in Recorder's Fee No. 93 50262, Deed Records, said county; thence North $89^{\circ}04'00''$ East, along the North line of said Fee No. 93 50262, 333.64 feet to an angle point; thence North $38^{\circ}52'00''$ East, continuing along said North line, 155.01 feet to a point in the Southwesterly right of way line of SE Lusted Road (60 feet wide); thence South $51^{\circ}08'00''$ East, along said Southwesterly right of way line, 1165.41 feet to the Northeast corner of said Fee No. 93 50262; thence South $00^{\circ}41'00''$ East, along the East line of said Fee No. 93 50262, 1789.06 feet to the Southeast corner thereof and a point in the South line of said Section 25; thence West, along said South line, 651.69 feet to an angle point in the South line of said Fee No. 93 50262; thence South $01^{\circ}08'47''$ East 66.00 feet to the most Southerly Southeast corner of said Fee No. 93 50262; thence West, along the South line of said Fee No. 93 50262, 660.00 feet to a point in the West line of Section 36; thence North $01^{\circ}08'47''$ West, along said West line, 66.00 feet to the point of beginning.

PARCEL II:

Above Lusted Rd

That portion of the West one-half of the Southwest one-quarter of Section 25, Township 1 South, Range 4 East of the Willamette Meridian, Clackamas County, Oregon, lying Northeasterly of SE Lusted Road.

Application No. 6-15716
Permit No.



HANS NELSON & SONS NURSERY, INC.

WHOLESALE GROWERS OF SHADE AND FLOWERING TREES

31020 S.E. WAYBILL RD. • BORING, OREGON 97009-9427

PHONE: (503) 663-3348

FAX (503) 663-0138



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WATER RESOURCES DEPT.
SALEM, OREGON

February 11, 2002

Oregon Water Resources Department
Application & Permit Section
158 12th Street NE
Salem, Oregon 97310-0210

Dear Sir or Madam:

Enclosed are two applications for water use. The first is an application for a surface water permit from a reservoir under Application R76927 with a priority date of January 1, 1993. Enclosed is our check #21331 in the amount of \$575.00 to cover the \$250.00 examination fee, \$150.00 cu ft. per second and \$175.00 permit recording fee.

The second is for a ground water source from two proposed wells. Our check #21330 in the amount of \$575.00 is enclosed to cover the \$250.00 examination fee, \$150.00 cubic foot/second and \$175.00 permit recording fee.

The property on these applications is currently being purchased. I will be able to forward you a copy of the Trust Deed securing this land in early March, 2002.

I believe that I have completed all other necessary details. Should you have any further questions, my phone number is 503-663-3348 and fax number is 503-663-0138.

