

Name S-86622
 By DAN NELSON
HANS NELSON AND SONS NURSERY INC.
 Address 31020 SE WAYBILL RD
BORING OR 97009-9427

Application No. 86622
 Permit No. S 54652
 Certificate No. _____

FEES PAID

Date	Amount	Receipt No.
6/15/06	850.00	82116

_____ C15 _____
 Priority _____
 County _____ WM# _____

_____ Date _____
 DENIED _____
 MISFILED _____ Volume _____ Page _____
 WITHDRAWN _____
 CANCELLED _____

FEES REFUNDED

Date	Amount	Receipt No.
7/26/10	296.00	82116 JF

RELATED FILES

DEVELOPMENT

Date

Completion 5-13-2015

Extended to _____

Final Proof received _____

Proposed Cert. Mailed _____

ASSIGNMENTS

Date	To Whom	Address

REMARKS

MAP LOCATION _____

2012

Oregon Water Resources Department
October through September
Water Use Recording and Reporting Form

2013

Consult the water right (permit, certificate, order) to determine applicable reporting conditions; the measurement, recording, and reporting conditions identified in a permitted or certified water right typically follow the place of use description. Use the columns below to document measurements for each authorized point of diversion/appropriation or reservoir. We ask that zeros be reported for any given month when water is not being used. Keep a copy of all measurement reports for your records. We encourage you to submit your water use data via our online utility when available, and to use the Monthly Water Use Forms for record keeping purposes. To lookup water rights, access the water use reporting webpage/online utility, or to obtain additional forms visit our web site: <http://www.wrd.state.or.us>

Dan Nelson

Hans Nelson and Sons Nursery Inc.

9095

Water Right Holder's Name

Water Right Holder's Business Name or Entity Name

USER ID#

31020 SE Waybill Rd., Boring, OR 97009-9427

Water Right Holder's Email

Water Right Holder's Complete Mailing Address

Phone Number

Facility Report ID	Use from Reservoir 63347 Application: S - Permit: S - 54192 Other: Per S-54652	Application: Permit: Other:	Application: Permit: Other:	Application: Permit: Other:
Describe the units of measurement as AF (acre-feet), G (gallons), KG (thousand gallons), MG (million gallons), CF (cubic feet), or MCF (million cubic feet)				
October - 2012	0			
November - 2012	0			
December - 2012	0			
January - 2013	0			
February - 2013	0			
March - 2013	0			RECEIVED BY OWRI
April - 2013	263000			
May - 2013	456000			FEB 05 2014
June - 2013	730000			
July - 2013	775000			SALEM, OR
August - 2013	1,00300			
September - 2013	351000			
TOTAL *				
Unit of Measurement	☒ G ☐ KG ☐ MG ☐ AF ☐ CF ☐ MCF	☐ G ☐ KG ☐ MG ☐ AF ☐ CF ☐ MCF	☐ G ☐ KG ☐ MG ☐ AF ☐ CF ☐ MCF	☐ G ☐ KG ☐ MG ☐ AF ☐ CF ☐ MCF

Describe the method of measurement used Flowmeter. If used for irrigation, total number of acres irrigated: 110

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

12-26-13

Date

Signature

Dan Nelson

Name and Title (print)

Hans Nelson and Sons Nursery

Company

503-663-3348

Phone Number

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

STATE OF OREGON REMITTANCE ADVICE

TO SIGN UP FOR DIRECT DEPOSIT PAYMENT SERVICE AND RECEIVE CONVENIENT,
ELECTRONIC PAYMENTS, LOG-ON TO <http://egov.oregon.gov/DAS/SCD/SFMS/ach.shtml>
ON THE INTERNET. CLICK ON: FORMS AND BROCHURES THEN SELECT DIRECT
DEPOSIT (ACH) AUTHORIZATION FORM.

mailed 8/3/10 JV

WARRANT NO. [REDACTED]

WATER RESOURCES DEPARTMENT

(503) 986-0926 EXT.

INVOICE NO.	INVOICE DATE	INVOICE DESCRIPTION	AGY	DOCUMENT	AMOUNT
		82116/S-86622	690	VP031776	296.00

Records have been redacted or withheld pursuant to the exemption for financial transfer records specified in ORS 192.345(27).

VENDOR NAME:	HANS NELSON & SONS NURSERY INC.	ISSUE DATE:	07/28/10	WARRANT AMOUNT:	296.00
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FOLD ON PERFORATION LINE BELOW  BEFORE DETACHING.

STATE OF OREGON

Dept of Administrative Services
To the State Treasurer, Salem, OR 97301-3098
WATER RESOURCES DEPARTMENT
(503) 986-0926 EXT.

PAYABLE THROUGH US BANK

98-10
1232

CHECK DATE

07/28/10



BANK WARRANT NO.

12 [REDACTED]

PAY THIS AMOUNT

\$296.00

DOCUMENT NO.

VP031776

*****TWO HUNDRED NINETY SIX AND 00/100 DOLLARS*****
PAY TO THE ORDER OF:

HANS NELSON & SONS NURSERY INC.
31020 SE WAYBILL RD
BORING OR 97009-9427

VOID AFTER 2 YEARS FROM DATE OF ISSUE

John J. Ziefel

AUTHORIZED SIGNATURE



Oregon

Theodore R. Kulungoski, Governor

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

May 13, 2010

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

REFERENCE: FILE S-86622

Dear Applicant:

Enclosed please find a check in the amount of \$296. This refund results from excess fees having been collected for the application referenced above.

If you have any questions, please contact Joel Plahn, at 503-986-0815.

Sincerely,

E. Timothy Wallin
Water Rights Program Manager

cc file

Fiscal Section (receipt #82116)

enclosure

Oregon Water Resources Department
Water Rights/Adjudications Division

Water Rights Application
Number S-86622

Final Order

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.

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.

Application History

On June 15, 2006, 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 March 2, 2010. The protest period closed April 16, 2010, and no protest was filed.

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

Order

Application S-86622 therefore is approved as proposed by the Proposed Final Order, and Permit S-54652 is issued as limited by the conditions proposed by the Proposed Final Order.

DATED May 13, 2010

E. Timothy Wall

for Phillip C. Ward, Director
Water Resources Department

This document was prepared by Joel Plahn. 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 503-986-0815.

If you have previously filed a protest and want to know its status, please contact Patricia McCarty at 503-986-0820

If you have other questions about the Department or any of its programs please contact our Customer Service Group at 503-986-0801.

Address all other correspondence to: Water Rights Section, Oregon Water Resources Department, 725 Summer St NE Ste A, Salem OR 97301-1266, Fax: 503-986-0901.

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, OR 97009-9427

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

APPLICATION FILE NUMBER: S-86622

SOURCE OF WATER: RESERVOIR 1 CONSTRUCTED UNDER PERMIT R-14141,
TRIBUTARY TO SANDY RIVER

PURPOSE OR USE: NURSERY USE OF 111.25 ACRES

MAXIMUM VOLUME: 14.0 ACRE FEET EACH YEAR

PERIOD OF USE: YEAR-ROUND

DATE OF PRIORITY: JUNE 15, 2006

POINT OF DIVERSION LOCATION: SW $\frac{1}{4}$ SW $\frac{1}{4}$, SECTION 25, T1S, R4E, W.M.;
1300 FEET NORTH AND 590 FEET EAST FROM SW CORNER, SECTION 25

The amount of water used for nursery use under this right, together with the amount secured under any other right existing for the same lands, is limited to 0.15 cubic foot per second per acre and 5.0 acre feet per acre per year. For irrigation of containerized nursery plants, the amount of water diverted under this right, together with the amount secured under any other right existing for the same lands, is limited to one-fortieth of one cubic foot per second and 5.0 acre feet per acre per year. For irrigation of in-ground nursery plants, the amount of water diverted under this right, together with the amount secured under any other right existing for the same lands, is limited to one-eightieth of one cubic foot per second and 2.5 acre feet per acre per year. The use of water for nursery use may be made at any time, during the period of allowed use specified above, that the use is beneficial. For irrigation of any other crop, the amount of water diverted under this right, together with the amount secured under any other right existing for the same lands, is limited to one-eightieth of one cubic foot per second 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

SE ¼ NE ¼ 11.9 ACRES
NE ¼ SE ¼ 18.75 ACRES
SE ¼ SE ¼ 16.5 ACRES
SECTION 26

NW ¼ NW ¼ 0.2 ACRE
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 totalizing flow meter at each point of diversion. The permittee shall maintain the meter in good working order.
- B. The permittee shall keep a complete record of the amount of water used each month, and shall submit a report which includes the recorded water use measurements to the Department annually or more frequently as may be required by the Director. Further, the Director may require the permittee to report general water-use information, including the place and nature of use of water under the permit.
- C. The permittee shall allow the watermaster access to the meter; provided however, where any meter is located within a private structure, the watermaster shall request access upon reasonable notice.
- D. The Director may provide an opportunity for the permittee to submit alternative measuring and reporting procedures for review and approval.

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

The permittee shall not construct, operate or maintain any dam or artificial obstruction to fish passage in the channel of the subject stream without providing a fishway to ensure adequate upstream and downstream passage for fish, unless the permittee has requested and been granted a fish passage waiver by the Oregon Fish and Wildlife Commission. The permittee is hereby directed to contact an Oregon Department of Fish and Wildlife Fish Passage Coordinator, before beginning construction of any in-channel obstruction.

The Director may require the user to measure inflow and outflow, above and below the reservoir respectively, to ensure that live flow is not impeded outside the storage season. Measurement devices and their implementation must be acceptable to the Director, and the Director may require that data be recorded on a specified periodic basis and reported to the Department annually or more frequently.

STANDARD CONDITIONS

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.

Where two or more water users agree among themselves as to the manner of rotation in the use of water and such agreement is placed in writing and filed by such water users with the watermaster, and such rotation system does not infringe upon such prior rights of any water user not a party to such rotation plan, the watermaster shall distribute the water according to such agreement.

If the riparian area is disturbed in the process of developing a point of diversion, the permittee shall be responsible for restoration and enhancement of such riparian area in accordance with ODFW's Fish and Wildlife Habitat Mitigation Policy OAR 635-415. For purposes of mitigation, the ODFW Fish and Wildlife Habitat Mitigation Goals and Standards, OAR 635-415, shall be followed.

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

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

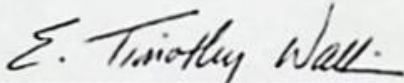
By law, the land use associated with this water use must be in compliance with statewide land-use goals and any local acknowledged land-use plan.

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

Completion of construction and application of the water shall be made within five years of the date of permit issuance. If beneficial use of permitted water has not been made before this date, the permittee may submit an application for extension of time, which may be approved based upon the merit of the application.

Within one year after making beneficial use of water, the permittee shall submit a claim of beneficial use, which includes a map and report, prepared by a Certified Water Rights Examiner.

Issued May 13, 2010



for Phillip C. Ward, Director
Water Resources Department

Mailing List for FO Copies

Application #S-86622

Original mailed to applicant with claim of beneficial use form:

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

Copies sent to: 1. WRD - File # S-86622
2. WRD - Ken Stahr

Copies Mailed	
By:	<u>SK</u> (SUPPORT STAFF)
on:	<u>5/3/10</u> (DATE)

FO and Map Copies sent to (remember to reduce copy margins):
3. WRD - Watermaster District #: 20

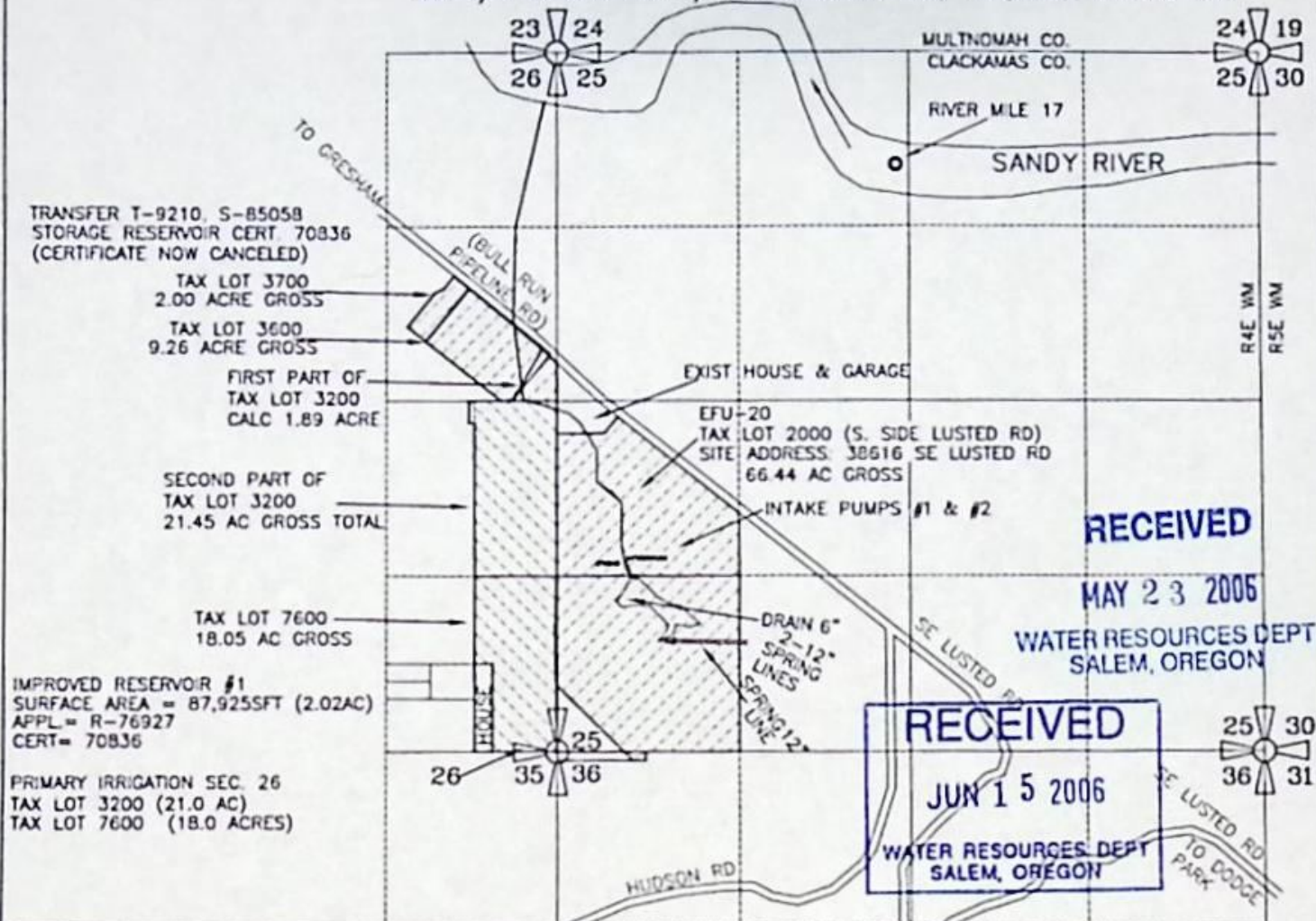
Copies sent to Other Interested Persons (CWRE, Agent, Commenter, etc.)
4. ed crane

"\$20 LETTER" sent to Interested Persons who have not protested or paid for copies
1.