Sincerely,

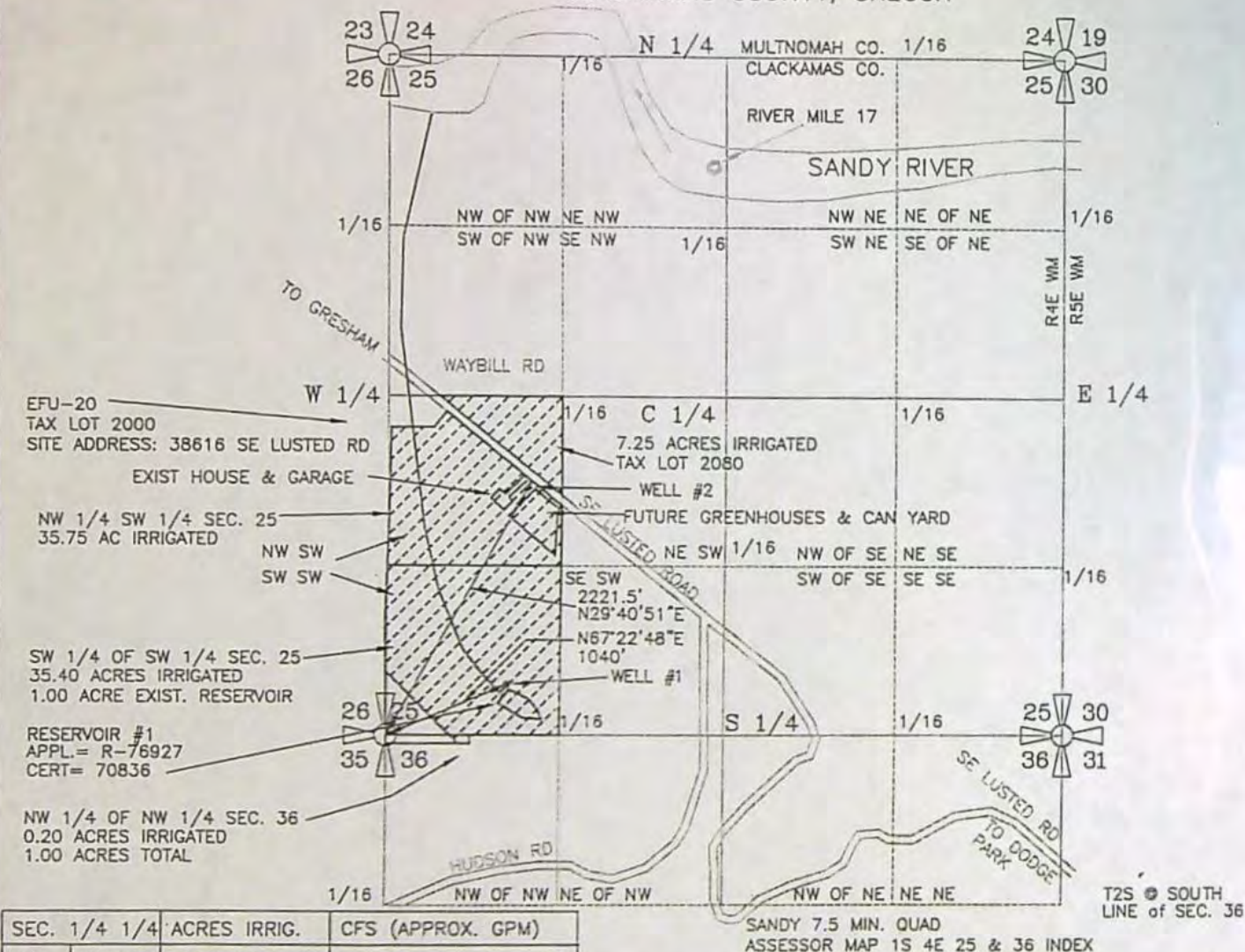
Dan L. Nelson
President

DLN:lbm
Encl.

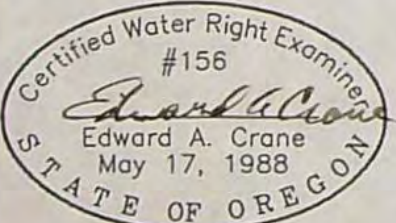
Application No. 6-15710
Permit No.

CORPORATE
BOUNDARY LINE
DONATION LAND
CLAIM (DLC #)

W 1/2 of the SW 1/4 of SECTION 25
NW 1/4 of the NW 1/4 of SECTION 36
T1S, R4E of the WM
CLACKAMAS COUNTY, OREGON



SEC. 1/4 1/4	ACRES IRRIG.	CFS (APPROX. GPM)
25 NW SW	35.75 AC IRRIG	0.4469 CFS (200 GPM)
25 SW SW	35.40 AC IRRIG	0.4425 CFS (199 GPM)
36 NW NW	0.20 AC IRRIG	0.0025 CFS (1.12 GPM)
TOTAL IRRIG.	71.35 ACRES	0.892 CFS (400 GPM)



Renewal 12/31/2003

Signed *Edward A. Crane*

SURVEYED FEB. 6, 2002
BY EDWARD A. CRANE, CWRE

K:\CAD\347-003\34700301.DWG EAC 2/08/2002



WELL #1 (NEW) IS LOCATED 400 FEET NORTH & 960 FEET EAST FROM THE SOUTHWEST CORNER OF SECTION 25, TOWNSHIP 1 SOUTH RANGE 4 EAST of the WM, CLACKAMAS COUNTY, OREGON