CASEWORKER : Joel Plahn

CORPORATE
BOUNDARY LINE
DONATION LAND
CLAIM (DLC #)

W 1/2 of the SW 1/4 of SECTION 25, T1S, R4E of the WM
SE 1/4 of the NE 1/4 of SECTION 26, T1S, R4E of the WM
E 1/2 of the SE 1/4 of SECTION 26, T1S, R4E of the WM
NW 1/4 of the NW 1/4 of SECTION 36, T1S, R4E of the WM



SEC.	1/4 1/4	ACRES IRRIG.	CFS (APPROX. GPM)
25	NW SW	28.50 AC IRRIG	0.3563 CFS (160 GPM)
25	SW SW	35.40 AC IRRIG	0.4425 CFS (199 GPM)
26	SE NE	11.90 AC IRRIG	0.1488 CFS (67 GPM)
26	NE SE	18.75 AC IRRIG	0.2340 CFS (105 GPM)
26	SE SE	16.50 AC IRRIG	0.2063 CFS (93 GPM)
36	NW NW	0.20 AC IRRIG	0.0025 CFS (1.12 GPM)
TOTAL IRRIG.		111.25 ACRES	1.390 CFS (625 GPM)

T2S 0 SOUTH SANDY 7.5 MIN. QUAD
LINE of SEC. 36 ASSESSOR MAP 1S 4E 25 & 36 INDEX

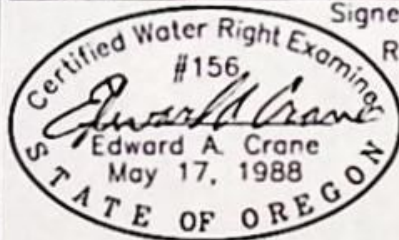
RESERVOIR APPLICATION R-76927 (UNDER HOUSE BILL-2153)
WAS FOR WILDLIFE USES ONLY. TRANSFER APPLICATION ADDED
IRRIGATION USES (GENERAL NURSERY USES & AGRICULTURAL USES)
APPL. R-86099 INCREASED STORAGE FROM 5 AC-FT TO 19 AC-FT
THIS APPLICATION INCREASES SURFACE WATER VOLUME USE FOR
IRRIGATION FROM 5 AC-FT TO 19 AC-FT & ADDS TL 3200 & 7600.

RESERVOIR INTAKES #1 & #2 are located 1300 FEET NORTH & 590 FT
EAST from the SOUTHWEST CORNER of SECTION 25, TOWNSHIP 1
SOUTH, RANGE 4 EAST of the WM, CLACKAMAS COUNTY, OREGON

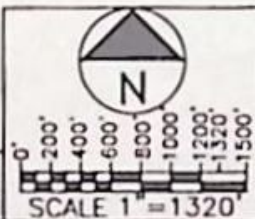
PREPARATION OF THIS MAP WAS FOR THE PURPOSE
OF IDENTIFYING THE LOCATION OF THE WATER RIGHTS
ONLY AND HAS NO INTENT TO PROVIDE DIMENSIONS
OR LOCATION OF PROPERTY OWNERSHIP LINES.

APPLICATION FOR A PERMIT SURFACE WATER APPLICATION

PREPARED BY EDWARD A. CRANE, CWRE



SURVEYED APRIL 7, 2006
BY EDWARD A. CRANE, CWRE



DATE
MAY 2006
PROJECT NO.
347-008



CRANE ENGINEERING
& SURVEYING, INC.
13755 SE 119TH DRIVE
CLACKAMAS, OREGON 97015
OFFICE: 503-698-3890
FAX NO: 503-698-3861
CELL: 503-679-3253
E-MAIL: eces@verizon.net

APPLICATION FOR PERMIT NUMBER S-86622
PERMIT NUMBER S- IN THE NAME OF:
DAN L. NELSON dba HANS NELSON
& SONS NURSERY, INC. TEL: 503-663-3348
31020 SE WAYBILL RD., BORING, OR 97009

SHEET
1/3

**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 # **82116**

INVOICE # _____

RECEIVED FROM: Hans Nelson & Sons

BY: Nelson, Inc.

APPLICATION	<u>74622</u>
PERMIT	
TRANSFER	

CASH ☐ CHECK # 25186 OTHER (IDENTIFY) ☐

TOTAL REC'D \$ 25186

1083 TREASURY 4170 WRD MISC CASH ACCT

0407 COPIES \$
OTHER (IDENTIFY) \$

0243 US 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:

0201 SURFACE WATER \$ 100.00 0202 \$ 250.00
0203 GROUND WATER \$ 0204 \$
0205 TRANSFER \$

WELL CONSTRUCTION

0218 WELL DRILL CONSTRUCTOR \$ 0219 \$
LANDOWNER'S PERMIT 0220 \$

OTHER (IDENTIFY) _____

0536 TREASURY 0437 WELL CONST. START FEE

0211 WELL CONST START FEE \$ CARD #
0210 MONITORING WELLS \$ CARD #

OTHER (IDENTIFY) _____

0607 TREASURY 0467 HYDRO ACTIVITY LIC NUMBER

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

TREASURY OTHER / RDX

FUND _____ TITLE _____
OBJ CODE _____ VENDOR # _____
DESCRIPTION \$

RECEIPT **82116**

DATED 6/15/02 BY [Signature]

FO Checklist

Application #: S-86622 Applicant: DAN NELSON HANS NELSON AND SONS NURSERY INC.

☒ Name and/or address has changed or been assigned ☐ Yes ☒ No

If new: _____

☒ Respond to significant comments, issues, or disputes related to the proposed use of water. ☒ N/A

☒ Affected landowner(s) have been notified ☐ N/A ☒ Yes ☐ No, send a letter to landowners before FO issuance.

☒ Verify names/addresses of affected landowners, and those who commented and/or paid \$10 fee. ☒ N/A

☒ Include fish screen form if ODFW requested screening condition and rate ≤ 0.5 CFS ☐ N/A ☐ Yes ☒ No

☒ PFO conclusions require modification due to typos, errors or omission of conditions ☐ Yes ☐ No

If so: _____

☒ Within North Umpqua settlement reach and issuing permit, spreadsheet has been updated ☒ N/A ☐ Yes

☒ SWW If GW and interference, copy form for Stahr. ☒ N/A

☒ Fees

Base Fee

Water Amount (Q)

\$300 / \$500
\$700 / \$1000

1st CFS/AF 10x15

150

_____ Addl @ _____

4

_____ Addl @ _____

Add'l ☐ POD/POA ☐ use + _____

150

(base)

+

(Q)

=

(total exam fee)

EXAM FEE REQUIRED

304

RECORDING FEE REQUIRED

\$250 / \$300 / \$400

EXAM FEE PAID

600

RECORDING FEE PAID

250

STILL OWED

0

STILL OWED

0

___ FO w/ draft permit; still needed:

___ fees

___ easement

___ st water contract

___ approved dam plans & specs

___ land use approval

___ well construction approval

___ FO w/ permit #

54652

___ FO to deny

refund \$ _____

Name: Joel Plahn

Date: 5/3/2010

Peer Reviewer: Jan 4/2/10

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.

PFO Checklist

Application #: E.E. S-86622 Applicant: DAN NELSON HANS NELSON AND SONS NURSERY INC

☒ Was the application filed after 10/23/99? ☒ Y / ☐ N (If not, add A date requirement)

☒ POD characteristics identifies as DEQ 303d? Y / ☒ NA If Y, was DEQ cc'd at IR? (If not, copy them on PFO)

☒ IR Date 4-3-09 Public Noticed on 4-7-09 Comments? Y / ☒ N Comment eval?

☒ IR requested add'l info Y / ☒ N

☒ Is second gw review necessary? Y / N / ☒ NA Complete? Y / N Add'l fees ☐ necessary ☐ collected ☐ needed

☒ Has Water Availability changed from IR? NO If source is Col R, use special w/a lang in RC

☒ Have conflicts been addressed? Y / N / ☒ NA

☒ Prior to permit, applicant must submit ☒ NA ☐ fees ☐ storage contract ☐ easement ☐ plans/specs ☐ evidence of well repair

☒ Changes from IR determinations POU incorrect should be NWNW sec 36

☒ Allowed Use/Rate/Season NW IR AG Limit Duty

☒ Conditions TFM

☐ Small ≤ 0.1 CFS, ≤ 9.2 AF ☐ Medium > 0.1 CFS but < 0.5 CFS, > 9.2 AF but < 100 AF ☒ Large ≥ 0.5 CFS, ≥ 100 AF

☒ SWW If GW and interference, copy form for Stahr

☒ Copy to Reg Manager WM 20 CWRE Crane Agent

Fees	Base Fee	Water Amount (Q)	
	\$300 / \$500	1" CFS/AF <u>10 x 15</u>	<u>150</u>
	\$700 / \$1000		<u>4</u>
		Add'l @ <u> </u>	
		Add'l ☐ POD/POA ☐ use	
	<u>150</u>		
	(base)	(Q)	(total exam fee)

EXAM FEE REQUIRED	<u>304</u>	RECORDING FEE REQUIRED	☒ \$250 ☐ \$300 / \$400
EXAM FEE PAID	<u>-600</u>	RECORDING FEE PAID	<u>-250</u>
STILL OWED	<u>Ø</u>	STILL OWED	<u>Ø</u>

Need Refund

Name: Joel Plahn Date: 1/13/2010 Peer Reviewer:

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.

Ag, Nov - Feb
NU 3/1 - 10/31
IR 3/1 - 10/31

IR CHECKLIST

Application #: E.E.S. 86622 Applicant: DAN NELSON HANS NELSON AND SONS NURSERY INC

Use(s): NURSERY USE ON 111.25 ACRES Priority Date: June 15, 2006

☒ MU or QM ☒ NA ☐ will complete construction within 20 years
☐ Fujii reviewed ☐ recommendations _____

☒ Is the application complete? ☐ No ☒ Yes

☒ ORS 538 prohibits use ☒ No ☐ Yes If so, do not do an IR, return the application & fees to the applicant.

☒ DIV 9 ☒ NA ☐ will likely be available... ☐ will not likely be available... ☐ will, if properly conditioned...

☐ classify as surface water well _____ has PSI with _____

(include basin map if true) well _____ is within ☐ IN 3E 20, 21, 28, 29 ☐ GWLA ☐ CGWA _____

GW conditions _____

☒ DIVISION 33 ☐ NA ☐ No ☐ above Bonneville, and ☐ not allowed 4/15 - 9/30
☒ below Bonneville
☐ statewide

☒ SW Availability ☐ NA ☐ 80% live ☐ 50% ☒ storage _____ WID: _____

☐ Use DWF's nonstandard W/A memo if the source is a Drews Reservoir tributary; the Snake River; the Columbia River; the North Umpqua River below Rock Creek; or within the drainages of the Lost River, Chehalem Creek, or Champoeg Creek (including Mission & Case Creeks)

☒ POU conflict ☐ NA ☒ No ☐ No, different sources ☐ No, make up a deficiency in rate ☐ No, existing not at max. rate
☐ Yes _____

☒ Use is supplemental, checked for primary rights w/ diff source ☒ NA ☐ Yes limits _____

☒ Use is ☒ allowed ☐ not allowed ☐ limited ☐ OAR ☐ Compact 690-503-0040(3)

☒ Requested Use/Rate/Season Ag, NU, IR 14.0 AF

Allowed Use/Rate/Season Yes Limit 1/80 Duty 2 1/2

☒ Land use ☒ approved ☐ not approved ☐ being pursued ☐ county notified ☐ NA

☒ Storage contract ☒ NA ☐ BOR ☐ Doug Co ☐ Corp of Eng ☐ needed ☐ obtained _____

☒ Authorized agent specified ☒ NA ☐ needed ☐ Yes _____

☒ Conditions: Med

☐ Small ≤ 0.1 CFS, ≤ 9.2 AF, ☒ Medium > 0.1 and < 0.5 CFS, > 9.2 and < 100 AF, ☐ Large ≥ 0.5 CFS, ≥ 100 AF
Use at least "Medium" when the source is Siltcoos Lake, Sandy Basin GW, or stored water with a contract.
Use "Large" for temp control (including NU), HC exceptions, Tenmile Lake, or if applicant is a government entity
Use "Large-7g" or "Large-7i" if GW recommends 7g or 7i
Use "Large with totalizing flow meter" for IR permits in South Salem Hills or IR over 10 Ac in Stage Gulch CGWA

☒ Stream is withdrawn ☒ NA ☐ No ☐ Yes, allows use/season _____

☒ SWW ☐ NA ☒ above ☐ within Sandy (If GW and interference, copy form for Stahr.)

Application #: E.E.S- 86622 Applicant: DAN NELSON HANS NELSON AND SONS NURSERY INC

☒ Use is within a high priority area for streamflow restoration ☐ NA ☒ No ☐ Yes

☒ Letter format ☒ good ☐ limited ☐ bad ☐ bad w/ rate reduction opportunity ☐ bad w/ HC opportunity

☒ POD is within North Umpqua settlement reach and the spreadsheet was updated ☒ NA ☐ Yes

☒ Forms ☐ NA ☒ DIV 33 ☐ basin map ☐ HC except ☐ spring description other _____

☒ Copy to ☐ NWR ☒ WM # 20 ☒ ODFW ☐ CRIFC
☐ NCR ☐ agent ☒ DEQ ☐ US Fish & Wildlife
☐ ER ☒ CWRE ☒ DOA ☐ NW Planning Council
☐ SWR ☒ State Parks ☐ CTUIR

☐ DOA Food Safety Division
(bottled water)

☐ city _____
(w/in 5-mile muni wells)

Kim Tomlinson

☒ Prior to permit, applicant must submit ☒ NA ☐ storage contract ☐ easement ☐ plans/specs ☐ evidence of well repair

☒ App and map meet min. requirements ☐ Yes ☐ No _____
(if not, send IR certified)

☐ Scanned images exist for application form and map

☒ Fees _____ CFS Base 150
_____ AF Up to 1 CFS _____
_____ Add'l CFS @ _____
8 to 20 AF 10 @ 15 150
4 Add'l AF @ 1 4
Add'l ☐ POD/POA ☐ use + _____
Exam Fee Required = 304
Exam Fee Paid 600
Still Owed 0

Name: Joel Plahn Date: 3/27/2009

Peer Reviewer: herry

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.

Point of Diversion Characteristics

Right:	App:S 86622 *
Name:	HANS NELSON AND SONS NURSERY INC. DAN NELSON

TRSQQ: 01.00S-04.00E-25-NWSW Digital Map of TRSQQ

County: Clackamas

Basin: Sandy

WM District: 20

WM Region: NW

Withdrawn Area: SANDY RIVER

WAB: SANDY R > COLUMBIA R - AB UNN STR (72145)

Priority WAB:

Rule 4D: Rules apply

Groundwater Restricted Area:

Scenic Water Way: ABOVE Sandy River Scenic Waterway

Division 33: LOWER COLUMBIA

Water Quality Limited:

Place of Use Conflict Report

The following rights have acreage in the same quarter-quarter as App:S 86622 *

Right	Name	Decree	App	Permit	Cert	Priority	Status	Use	T-R-S-QQ	DLC	Gov't Lot	Acre
PERMIT G 11911 *	DEAN W BREDENKAMP	G-13291	G-11911			2/6/1993	NC	IR	01 00S-04 00E-26-NESE			17.0000
								NU	01 00S-04 00E-26-SESE			
PERMIT G 15436 *	DAN NELSON	G-15710	G-15436			2/15/2002	NC	NU	01 00S-04 00E-25-NWSW			0.2000
								NU	01 00S-04 00E-25-SWSW			35.4000
								NU	01 00S-04 00E-25-NWSW			28.5000
PERMIT G 16213 *	DOUG JOHNSON	G-16714	G-16213			8/28/2006	NC	IR	01 00S-04 00E-26-NESE			19.5000
APP P 83341 *	KIM A TOMLINSON	P-83341				1/23/1997	NC	FW	01 00S-04 00E-26-SESE			
INCHDATE T 9210 CE (REG) *	DAN NELSON	R-70927				1/1/1993	NC	MP	01 00S-04 00E-25-SWSW			
PERMIT R 14141 *	DAN NELSON	R-86099	R-14141			1/5/2005	NC	MP	01 00S-04 00E-25-SWSW			
PERMIT S 54192 *	HANS NELSON AND SONS NURSERY INC.	S-85058	S-54192			2/15/2002	NC	NU	01 00S-04 00E-25-NWSW			35.7500
								NU	01 00S-04 00E-25-SWSW			35.4000
								NU	01 00S-04 00E-26-NWSW			0.2000

690-503-0040

Surface Water Classifications

(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, ORS 536.300 & ORS 536.310

Stats. Implemented:

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

STATE OF OREGON

COUNTY OF CLACKAMAS

PERMIT TO CONSTRUCT A RESERVOIR AND STORE THE PUBLIC WATERS

THIS PERMIT IS HEREBY ISSUED TO

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

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

APPLICATION FILE NUMBER: R-86099

SOURCE OF WATER: SPRINGS, TRIBUTARY TO SANDY RIVER

STORAGE FACILITY: RESERVOIR #1

PURPOSE OR USE OF THE STORED WATER: MULTI PURPOSE STORAGE

MAXIMUM STORAGE VOLUME: 19.0 ACRE FEET EACH YEAR

WATER MAY BE APPROPRIATED FOR STORAGE DURING THE PERIOD: DECEMBER 1
THROUGH END OF FEBRUARY OF EACH YEAR

DATE OF PRIORITY: JANUARY 5, 2005

DAM LOCATION: SW 1/4 SW 1/4 SECTION 25, T1S, R4E, W.M.; 1300 FEET NORTH
& 590 FEET EAST FROM SW CORNER, SECTION 25

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

SW 1/4 SW 1/4
SECTION 25
TOWNSHIP 1 SOUTH, RANGE 4 EAST, W.M.

Measurement, recording and reporting conditions:

- A. The Director may require the permittee to install a meter or other suitable measuring device as approved by the Director. If the Director notifies the permittee to install a meter or other measuring device, the permittee shall install such device within the period stated in the notice. Such installation period shall not be less than 90 days unless special circumstances warrant a shorter installation period. Once installed, the permittee shall maintain the meter or measuring device in good working order and shall allow the watermaster access to the meter or measuring device. The Director may provide an opportunity for the permittee to

Application R-86099 Water Resources Department

PERMIT R-14141

submit alternative measuring procedures for review and approval.

- B. 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 storage of water allowed herein is subject to the installation and maintenance of an outlet pipe, or the provision of other means to evacuate water when determined necessary by the Water Resources Director to satisfy prior downstream rights.

The permittee shall pass all live flow outside the storage season described above.

This permit does not provide for the appropriation of water for any out of reservoir uses, the maintenance of the water level or maintaining a suitable fresh water condition. If any water is used for out of reservoir uses, or any live flow is appropriated to maintain either the water level or a suitable freshwater condition, a secondary water right is required.

STANDARD CONDITIONS

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

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

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

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

This permit does not authorize the permit holder to pursue this right in such a way as to interfere with or affect adjacent property not under the ownership of the permit holder.

The reservoir shall be filled and complete application of the stored water to the use shall be made on or before October 1, 2009.

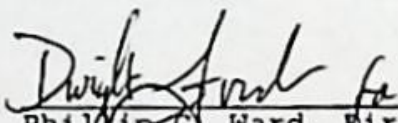
Within one year after complete application of water to the proposed use, the permittee shall submit a claim of beneficial use to the Oregon Water Resources Department.

The claim of beneficial use shall be prepared by a Certified Water Right Examiner in conformance with the requirements of OAR 690-014 if an associated secondary permit exists for the use of stored water under this permit, or if the reservoir stores 9.2 or more acre-feet of water.

If no secondary permit exists and the reservoir stores less than 9.2 acre-feet of water, the claim of beneficial use need not be prepared by a Certified Water Right Examiner. The information submitted to the Oregon Water Resources Department shall include:

- (a) the dimensions of the reservoir;
- (b) the maximum capacity of the reservoir in acre-feet; and
- (c) a map identifying the location of the reservoir prepared in compliance with Water Resource Department standards.

Issued March 10 , 2005


Philip C. Ward, Director
Water Resources Department

ASSIGNMENT OF PERMIT: Pursuant to ORS 537.220, this permit may be assigned to a party other than the permittee named hereon, if the land the permit is associated with changes ownership, or if the permittee is an organization whose name changes as a result of sale or merger. Request for Assignment forms are available from the Oregon Water Resources Department web site at <http://www.wrd.state.or.us/>, or may be requested from the Department at 503-986-0801 or Water Right Application Section, Oregon Water Resources Department, 725 Summer St NE Ste A, Salem OR 97301-1271.

MAILING ADDRESS CHANGES: If the mailing address of the permittee named hereon changes, it is important that the Oregon Water Resources

Department be informed of the change. Address changes must be submitted in writing with the permittee's signature to Water Right Application Section, Oregon Water Resources Department, 725 Summer St NE Ste A, Salem OR 97301-1271.

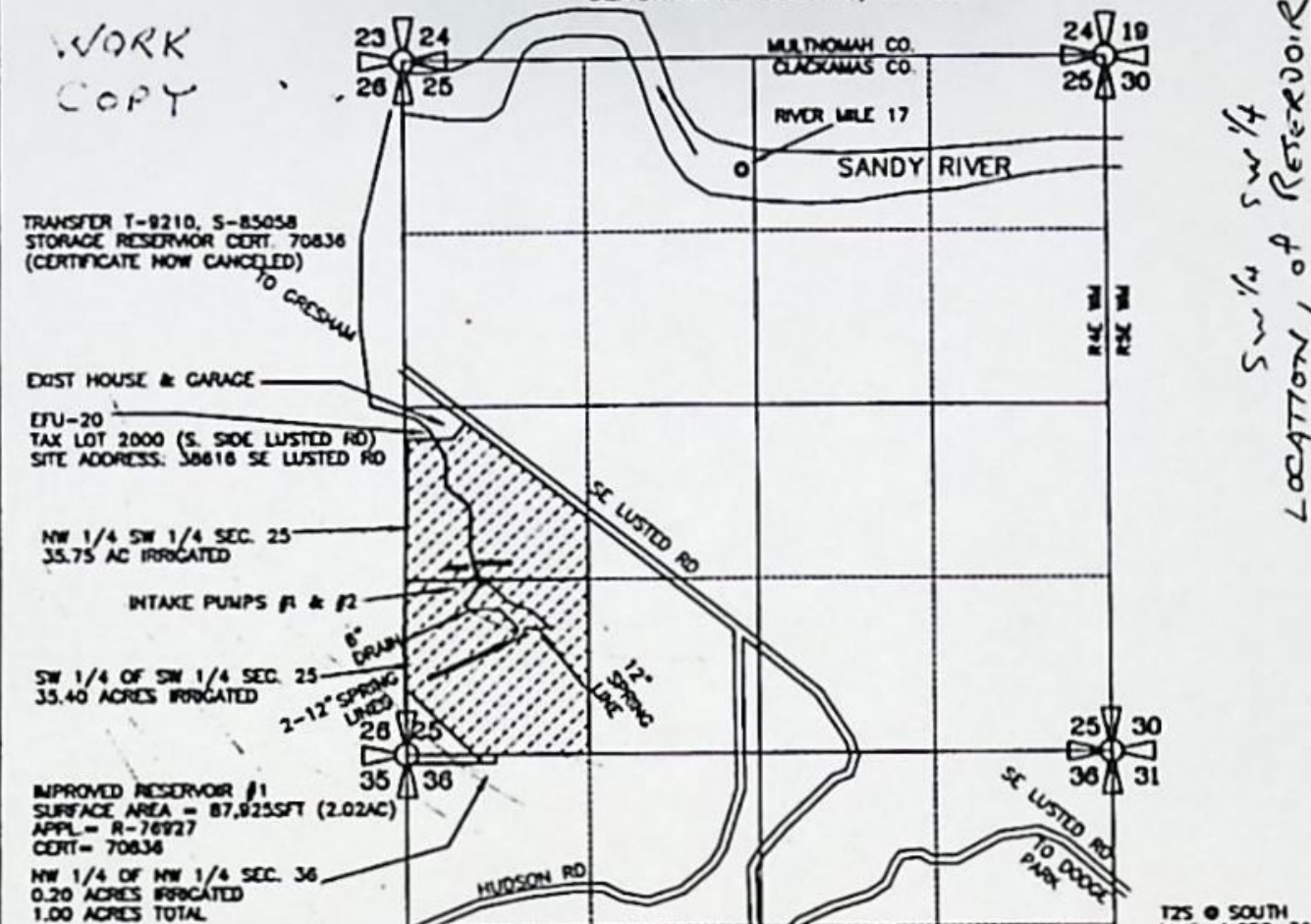
REAL ESTATE TRANSACTIONS: Pursuant to ORS 537.330, in any transaction for the conveyance of real estate that includes any portion of the lands described in this permit, the seller of the real estate shall, upon accepting an offer to purchase that real estate, also inform the purchaser in writing whether 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.