WELL #2 (NEW) IS LOCATED 1930 FEET NORTH AND 1100 FEET EAST OF THE SOUTHWEST CORNER OF SECTION 25, TOWNSHIP 1 SOUTH RANGE 4 EAST of the WM, CLACKAMAS COUNTY, OREGON

PREPARATION OF THIS MAP WAS FOR THE PURPOSE OF IDENTIFYING THE LOCATION OF THE WATER RIGHTS ONLY AND HAS NO INTENT TO PROVIDE DIMENSIONS OR LOCATION OF PROPERTY OWNERSHIP LINES.

APPLICATION FOR A PERMIT
GROUND WATER PERMIT G-15710

PREPARED BY EDWARD A. CRANE, CWRE

DATE
FEB. 2002

PROJECT NO.
347-003



CRANE & MERSETH
Engineering/Surveying
SUITE "D"
6566 SE LAKE ROAD
MILWAUKIE, OREGON 97222
BUS: (503) 654-2005
FAX: (503) 654-2575

APPLICATION FOR PERMIT NUMBER G-
PERMIT NUMBER G- IN THE NAME OF:

DAN NELSON dba HANS NELSON
& SONS NURSERY, INC. TEL: 503-663-3348
31020 SE WAYBILL RD., BORING, OR 97009

SHEET

1/1



Oregon Water Resources Department
Land Use Information Form

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RECEIVED

FEB 15 2002

WATER RESOURCES DEPT.
SALEM, OREGON

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: DAN NELSON dba HANS NELSON & SONS NURSERY

Address: 31020 SE WAYBILL ROAD

City: BORING State: OR Zip: 97009 Day Phone: 503-663-3348

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)		
2000, W1/2 SW1/4, SEC 25, T1S, R4E WM		☒ Diverted	☒ Conveyed	☒ Used
2080, NW1/4 SW1/4, SEC. 25, T1S, R4E WM		☐ Diverted	☒ Conveyed	☒ Used
		☐ Diverted	☐ Conveyed	☐ Used

List counties and cities where water is proposed to be diverted, conveyed, or used. CLACKAMAS COUNTY, NO CITY

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): GENERAL AGRICULTURAL USES, GENERAL NURSERY USES

Briefly describe: TWO WELLS WITH SUBMERSIBLE PUMPS, 6" TRANSMISSION SYSTEM, ROTATING SPRINKLER HEADS. BARE ROOT SHADE, FLOWERING AND ORNAMENTAL TREES.

D. Source

Indicate the source for the proposed water use:

☐ Reservoir/Pond ☒ Ground Water ☐ Surface Water _____ (source)

E. Quantity

Indicate the estimated quantity of water the use will require:

0.8923 ☒ CFS 400 ☒ GPM ☐ Acre-Feet

Receipt for Request for Land Use Information

State of Oregon
Water Resources Department
Commerce Bldg.
158 12th St. NE
Salem, OR 97310-0210
(503)378-8455

RECEIVED

FEB 15 2002

WATER RESOURCES DEPT.
SALEM, OREGON

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): 401.01. 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:	
		☐ Obtained ☐ Denied	☐ Being pursued ☐ Not being pursued
		☐ Obtained ☐ Denied	☐ Being pursued ☐ Not being pursued
		☐ Obtained ☐ Denied	☐ Being pursued ☐ Not being pursued
		☐ Obtained ☐ Denied	☐ Being pursued ☐ 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: Linda Price Date: 2-11-02
Title: Planner Phone: 503-353-4580

Signature: _____

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.)

Receipt for Request for Land Use Information

Name of water right applicant: _____

This receipt must be signed by a local government representative and returned to the applicant at the time they present this form. This receipt must be included in the application for a water right permit if the local government cannot provide the requested land use information while the applicant waits.

City or County: _____

Staff contact: _____ Phone: _____

Signature: _____ Date: _____