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

WORK
COPY

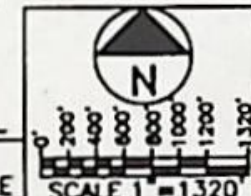


SEC.	1/4 1/4	ACRES IRRIG.	CFS (APPROX. GPM)
25	NW SW	28.50 AC IRRIG	0.3563 CFS (160 GPM)
25	SW SW	35.40 AC IRRIG	0.4425 CFS (199 GPM)
36	NW NW	0.20 AC IRRIG	0.0025 CFS (1.12 GPM)
TOTAL IRRIG.			64.10 ACRES

RESERVOIR APPLICATION R-76927 (UNDER HOUSE BILL-2153) WAS FOR WILDLIFE USES ONLY. TRANSFER APPLICATION ADDED IRRIGATION USES (GENERAL NURSERY USES & AGRICULTURAL USES). THIS APPLICATION INCREASES STORAGE FROM 5 AC-FT TO 9 AC-FT.

Certified Water Right Examiner
#156
Edward A. Crane
May 17, 1988
Renewal 12/31/2005
Signed _____
SURVEYED SEPT. 22, 2004
BY EDWARD A. CRANE, CWRE

NO INCREASE IN DUTY
OR IRRIGATION AREAS
OR TYPES OF USES
SURFACE AREA WAS
FIELD SURVEYED ON
SEPTEMBER 22, 2004



RESERVOIR INTAKE #1 & #2 ARE LOCATED 1300 FEET NORTH & 590 FT EAST FROM 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.

GROUNDWATER PERMIT G-
CONSTRUCT A RESERVOIR

PREPARED BY EDWARD A. CRANE, CWRE

DATE
DEC. 2004
PROJECT NO.
347-006
CRANE ENGINEERING & SURVEYING, INC.
13755 SE 119TH DRIVE
CLACKAMAS, OREGON 97015
OFFICE: 503-698-3890
FAX NO: 503-698-3881
CELL: 503-879-3253
E-MAIL: eac@verizon.net

APPLICATION FOR PERMIT NUMBER R-
(ALTERNATE REVIEW), IN THE NAME OF:
DAN L. NELSON dba HANS NELSON
& SONS NURSERY, INC. TEL: 503-663-3348
31020 SE WAYBILL RD., BORING, OR 97009

SHEET
1/3

app # R-86099

Application - Dan Nelson

ONS NURSERY, INC.

Jerry - 5-24-06

Return:

Completeness Checklist

(110-0040) (ORS 537.400)

- ① Need legal desc. for
 - TL 2000, Sec 25
 - TL 3200 & TL 7600, Sec 26

RETURN PACKAGE

- ② Land Use form does NOT include TL 3700, Sec 26

- ③ Source & amount of PODs is unclear
 - stored water?
 - and live flow?

Telephone Number, application signed in

10 - old form component filed out, including a non-udud (ORS 537.400) permit # R-14141, App # R-86099) re flow?

Paid for 2 cfs & recording fee KLK

ected landowner's name and

if applicant does not own all the land, a statement declaring the existence of either written authorization or an easement permitting access to land crossed by the proposed ditch canal or other work must be submitted.

MAP Groundwater development section (Page 2, Section 3 and/or Page 3, Section 2) or a well log report.

Proposed use of water. If supplemental, list primary water right acreage if applicable. NURSERY 4 SUPPLEMENTAL 12216 111.25 ac

Enclosed Supplemental Form for each proposed use.

5-85058

- ☒ Form I (Irrigation)
- ☐ Form M (Municipal or Quasi-Municipal)
- ☐ Form R (Mining)
- ☐ Form Q (Commercial or Industrial)
- ☐ Spring Description Sheet

? amount of water from each source in gallons per minute (GPM), cubic feet per second (CFS), or acre feet (AF) unnamed trib -> Sunday and/or stored water?

Period of use Ag - Nov 1 - Feb 28 Nu - Mar 1 - Oct 31

5-26-22

dba: HANS NELSON & SONS NURSERY, INC.
DAN NELSON

Standard Application Completeness Checklist

Minimum Requirements (OAR 690-310-0040) (ORS 537.400)

Application _____	Township _____
Priority Date <u>FIRST</u>	Range <u>RETURN PACKAGE</u>
Use(s) _____	Section _____
Rate _____	POD Loc. _____
County _____	POU Loc. _____

☒ Applicant/Organization Name, Mailing Address and Telephone Number, application signed in ink.

☒ Source of water. If stored water, is the stored water component filed out, including a non-expired agreement for stored water must be included. (ORS 537.400)

☒ Property ownership indicated. NO - old form
stored water - Reservoir #1 (Permit # R-14141, App H-R-86099)
& live flow?

☒ If applicant does not own all the land, the affected landowner's name and mailing address must be listed.

☒ If applicant does not own all the land, a statement declaring the existence of either written authorization or an easement permitting access to land crossed by the proposed ditch canal or other work must be submitted.

NA ☒ Groundwater development section (Page 2, Section 3 and/or Page 3, Section 2) or a well log report.

☒ Proposed use of water. If supplemental, list primary water right acreage if applicable. NURSERY

☒ Enclosed Supplemental Form for each proposed use.

SUPPLEMENTAL
IRRIG
111.25 ac

S-85058

☒ Form I (Irrigation)

☐ Form M (Municipal or Quasi-Municipal)

☐ Form R (Mining)

☐ Form Q (Commercial or Industrial)

☐ Spring Description Sheet

☒ Amount of water from each source in gallons per minute (GPM), cubic feet per second (CFS), or acre feet (AF)

unnamed trib - Sunday and/or stored water?

☒ Period of use

Ag - Nov 1 - Feb 28

Nu - Mar 1 - Oct 31

☒ Water management section (Please estimate if the water system has not been designed).

☒ Resource Protection Section (Page 6, Section 5).

☒ Project schedule (If system is already completed, indicate "existing").

MAO For reservoir applications storing more than 9.2 acre feet, and a dam height of more than 10 feet, preliminary plans and specifications for dam and impoundment are required.

☐ If the above is statement is checked, the map must be prepared by a CWRE.

☒ All applicants (or the authorized agent with title or authority if for an organization or corporation), must sign the application in ink.

Need legal for TL 2000, 3200 & 7600
You must include a Legal description of the property involved that includes a metes and bounds, or other government survey description. A copy of the deed, land sales contract or title insurance policy can provide this information, or you may submit a lot book report prepared by a title company. The Department will not accept a copy of the tax bill.

☐ A completed Land-Use Form or receipt signed and dated by the appropriate planning department officials. *Date of signature must be within the past 6 months.*

☐ The map must meet all the minimum requirements of OAR 690-310-0050. **Land-Use Form does not include TL 3700** **#156 by Ed Crane, CWRE**

☒ Township, Range, Section

☒ Location of main canals, ditches, pipelines or flumes

☒ Place of use, 1/4, 1/4's and tax lot clearly identified

☒ Even map scale not less than 4" = 1 mile (example. 1" = 100 ft, 1" = 200 ft, etc.)

☒ Location of each diversion point well or dam by reference to a recognized public land survey corner

☒ North Directional Symbol

☒ Number of acres per 1/4, 1/4, if irrigation, nursery, or agriculture

☐ Other _____

☒ Reference corner on map

☒ Each point of diversion coordinate

Intake Pumps #1 & #2
☐ Fees: Amount of water requested _____

Paid \$850.00

Base Fee \$ _____

Total Exam Fee \$ _____

1st CFS/AF _____

Total Paid \$ _____

Addn'l @ _____

Amount Due \$ _____

Reviewed by **K Kavanagh**

Date **5-24-06**

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: S-85058

SOURCE OF WATER: A RESERVOIR, FILED UNDER APPLICATION R-76927, A
TRIBUTARY OF SANDY RIVER

PURPOSE OR USE: IRRIGATION USE (NURSERY USE) ON 71.35 ACRES

MAXIMUM VOLUME: 5.0 ACRE FEET EACH YEAR

PERIOD OF USE: YEAR ROUND

DATE OF PRIORITY: FEBRUARY 15, 2002

POINT OF DIVERSION LOCATION: SW $\frac{1}{4}$ SW $\frac{1}{4}$, SECTION 25, T 1S, R4E, W.M.;
1300 FEET NORTH & 590 FEET EAST FROM SW CORNER, SECTION 25

The amount of water used for irrigation use is limited to a maximum of 5.0 acre feet per acre and a diversion of 0.15 cubic foot per second per acre. For irrigation of containerized nursery plants, the amount of water diverted is limited to one fortieth of one cubic foot per second and 5.0 acre feet per acre per year. For irrigation of in-ground nursery plants the amount of water diverted is limited to one eightieth of one cubic foot per second and 2.5 acre feet per acre per year. The use of water for nursery use may be made at any time, during the period of allowed use specified above, that the use is beneficial. For irrigation of any other crop, the amount of water diverted is limited to one eightieth of one cubic foot per second and 2.5 acre feet per acre during the irrigation season of each year.

THE PLACE OF USE IS LOCATED AS FOLLOWS:

NW $\frac{1}{4}$ SW $\frac{1}{4}$ 35.75 ACRES
SW $\frac{1}{4}$ SW $\frac{1}{4}$ 35.4 ACRES
SECTION 25
TOWNSHIP 1 SOUTH, RANGE 4 EAST, W.M.

NW ¼ NW ¼ 0.2 ACRE
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, shall keep a complete record of the amount of water used each month and shall submit a report which includes the recorded water use measurements to the Department annually or more frequently as may be required by the Director. Further, the Director may require the permittee to report general water use information, including the place and nature of use of water under the permit.
- B. The permittee shall allow the watermaster access to the meter or measuring device; provided however, where the meter or measuring device is located within a private structure, the watermaster shall request access upon reasonable notice.

STANDARD CONDITIONS

Where two or more water users agree among themselves as to the manner of rotation in the use of water and such agreement is placed in writing and filed by such water users with the watermaster, and such rotation system does not infringe upon such prior rights of any water user not a party to such rotation plan, the watermaster shall distribute the water according to such agreement.

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

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

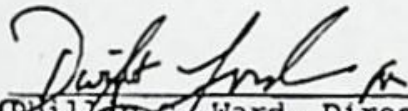
By law, the land use associated with this water use must be in compliance with statewide land-use goals and any local acknowledged land-use plan.

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

Complete application of the water to the use shall be made on or before October 1, 2009. 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 July 28, 2005


Philip C. Ward, Director
Water Resources Department



5-86622

NEW APPLICATIONS (GROUND WATER, RESERVOIR, & SURFACE) ROUTE SLIP

RECEIPTING ☒ LISA G-20-00
 POST CARD SENT ☒ G-20-2006 HLM
 DATA CENTER ☒

GROUND WATER YES ☐ NO ☒
 ENFORCEMENT YES ☐ NO ☐

WATER RIGHTS SUPPORT ☒ JLS

Alyssa Mucken	503-986-0853	☐
Anita Huffman	503-986-0815	☐
Cory Engel	503-986-0813	☒
Jeana Eastman	503-986-0859	☐
Kerry Kavanagh	503-986-0816	☐

A "Standard Reservoir" storing 9.2 acre-feet or more of
 Water & has a dam height of 10.0 feet or greater needs to
 have a copy of the application & supplemental forms routed to "JOHN FALK"



GW
Files

ATTN: WATER RIGHTS
 SUPPORT....>>>> Mark contents of Application File;
 Update Powerbuilder with caseworker, etc.;
 Route to filing cabinet.



S & R
Files

GENERAL AGRICULTURE
GENERAL AGRICULTURE
USE OF STORED WATER ONLY

Standard Application Completeness Checklist

Minimum Requirements (OAR 690-310-0040) (ORS 537.400)

Application	86622	Township	1 S
Priority Date	6-15-2006	Range	4 E
Use(s)	SUPP IRRIG	Section	SEE MAP'S
Rate	NO DETAILS LISTED pg 3	POD Loc.	RESERVOIR
County	CLACKAMAS	POU Loc.	SEE CHART ON MAP
NEW 14 AF			

☒ Applicant/Organization Name, Mailing Address and Telephone Number, application signed in ink.

☒ Source of water and Reservoir.

☐ Source of water. If stored water, is the stored water component filed out, including a non-expired agreement for stored water must be included. (ORS 537.400)

YES ☐ Property ownership indicated.

YES ☐ If applicant does not own all the land, the affected landowner's name and mailing address must be listed.

YES ☐ If applicant does not own all the land, a statement declaring the existence of either written authorization or an easement permitting access to land crossed by the proposed ditch canal or other work must be submitted.

☐ Groundwater development section (Page 2, Section 3 and/or Page 3, Section 2) or a well log report.

YES ☐ Proposed use of water. If supplemental, list primary water right acreage if applicable.

BOTH PRIMARY & SUPPLEMENTAL

☐ Enclosed Supplemental Form for each proposed use.

YES

☐ Form I (Irrigation)

☐ Form M (Municipal or Quasi-Municipal)

☐ Form R (Mining)

☐ Form Q (Commercial or Industrial)

☐ Spring Description Sheet

☒ Amount of water from each source in gallons per minute (GPM), cubic feet per second (CFS), or acre feet (AF) 14 AF NEW AF

☒ Period of use

☒ Water management section (Please estimate if the water system has not been designed).

☒ Resource Protection Section (Page 6, Section 5).

☒ Project schedule (If system is already completed, indicate "existing").

☐ For reservoir applications storing more than 9.2 acre feet, and a dam height of more than 10 feet, preliminary plans and specifications for dam and impoundment are required.

☒ If the above statement is checked, the map must be prepared by a CWRE.

☒ All applicants (or the authorized agent with title or authority if for an organization or corporation), must sign the application in ink.

YES INCLUDED ☐ You must include a Legal description of the property involved that includes a metes and bounds, or other government survey description. A copy of the deed, land sales contract or title insurance policy can provide this information, or you may submit a lot book report prepared by a title company. The Department will not accept a copy of the tax bill.

GOOD ☐ A completed Land-Use Form or receipt signed and dated by the appropriate planning department officials. *Date of signature must be within the past 6 months*

☒ The map must meet all the minimum requirements of OAR 690-310-0050. CWRE

☐ Township, Range, Section

☐ Location of main canals, ditches, pipelines or flumes

☐ Place of use, 1/4, 1/4's and tax lot clearly identified

☐ Even map scale not less than 4" = 1 mile (example: 1" = 100 ft, 1" = 200 ft, etc.)

☐ Location of each diversion point well or dam by reference to a recognized public land survey corner

☐ North Directional Symbol

☐ Number of acres per 1/4, 1/4, if irrigation, nursery, or agriculture

☐ Other _____

☐ Reference corner on map

☐ Each point of diversion coordinate

☒ Fees: Amount of water requested NEW 14 AF

Base Fee \$

Total Exam Fee \$

1st CFS AF

Total Paid \$

Addn'l @ _____ = _____

Amount Due \$

Reviewed by HARR MOSCAR

Date 6-19-2006

Approved - Bury 6.61
THE NAME OF ITS CHANG-
ING FORM 6.
DON'T LIKE IT, BUT ITS
ALL THERE IS

REFUND

150
150
4
304

850
- 250
600
- 304
296

WATERMASTER DIVISION 33 APPLICATION WORK SHEET

Recommendations for Water Right Applications that may affect the
Habitat of Sensitive, Threatened or Endangered Fish Species, OAR 690-33-310 through 340.

Application #: S-86622 Applicant's Name: Hans Nelson and Sona Nursery Inc.

1) Does the affected surface water source flow above ground in a defined channel into another water body?

☒ YES

☐ NO ☐ SOMETIMES; between _____ and _____

2) Does the affected surface water source ever go dry in the area of the proposed diversion? ☐ YES ☒ NO

3) To your knowledge, has the affected surface water source of water been regulated because of insufficient flow to satisfy existing water rights including instream water rights? ☐ YES ☒ NO

If YES, please explain: _____

4) Do you agree with the specified water availability, and the recommended period of use? ☒ YES ☐ NO ☐ I DON'T KNOW

However, it must be clear...this is the use of water stored under B-14141. That permit allows storage only from December 1 through February. Flow outside those months must be bypassed.

5) Did you discuss this application with staff from another agency? ☐ YES ☒ NO

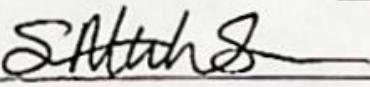
Who: _____ Agency: _____ Date: _____

6) If the Initial Review is unfavorable, is mitigation an option? ☐ YES ☐ NO ☒ DON'T KNOW

If YES, please explain: _____

7) What conditions do you recommend? B57...A meter should already be present per permit S-54192 and should be maintained

8) Your recommendation under OAR 690-033-0330 (2): ☒ Approval with conditions
☐ Approval without conditions
☐ Denial

Watermaster Signature:  Date: January 13, 2010

WRD Contact: Caseworker Joel Plahn, Water Rights Division, 503-986-0900 / Fax 503-986-0901

ODFW PUBLIC INTEREST REVIEW SHEET

Application # 586622 Applicant's Name: Hans Nelson + Sans Nursery

1) Will the proposed use occur in an area that may affect the habitat of fish or wildlife species?

☐ NO (Sign form and return)

☒ YES Species:

Other:

Spring + fall chinook, winter steelhead, coho,
Cutthroat trout + lake trout + lamprey reside in the
Sandy River + could potentially be impacted
Stage or value at risk (check all that apply): ☒ Spawning ☒ Incubation ☒ Rearing ☐ Passage ☒ Habitat Value

2) Will the proposed use result in a loss of habitat? ☐ NO ☒ YES potentially

3) Can conditions be applied to mitigate the impact to the loss of habitat? ☐ NO ☒ YES

Which conditions are recommended? (select from Menu of Conditions) If the full amount of storage
is to be used, live flow should be bypassed around the
reservoir so as to not impact downstream flow + water
quality. Draining the reservoir + not allowing water to
flow to the Sandy River may impact the habitat of
listed species. WQ: riparian

4) If conditions cannot be identified to offset impacts to the habitat, would the proposed use harm the species? ☐ NO ☒ YES

If YES, please explain:

5) If WRD determines that it is in the public's interest to approve a permit even if the impact cannot be mitigated what conditions do you recommend? (select from Menu of Conditions)

WQ, riparian

6) Your recommendation: ☒ Approval with conditions
☐ Approval without conditions
☐ Denial

ODFW Representative signature: Danotro Francisco Date: 10-2-09

WRD Contact: Caseworker: Joel Plahn, Water Rights Division, 503-986-0900 / Fax 503-986-0901

ODFW PUBLIC INTEREST REVIEW SHEET

Application #: 586622 Applicant's Name: Hans Nelson + Sons Nursery

1) Will the proposed use occur in an area that may affect the habitat of fish or wildlife species?

☐ NO (Sign form and return)

☒ YES Species: Spring + fall chinook, winter steelhead, coho,
Other: Cutthroat trout + Arctic lamprey reside in the
Sandy River + could potentially be impacted

Stage or value at risk (check all that apply): ☒ Spawning ☒ Incubation ☒ Rearing ☒ Passage ☒ Habitat Value

2) Will the proposed use result in a loss of habitat? ☐ NO ☒ YES potentially

3) Can conditions be applied to mitigate the impact to the loss of habitat? ☐ NO ☒ YES

Which conditions are recommended? (select from Menu of Conditions) If the full amount of storage
is to be used, live flow should be bypassed around the
reservoir so as to not impact downstream flow + water
quality. Draining the reservoir + not allowing water to
flow to the Sandy River may impact the habitat of
listed species. WQ, riparian

4) If conditions cannot be identified to offset impacts to the habitat, would the proposed use harm the species? ☐ NO ☒ YES

If YES, please explain:

5) If WRD determines that it is in the public's interest to approve a permit even if the impact cannot be mitigated what conditions do you recommend? (select from Menu of Conditions)

WQ, riparian

6) Your recommendation: ☒ Approval with conditions
☐ Approval without conditions
☐ Denial

ODFW Representative signature: Danette Brancina Date: 10-2-09

WRD Contact: Caseworker: Joel Plahn Water Rights Division, 503-936-0900 / Fax 503-936-0901

Joel Plahn

From: PUENT Sally [PUENT.Sally@deq.state.or.us]
Sent: Tuesday, May 26, 2009 11:01 AM
To: Automated Email System; PUENT Sally
Cc: Barry Frost; Kathy Boles; Tim Wallin; Jonnine Skaug; Joel Plahn
Subject: RE: OWRD: Water Right Application S 86622 (Surface Water) has been submitted for your District or Region. [DEQ]

We will not be able to review this one as we have lost our Clackamas Basin Coordinator position who has typically reviewed these.

Sally Puent
DEQ--NW Region
Water Quality Manager
503-229-5379

-----Original Message-----

From: automated_email@wrdd.state.or.us [mailto:automated_email@wrdd.state.or.us]
Sent: Monday, May 25, 2009 10:40 PM
To: sally.puent@state.or.us
Cc: barry.b.frost@wrdd.state.or.us; Kathy.J.BOLES@wrdd.state.or.us;
timothy.wallin@wrdd.state.or.us; jonnine.l.skaug@wrdd.state.or.us;
joel.m.plahn@wrdd.state.or.us
Subject: OWRD: Water Right Application S 86622 (Surface Water) has been submitted for your District or Region. [DEQ]

Oregon Water Resources Department - Automated e-mail notice

DEQ review request for proposed water right application S 86622

Application Stakeholder(s): NELSON, DAN L.; HANS NELSON AND SONS NURSERY INC.

Application Type: Surface Water
Notice Number: 3

Diversion Location:
County: Clackamas
TRSQQ: 1S 4E 25 NWSW
Source: A RESERVOIR
Tributary To: SANDY RIVER

NOTE: If the Initial Review gives the applicant the option to pursue a limited permit for human consumption use, please complete the "Division 33 Human Consumption Exception Review Form" in lieu of the standard Division 33 review sheet, and recommend any appropriate conditions. The link to the form may be found on the pending reviews page (use the second link below).

To view the OWRD Web page for S 86622 please click the link below.
http://apps2.wrdd.state.or.us/apps/wr/wrinfo/wr_query.aspx?SearchType=App&app_nbr_start=86622&app_char=S

To view the pending reviews for your district or region, click the following link.
http://apps2.wrdd.state.or.us/apps/wr/external_review/deq_review.aspx?directory_id=122851

Caseworker: Joel M. Plahn; Oregon Water Resources Department at 503-986-0815 or joel.m.plahn@wrdd.state.or.us

Please complete your review within 30 days from the date of this email.
You may email your completed review form directly to the caseworker.

To view the application form, application map and applicable review form, please click the

"View all scanned documents" option on the OWRD Web page for this application. If you would like to look at the water availability, please choose 50% exceedance for R applications and 80% exceedance for S and G applications. After the water availability report is generated, look at the last watershed ID# (WID) in the first table entitled "Water Availability Table" - water is available during the month's with a YES indicated.

Watermaster - Please look at the water availability - if there is no WID, please complete a water availability report.

ODFW and DEQ - if there is no WID, please assume that water is available year round for the purposes of completion of your review. WRD will take into account when water is actually available when processing the application.

This message has been generated automatically by an unmonitored email account. Please do not "reply" to this message. Thank you

Oregon Water Resources Department
Water Rights Division

Water Rights Application
Number S-86622

Proposed Final Order

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

Application History

On June 15, 2006, Hans Nelson and Sons Nursery Inc., submitted an application to the Department for the following water use permit:

- Amount of Water: 14.0 ACRE FEET (AF)
- Use of Water: NURSERY, IRRIGATION AND AGRICULTURE USE
- Source of Water: RESERVOIR 1 CONSTRUCTED UNDER PERMIT R-14141, TRIBUTARY TO SANDY RIVER
- Area of Proposed Use: CLACKAMAS COUNTY WITHIN SECTION 25, SECTION 26 AND SECTION 36, TOWNSHIP 1 SOUTH, RANGE 4 EAST, W.M.

On April 3, 2009, the Department mailed the applicant notice of its Initial Review, determining that "The use of 14.0 AF from Reservoir 1 constructed under Permit R-14141, tributary to Sandy River for nursery and irrigation use from March 1 through October 31 on 111.25 acres and agriculture use from November 1 through the end of February is allowable." The applicant did not notify the Department to stop processing the application within 14 days of that date.

On April 7, 2009, the Department gave public notice of the application in its weekly notice. The public notice included a request for comments, and information for interested persons about both obtaining future notices and a copy of the Proposed Final Order. No written comments were received within 30 days.

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

- recommendations by other state agencies
- any applicable basin program
- any applicable comprehensive plan or zoning ordinance
- the amount of water available
- the rate and duty for the proposed use
- pending senior applications and existing water rights of record
- the Scenic Waterway requirements of ORS 390.835
- applicable statutes, administrative rules, and case law
- any comments received

Findings of Fact

The Initial Review erroneously referenced 0.2 acre of nursery and irrigation in the NWNW, Section 26. The attached draft permit correctly reflects the 0.2 acre in the NWNW, Section 36.

The Sandy Basin Program allows the use of stored water for any beneficial use.

Nursery use fully includes irrigation and agriculture uses, therefore, the use of water under this application will be nursery use.

Senior water rights exist on Reservoir 1, tributary to Sandy River, or on downstream waters.

Reservoir 1, tributary to Sandy River is above the Sandy River State Scenic Waterway.

Stored water is available in the amount and for the full period requested.

The Department finds that the amount of water requested, 14.0 AF, is an acceptable amount.

In accordance with OAR 690-033-0330, an interagency team reviewed this proposed use for potential adverse impacts on sensitive, threatened and endangered fish populations. This team consisted of representatives from the Oregon Departments of Water Resources (WRD), Environmental Quality (DEQ), Fish and Wildlife (ODFW), and Agriculture. WRD and ODFW representatives included both technical and field staff. The interagency team recommended that additional limitations or conditions of use be imposed on this application as follows:

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

structure, the watermaster shall request access upon reasonable notice.

- D. The Director may provide an opportunity for the permittee to submit alternative measuring and reporting procedures for review and approval.

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

If the riparian area is disturbed in the process of developing a point of diversion, the permittee shall be responsible for restoration and enhancement of such riparian area in accordance with ODFW's Fish and Wildlife Habitat Mitigation Policy OAR 635-415. For purposes of mitigation, the ODFW Fish and Wildlife Habitat Mitigation Goals and Standards, OAR 635-415, shall be followed.

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), 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 Program, or a preference for this use is granted under the provisions of ORS 536.310(12).

Water is available for the proposed use.

The proposed use will not injure other water rights.

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

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

For these reasons, the required presumption has been established.

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

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

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

The Department therefore concludes that the proposed use will not impair or be detrimental to the public interest as provided in ORS 537.170.

When issuing permits, ORS 537.211(1) authorizes the Department to include limitations and conditions which have been determined necessary to protect the public interest. The attached draft permit is conditioned accordingly.

Recommendation

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

DATED March 2, 2010

E. Timothy Wall

for Phillip C. Ward, Director
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

Under the provisions of ORS 537.153(7) (for surface water) or ORS 537.621(8) (for ground water), you can protest this Proposed Final Order. Protests must be received in the Water Resources Department no later than April 16, 2010. Protests must be in writing, and must include the following:

Application S-86622

- 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;
- If you are the applicant, the protest fee of \$300 required by ORS 536.050; and
- If you are not the applicant, the protest fee of \$600 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 ORS 537.153(7) (for surface water) or ORS 537.621(8) (for ground water), persons other than the applicant who support a Proposed Final Order can request standing for purposes of participating in any contested case proceeding on the Proposed Final Order or for judicial review of a Final Order.

Requests for standing must be received in the Water Resources Department no later than April 16, 2010. Requests for standing must be in writing, and must include the following:

- The requester's name, mailing address and telephone number;

Application S-86622

- If the requester is representing a group, association or other organization, the name, address and telephone number of the represented group;
- A statement that the requester supports the Proposed Final Order as issued;
- A detailed statement of how the requester would be harmed if the Proposed Final Order is modified; and
- A standing fee of \$150. If a hearing is scheduled, an additional fee of \$350 must be submitted along with a request for intervention.

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 either:

- 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.

If you do not request a hearing within 30 days after the close of the protest period, or if you withdraw a request for a hearing, notify the Department or the administrative law judge that you will not appear or fail 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 that you have submitted relating to this matter, as the record for purpose of proving a *prima facie* case upon default.

This document was prepared by Joel Plahn. 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 503-986-0815.

If you have questions about how to file a protest or a request for standing, please refer to the respective sections in this Proposed Final Order entitled "Protests" and "Requests for Standing". If you have previously filed a protest and want to know its status, please contact Patricia McCarty at 503-986-0820.

If you have other questions about the Department or any of its programs please contact our Customer Service Group at 503-986-0801. Address all other correspondence to:

Water Rights Section, Oregon Water Resources Department, 725 Summer St NE Ste A, Salem OR 97301-1266, Fax: 503-986-0901

DRAFT

This is not a permit.
STATE OF OREGON

DRAFT

COUNTY OF CLACKAMAS

DRAFT PERMIT TO APPROPRIATE THE PUBLIC WATERS

THIS DRAFT PERMIT IS HEREBY ISSUED TO

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

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

APPLICATION FILE NUMBER: S-86622

SOURCE OF WATER: RESERVOIR 1 CONSTRUCTED UNDER PERMIT R-14141, TRIBUTARY
TO SANDY RIVER

PURPOSE OR USE: NURSERY USE

MAXIMUM VOLUME: 14.0 ACRE FEET EACH YEAR

PERIOD OF USE: YEAR-ROUND

DATE OF PRIORITY: JUNE 15, 2006

POINT OF DIVERSION LOCATION: SW $\frac{1}{4}$ SW $\frac{1}{4}$, SECTION 25, T1S, R4E, W.M.; 1300
FEET NORTH AND 590 FEET EAST FROM SW CORNER, SECTION 25

The amount of water used for nursery use under this right, together with the amount secured under any other right existing for the same lands, is limited to 0.15 cubic foot per second per acre and 5.0 acre feet per acre per year. For irrigation of containerized nursery plants, the amount of water diverted under this right, together with the amount secured under any other right existing for the same lands, is limited to one-fortieth of one cubic foot per second and 5.0 acre feet per acre per year. For irrigation of in-ground nursery plants, the amount of water diverted under this right, together with the amount secured under any other right existing for the same lands, is limited to one-eightieth of one cubic foot per second and 2.5 acre feet per acre per year. The use of water for nursery use may be made at any time, during the period of allowed use specified above, that the use is beneficial. For irrigation of any other crop, the amount of water diverted under this right, together with the amount secured under any other right existing for the same lands, is limited to one-eightieth of one cubic foot per second 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

SE ¼ NE ¼ 11.9 ACRES
NE ¼ SE ¼ 18.75 ACRES
SE ¼ SE ¼ 16.5 ACRES
SECTION 26

NW ¼ NW ¼ 0.2 ACRE
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 totalizing flow meter at each point of diversion. The permittee shall maintain the meter in good working order.
- B. The permittee shall keep a complete record of the amount of water used each month, and shall submit a report which includes the recorded water use measurements to the Department annually or more frequently as may be required by the Director. Further, the Director may require the permittee to report general water-use information, including the place and nature of use of water under the permit.
- C. The permittee shall allow the watermaster access to the meter; provided however, where any meter is located within a private structure, the watermaster shall request access upon reasonable notice.
- D. The Director may provide an opportunity for the permittee to submit alternative measuring and reporting procedures for review and approval.

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

The permittee shall not construct, operate or maintain any dam or artificial obstruction to fish passage in the channel of the subject stream without providing a fishway to ensure adequate upstream and downstream passage for fish, unless the permittee has requested and been

granted a fish passage waiver by the Oregon Fish and Wildlife Commission. The permittee is hereby directed to contact an Oregon Department of Fish and Wildlife Fish Passage Coordinator, before beginning construction of any in-channel obstruction.

The Director may require the user to measure inflow and outflow, above and below the reservoir respectively, to ensure that live flow is not impeded outside the storage season. Measurement devices and their implementation must be acceptable to the Director, and the Director may require that data be recorded on a specified periodic basis and reported to the Department annually or more frequently.

STANDARD CONDITIONS

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.

Where two or more water users agree among themselves as to the manner of rotation in the use of water and such agreement is placed in writing and filed by such water users with the watermaster, and such rotation system does not infringe upon such prior rights of any water user not a party to such rotation plan, the watermaster shall distribute the water according to such agreement.

If the riparian area is disturbed in the process of developing a point of diversion, the permittee shall be responsible for restoration and enhancement of such riparian area in accordance with ODFW's Fish and Wildlife Habitat Mitigation Policy OAR 635-415. For purposes of mitigation, the ODFW Fish and Wildlife Habitat Mitigation Goals and Standards, OAR 635-415, shall be followed.

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

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

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

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

Completion of construction and application of the water shall be made within five years of the date of permit issuance. If beneficial use of permitted water has not been made before this date, the permittee may submit an application for extension of time, which may be approved based upon the merit of the application.

Within one year after making beneficial use of water, the permittee shall submit a claim of beneficial use, which includes a map and report, prepared by a Certified Water Rights Examiner.

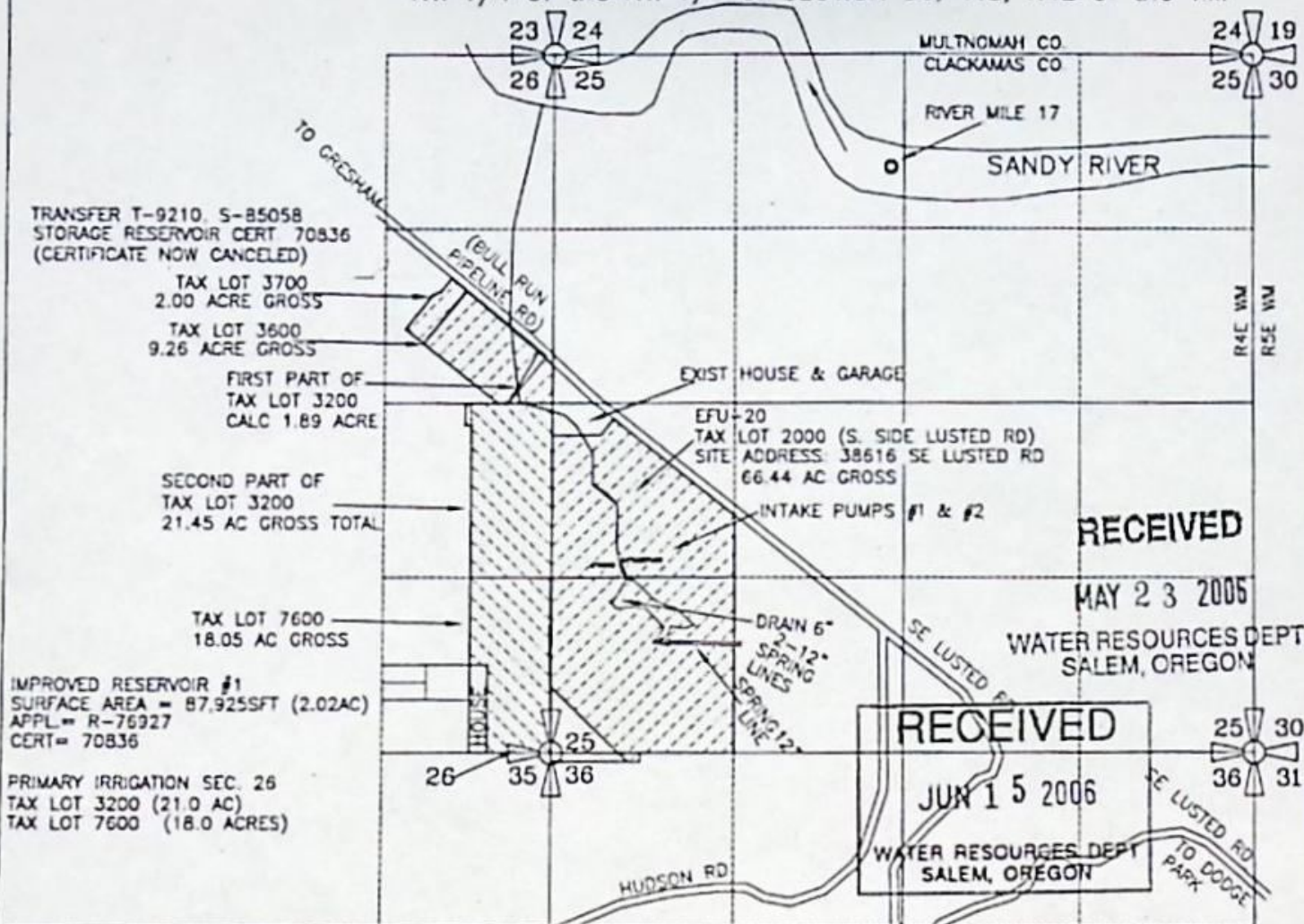
Issued

DRAFT - THIS IS NOT A PERMIT

for Phillip C. Ward, Director
Water Resources Department

CORPORATE
BOUNDARY LINE
DONATION LAND
CLAIM (DLC #)

W 1/2 of the SW 1/4 of SECTION 25, T1S, R4E of the WM
SE 1/4 of the NE 1/4 of SECTION 26, T1S, R4E of the WM
E 1/2 of the SE 1/4 of SECTION 26, T1S, R4E of the WM
NW 1/4 of the NW 1/4 of SECTION 36, T1S, R4E of the WM



SEC.	1/4 1/4	ACRES IRRIG.	CFS (APPROX. GPM)
25	NW SW	28.50 AC IRRIG	0.3563 CFS (160 GPM)
25	SW SW	35.40 AC IRRIG	0.4425 CFS (199 GPM)
26	SE NE	11.90 AC IRRIG	0.1488 CFS (67 GPM)
26	NE SE	18.75 AC IRRIG	0.2340 CFS (105 GPM)
26	SE SE	16.50 AC IRRIG	0.2053 CFS (93 GPM)
36	NW NW	0.20 AC IRRIG	0.0025 CFS (1.12 GPM)
TOTAL IRRIG.		111.25 ACRES	1.390 CFS (625 GPM)

T2S & SOUTH
LINE OF SEC. 36
SANDY 7.5 MIN. QUAD
ASSESSOR MAP 15 4E 25 & 36 INDEX

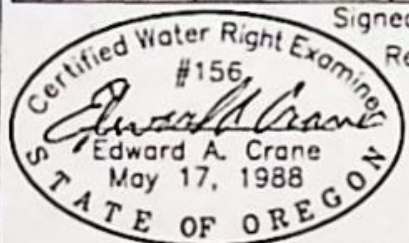
RESERVOIR APPLICATION R-76927 (UNDER HOUSE BILL-2153)
WAS FOR WILDLIFE USES ONLY. TRANSFER APPLICATION ADDED
IRRIGATION USES (GENERAL NURSERY USES & AGRICULTURAL USES)
APPL R-86099 INCREASED STORAGE FROM 5 AC-FT TO 19 AC-FT
THIS APPLICATION INCREASES SURFACE WATER VOLUME USE FOR
IRRIGATION FROM 5 AC-FT TO 19 AC-FT & ADDS TL 3200 & 7600.

RESERVOIR INTAKES #1 & #2 are located 1300 FEET NORTH & 590 FT
EAST from the SOUTHWEST CORNER of SECTION 25, TOWNSHIP 1
SOUTH, RANGE 4 EAST of the WM, CLACKAMAS COUNTY, OREGON

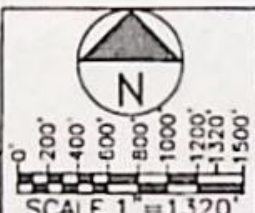
PREPARATION OF THIS MAP WAS FOR THE PURPOSE
OF IDENTIFYING THE LOCATION OF THE WATER RIGHTS
ONLY AND HAS NO INTENT TO PROVIDE DIMENSIONS
OR LOCATION OF PROPERTY OWNERSHIP LINES

APPLICATION FOR A PERMIT SURFACE WATER APPLICATION

PREPARED BY EDWARD A. CRANE, CWRE



SURVEYED APRIL 7, 2006
BY EDWARD A. CRANE, CWRE



DATE
MAY 2006

PROJECT NO.
347-008



**CRANE ENGINEERING
& SURVEYING, INC.**
13755 SE 119TH DRIVE
CLACKAMAS, OREGON 97015
OFFICE: 503-698-3890
FAX NO: 503-698-3861
CELL: 503-679-3253
E-MAIL: ecrane@verizon.net

APPLICATION FOR PERMIT NUMBER S-866022
PERMIT NUMBER S- IN THE NAME OF:
DAN L. NELSON dba HANS NELSON
& SONS NURSERY, INC. TEL. 503-663-3348
31020 SE WAYBILL RD., BORING, OR 97009

SHEET
1/3

Mailing List for PFO Copies

Application S-86622

PFO Date March 2, 2010

Original mailed to applicant:

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

Copies sent to:

- 1. WRD - File # S-86622
- 2. Water Availability: Ken Stahr

Copies Mailed
By: 7CB
(SUPPORT STAFF)
on: 2/24/10
(DATE)

PFO and Map Sheet Copies sent to:

- 3. WRD - Watermaster # 20

Protest/
Standing Dates
checked
2/15/10 ✓

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

Ed Crane

"\$20 LETTER" sent to Interested Persons who have not protested or paid for copies

CASEWORKER : Plahnjm



Oregon

Theodore R. Kulungoski, Governor

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

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

April 3, 2009

Reference: File S-86622

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 application requested the use of 14.0 acre feet (AF), from Reservoir 1 constructed under Permit R-14141, a tributary to Sandy River, for nursery and irrigation use from March 1 through October 31 and agriculture use from November 1 through the end of February.
2. The proposed use is not prohibited by law or rule except where otherwise noted below.
3. The use of stored water from Reservoir 1, tributary to Sandy River for nursery use, irrigation use and agriculture use is allowable under the Sandy Basin Program.
4. Stored water is available in the amount and for the full period requested.
5. The proposed use is located above the Sandy River Scenic Waterway, as designated under ORS 390.826.

Summary of Initial Determinations

The use of 14.0 AF from Reservoir 1 constructed under Permit R-14141, tributary to Sandy River for nursery and irrigation use from March 1 through October 31 on 111.25 acres and agriculture use from November 1 through the end of February is allowable.

Because of these favorable determinations, the Department can now move your application to the next phase of the water-rights application review process, 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 \$150 processing charge per application.) To accomplish this you must notify the Department in writing by Friday, April 17, 2009. For your convenience you may use the enclosed "STOP PROCESSING" form.

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

1. Measurement, recording and reporting conditions:
 - A. Before water use may begin under this permit, the permittee shall install a totalizing flow meter at each point of diversion. The permittee shall maintain the meter(s) in good working order. The permittee shall keep a complete record of the amount of water used each month, and shall submit a report which includes the recorded water use measurements to the Department annually or more frequently as may be required by the Director. Further, the Director may require the permittee to report general water-use information, including the place and nature of use of water under the permit.
 - B. The permittee shall allow the watermaster access to the meter(s); provided however, where any meter is located within a private structure, the watermaster shall request access upon reasonable notice.
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. You may be required to install fish screens at the point of diversion to meet Oregon Department of Fish and Wildlife specifications for adequate protection of aquatic life.
4. The amount of water used for nursery use is limited to a maximum of 5.0 acre feet per acre and a diversion of 0.15 cubic foot per second per acre. For irrigation of containerized nursery plants, the amount of water diverted is limited to one fortieth of one cubic foot per second and 5.0 acre feet per acre per year. For irrigation of in-ground nursery plants, the amount of water diverted is limited to one eightieth of one cubic foot per second and 2.5 acre feet per acre per year. The use of water for nursery use may be made at any time, during the period of allowed use specified above, that the use is beneficial. For irrigation of any other crop, the amount of water diverted is limited to one eightieth of one cubic foot per second and 2.5 acre feet per acre during the irrigation season of each year.

This initial review does not attempt to address various public interest issues such as sensitive, threatened, or endangered fish species. These issues will be addressed as the Department reviews comments from the public and other agencies, and prepares a Proposed Final Order. You should

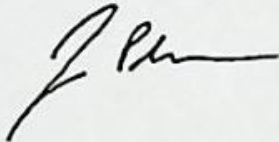
be aware that, if significant public interest issues are found to exist, such a finding could have an impact on the eventual outcome of your application.

The water source identified in your application may be affected by an Agricultural Water Quality Management Area Plan. These plans are developed by the Oregon Department of Agriculture (ODA) with the cooperation of local landowners and other interested stakeholders, and help to ensure that current and new appropriations of water are done in a way that does not adversely harm the environment. You are encouraged to explore ODA's Water Quality Program web site at http://www.oregon.gov/ODA/NRD/water_agplans.shtml to learn more about the plans and how they may affect your proposed water use.

If you have any questions:

Feel free to call me at 503-986-0815 if you have any questions regarding the contents of this letter or your application. Please have your application number available if you call. General questions about water rights and water use permits should be directed to our customer service staff at 503-986-0801. When corresponding by mail, please use this address: Joel Plahn, Oregon Water Resources Department, 725 Summer St NE Ste A, Salem OR 97301-1266. Our fax number is 503-986-0901.

Sincerely,



Joel Plahn
Water Right Application Caseworker

enclosures: Application Process Description and Stop Processing Request Form

S-86622
WAB 3-storage
POU 3-storage
GW

APPLICATION FACT SHEET

Application File Number: S-86622

Applicant: HANS NELSON AND SONS NURSERY INC.

County: CLACKAMAS

Watermaster: 20

Priority Date: JUNE 15, 2006

Source: RESERVOIR 1 CONSTRUCTED UNDER PERMIT R-14141, TRIBUTARY TO SANDY RIVER

Use: NURSERY AND IRRIGATION USE ON 111.25 ACRES, AGRICULTURE USE

Quantity: 14.0 ACRE FEET

Basin Name & Number: Sandy, #3

Stream Index Reference: Volume 2 SANDY R

Point of Diversion Location: SWSW, SECTION 25, T1S, R4E, W.M.; 1300 FEET NORTH AND 590 FEET EAST FROM SW CORNER, SECTION 25

Place of Use:

NURSERY AND IRRIGATION USE

NW $\frac{1}{4}$ SW $\frac{1}{4}$ 28.5 ACRES

SW $\frac{1}{4}$ SW $\frac{1}{4}$ 35.4 ACRES

SECTION 25

SE $\frac{1}{4}$ NE $\frac{1}{4}$ 11.9 ACRES

NW $\frac{1}{4}$ NW $\frac{1}{4}$ 0.2 ACRE

NE $\frac{1}{4}$ SE $\frac{1}{4}$ 18.75 ACRES

SE $\frac{1}{4}$ SE $\frac{1}{4}$ 16.5 ACRES

SECTION 26

TOWNSHIP 1 SOUTH, RANGE 4 EAST, W.M.

AGRICULTURE

NW $\frac{1}{4}$ SW $\frac{1}{4}$

SW $\frac{1}{4}$ SW $\frac{1}{4}$

SE $\frac{1}{4}$ NE $\frac{1}{4}$

NW $\frac{1}{4}$ NW $\frac{1}{4}$

NE $\frac{1}{4}$ SE $\frac{1}{4}$

SE $\frac{1}{4}$ SE $\frac{1}{4}$

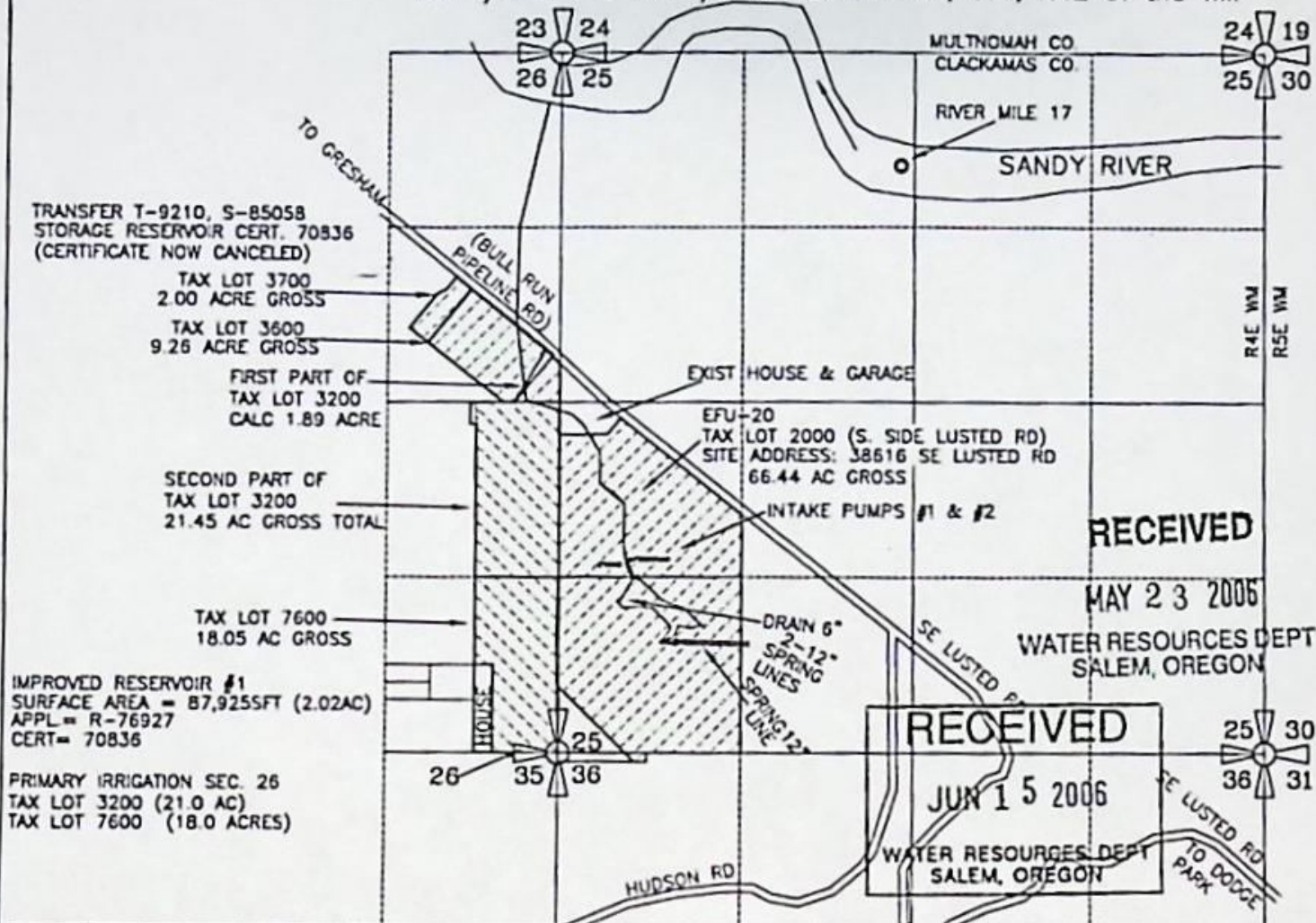
14 DAY STOP PROCESSING DEADLINE DATE: Friday, April 17, 2009

PUBLIC NOTICE DATE: Tuesday, April 7, 2009

30 DAY COMMENT DEADLINE DATE: Thursday, May 7, 2009

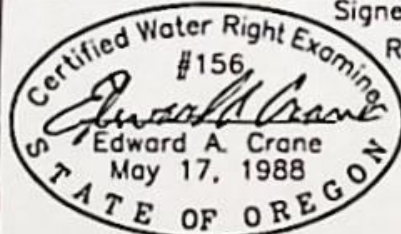
CORPORATE
BOUNDARY LINE _____
DONATION LAND
CLAIM (DLC #) - - - - -

W 1/2 of the SW 1/4 of SECTION 25, T1S, R4E of the WM
SE 1/4 of the NE 1/4 of SECTION 26, T1S, R4E of the WM
E 1/2 of the SE 1/4 of SECTION 26, T1S, R4E of the WM
NW 1/4 of the NW 1/4 of SECTION 36, T1S, R4E of the WM

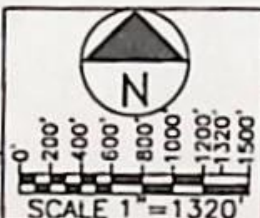


SEC.	1/4 1/4	ACRES IRRIG.	CFS (APPROX. GPM)
25	NW SW	28.50 AC IRRIG	0.3563 CFS (160 GPM)
25	SW SW	35.40 AC IRRIG	0.4425 CFS (199 GPM)
26	SE NE	11.90 AC IRRIG	0.1488 CFS (67 GPM)
26	NE SE	18.75 AC IRRIG	0.2340 CFS (105 GPM)
26	SE SE	16.50 AC IRRIG	0.2063 CFS (93 GPM)
36	NW NW	0.20 AC IRRIG	0.0025 CFS (1.12 GPM)
TOTAL IRRIG.		111.25 ACRES	1.390 CFS (625 GPM)

Signed 5/16/2006
Renewal 12/31/2007



SURVEYED APRIL 7, 2006
BY EDWARD A. CRANE, CWRE



125' S SOUTH LINE of SEC. 36 SANDY 7.5 MIN. QUAD
ASSESSOR MAP 15 4E 25 & 36 INDEX

RESERVOIR APPLICATION R-76927 (UNDER HOUSE BILL-2153)
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APPLICATION FOR A PERMIT SURFACE WATER APPLICATION

PREPARED BY EDWARD A. CRANE, CWRE

DATE
MAY 2006
PROJECT NO.
347-008



**CRANE ENGINEERING
& SURVEYING, INC.**
13755 SE 119TH DRIVE
CLACKAMAS, OREGON 97015
OFFICE: 503-698-3890
FAX NO: 503-698-3861
CELL: 503-679-3253
E-MAIL: eces@verizon.net

APPLICATION FOR PERMIT NUMBER S-86622
PERMIT NUMBER S-_____ IN THE NAME OF:

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

SHEET

1/3

Mailing List for IR Copies

Application #S-86622

IR Date: April 3, 2009

Original mailed to applicant:

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

Copies sent to:

- ~~1. WRD - File # S-86622~~
- ~~2. WRD - Water Availability: Ken Stahr~~

Copies Mailed

By: JCB

(SUPPORT STAFF)

on: 4/2/09

(DATE)

IR, Map, and Fact Sheet Copies sent VIA EMAIL to:

- ~~3. WRD - Watermaster # 20 (include Division 33 form)~~
- ~~4. ODFW: (include Division 33 form)~~
- ~~5. DEQ: (include Division 33 form)~~

IR, Map, and Fact Sheet Copies sent to:

- ~~6. Department of Agriculture~~

Affected Landowners (include "Notice of Initial Review--Affected Landowner"):

~~Kim Ann Tomlinson, 38200 SE Lusten RD Boring, OR 97009~~

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

~~Ed Crane CWRE # 156~~

Caseworker: Joel Plahn

COPYSHIRT



Oregon Water Resources Department
725 Summer Street NE, Suite A
Salem Oregon 97301-1271
(503) 986-0900
www.wrd.state.or.us

Application for a Permit to Use Surface 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. A summary of review criteria and procedures that are generally applicable to these applications is available at www.wrd.state.or.us/OWRD/PUBS/forms.shtml.

I. APPLICANT INFORMATION

A. Individuals

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
Day Evening

*Fax: 503-663-0138 *E-Mail address: DNELSON@HANSNELSON.COM

* Optional Information

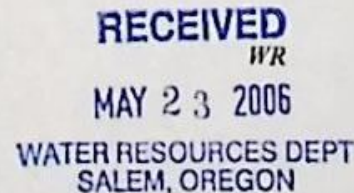
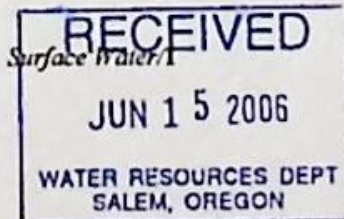
For Department Use

App. No. S-5166000

Permit No. _____

Date _____

Last updated 3/22/2006



2. SOURCE AND PROPERTY OWNERSHIP

A. The Proposed Source of Water

Provide the commonly used name of the water body from which water will be diverted, and the name of the stream or lake it flows into. If unnamed, say so:

Source 1: UN-NAMED TRIBUTARY Tributary to: SANDY RIVER
Source 2: _____ Tributary to: _____
Source 3: _____ Tributary to: _____
Source 4: _____ Tributary to: _____

B. Property Ownership

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

☐ Yes (Skip to section 3 "Water Use.")

☒ No (Please check the appropriate box below.)

☒ I have a recorded easement or written authorization permitting access.

☐ I do not currently have written authorization or easement permitting access.

☐ Written authorization or an easement is not necessary, because the only affected lands I do not own are state-owned submersible lands, and this application is for irrigated and/or domestic use only (ORS 274.040).

You must provide the legal description of: (1) the property from which the water is to be diverted, (2) any property crossed by the proposed ditch, canal or other work, and (3) any property on which the water is to be used as depicted on the map.

List the names and mailing addresses of all affected landowners.

KIM ANN TOMLINSON, 38200 SE LUSTED ROAD, BORING, OR 97009

3. 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: NONE
- 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

Surface Water/2

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WATER RESOURCES DEPT
SALEM, OREGON

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MAY 23 2006

WATER RESOURCES DEPT
SALEM, OREGON

5-866022

B. Amount of Water

Provide the amount of water you propose to use from each source, for each use, in cubic feet-per-second (cfs) or gallons-per-minute (gpm). If the proposed use is from storage, provide the amount in acre-feet (af):

(1 cfs equals 448.8 gpm. 1 acre-foot equals 325,851 gallons or 43,560 cubic feet)

Source	Type of use	Amount
RESERVOIR #1	IRRIGATION	☒ cfs ☐ gpm ☐ af
(SPRINGS)		☐ cfs ☐ gpm ☐ af
		☐ cfs ☐ gpm ☐ af
		☐ cfs ☐ gpm ☐ af

C. Period of Use

Indicate the time of year you propose to use the water:

GENERAL AGRICULTURAL USE: NOV. 1 TO END FEB.
GENERAL NURSERY USES: MAR. 1 TO OCT. 31

(For seasonal uses like irrigation give dates when water use would begin and end, e.g. March 1–October 31.)

D. Acreage

If you will be applying water to land, indicate the total number of acres where water will be applied or used:

111.25

(This number should be consistent with your application map.)

4. WATER MANAGEMENT

A. Diversion

What method will you use to divert water from the source?

☒ Pump (give horsepower and pump type): #2= 20HP
END SUCTION CENTRIFUGALS: #1=7.5HP

☐ Head-gate (give dimensions): _____

☐ Other means (describe): _____

B. Monitoring

How will you monitor your diversion to be sure you are within the limits of your water right (allowed rate and duty) and you are not wasting water?

☐ Weir

☒ Meter

☐ Periodic Sampling

☐ Other means (describe): _____

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WATER RESOURCES DEPT
SALEM, OREGON

Surface Water/3

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MAY 23 2006

WATER RESOURCES DEPT
SALEM, OREGON

586022

C. 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 2", 3" & 4" & 5" Length 3,000', 2,500' & 2,000' & 3,500'

☐ Other (describe) _____

D. Application/Distribution Method

What equipment will you use to apply water to your place of use? BURIED PVC TRANSMISSION & DISTRIBUTION PIPELINES, ROTATING RAINBIRD SPRINKLERS, DRIP IRRIGATION ETC.

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 _____ | | |

Distribution method

- ☒ Direct pipe from source ☒ In-line storage (tank or pond) ☐ Open canal

E. Conservation

What methods will you use to conserve water? Why did you choose this distribution or application method? Have you considered other methods to transport, apply, distribute or use water? For example, if you are using sprinkler irrigation rather than drip irrigation, explain. If you need additional space, attach a separate sheet.

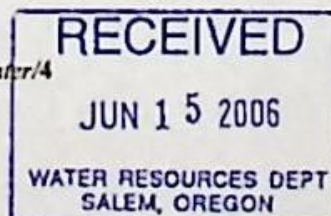
USE 1" TUNA CAN TO MEASURE THE VOLUME OF WATER APPLIED, USE AUTOMATIC IRRIGATION CONTROLLERS TO REDUCE OVER-WATERING, WATER MAINLY AT NIGHT AND EARLY MORNING TO REDUCE LOSS FROM EVAPORATION, USE DRIP IRRIGATION ETC.

5. RESOURCE PROTECTION

A. Protection Practices

In granting permission to use water from a stream or lake, the state encourages, and in some instances requires, careful control of activities that may affect the waterway or streamside area. See instruction guide for a list of possible permit requirements from other agencies. Please indicate any of the practices you plan to undertake to protect water resources.

Surface Water/4



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WATER RESOURCES DEPT
SALEM, OREGON

5-86628

☐ Diversion will be screened to prevent uptake of fish and other aquatic life.

Describe planned actions: RESERVOIR #1 IS FED FROM SPRINGS ONLY, INTAKES WILL HAVE SCREENS TO PROTECT STOCKED FISH.

☒ Excavation or clearing of banks will be kept to a minimum to protect riparian or streamside areas. Describe planned actions: THE RESERVOIR IS COMPLETED NOW.

☐ Operating equipment in a water body will be managed and timed to prevent damage to aquatic life. Describe: THIS IS A MAN-MADE POND, & HAS BEEN LANDSCAPED / PLANTED WITH GRASS.

☒ Water quality will be protected by preventing erosion and run-off of waste or chemical products. Describe: THE POND IS SPRING FED & HAS NOT EROSION PROBLEMS.

☐ Other: _____

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: RESERVOIR IS COMPLETED NOW.

Proposed date construction will be completed: SAME

Proposed date beneficial water use will begin: SAME

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.

THE RESERVOIR WAS PREVIOUSLY ENLARGED & THIS APPLICATION IS TO INCREASE THE VOLUME FROM 5AF TO A TOTAL OF 19AF. ADDITIONAL LEASED LAND IS ADDED FOR IRRIGATION.

Surface Waters

RECEIVED

JUN 15 2006

WATER RESOURCES DEPT
SALEM, OREGON

RECEIVED

MAY 23 2006

WATER RESOURCES DEPT
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 points of diversion 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:

President Hans Melant Sams Kersyhn
Signature of Applicant (If more than one applicant, all must sign) Date 5-22-06

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. The Department's fee schedule can be found at www.wrd.state.or.us or call (503) 986-0900.

WRD on the web:
www.wrd.state.or.us

Surface Water/6

RECEIVED

JUN 15 2006

WATER RESOURCES DEPT
SALEM, OREGON

RECEIVED

MAY 23 2006

WATER RESOURCES DEPT
SALEM, OREGON

5-866000



Oregon Water Resources Department

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: _____ Acres

Secondary: 111.25 Acres

List the permit or certificate number of the primary water right:

RES. APPL. R-14141
no. S-85058 (5AF) PERMIT

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 USE ☐ Full season ☒ Partial season (from: MAR. 1 to OCT. 31)
2. GENERAL AGRICULTURAL USE ☐ 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:

19 AF (14 AF NEW) 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

☒ GREEN HOUSES ETC.
Daily during nighttime hours

☐ Two or three times weekly during daytime

☒ ESTABLISHED STOCK
Two or three times weekly during nighttime

☐ Weekly, during daytime hours

☐ Weekly, during nighttime hours

☐ Other, explain: _____

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WATER RESOURCES DEPT
SALEM, OREGON

MAY 23 2006

WATER RESOURCES DEPT
SALEM, OREGON



Crane Engineering & Surveying, Inc.

13755 S.E. 119th Drive
Clackamas, OR 97015
Office: (503) 698-3890
Cell: (503) 679-3253
FAX: (503) 698-3861
Email: eces@verizon.net

May 16, 2006

Oregon Water Resources Department
Application and Permit Section
725 Summer Street NE, Suite "A"
Salem, Oregon 97301-1271

SUBJECT: Dan Nelson doing business as **Hans Nelson & Sons Nursery, Inc.**
Surface Irrigation from Additional 14-af Storage in a Reservoir (S-85058 for 5-af)
Reservoir Application R-86099; Permit R-14141 (Final Submitted for 19-af)
Irrigation: Application for 1.390-cfs (625+/-gpm) on 111.25 Acres
Properties are located at 38615 and 38200 SE Lusted Road
TL 2000, W1/2 of SW 1/4 of Sec. 25 & NW of NW Sec. 36, T1S, R4E of WM
TL 3200 & 7200 W 1/2 of SE 1/4 Section 26, T1S, R4E of WM (Tomlinson)
TL 3700 & 3500 SE 1/4 of SE 1/4 Section 26, T1S, R4E of WM (Tomlinson)
All in Clackamas County, Oregon

D:\CRANE ENGR & SURVEY\PROJECTS\347-008\347-008 OWRD1 SURFACE.DOC

Ladies and Gentlemen:

Enclosed is the "Application for a Permit to Use Surface Water" from Dan Nelson doing business as (dba) **Hans Nelson & Sons Nursery, Inc.** They have already submitted a Claim of Beneficial Use and Site Report for adding an additional 14 ac-ft of storage. This application is for 14-af of surface water stored between the original permitted 5-af & the new total of 19-af stored, to be used on 65.90 acres of land located in the westerly 1/2 of the southwest 1/4 and in the Southeast 1/4 of the Northeast 1/4 of Section 26.

It is for both General Agricultural Uses (temperature control uses from November 1st to the end of February of each year & agricultural irrigation the rest of the year) and General Nursery Uses (from March 1st to October 31st of each year). Besides using irrigation water for residential lawns and landscaping, they will be using irrigation water for containerized (can) stock yards and for future greenhouses, shade houses and propagation houses.

They have two surface water pumps described in the previously submitted Claim of Beneficial Use for the reservoir. Irrigation water will be directly applied through a system of underground transmission and distribution pipelines with a combination of "Rainbird" and other rotating sprinklers. They will also use drip irrigation lines and "soaker" hoses when possible to conserve irrigation water.

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SALEM, OREGON

5-86622

Hans Nelson & Sons Nursery, Inc.
OWRD Surface Water Permit Application
Page 2

Please contact the Dan Nelson at 503-663-3348 if you have any questions about their existing surface water pumps, recently enlarged reservoir and irrigation system. I'm available to answer any questions or concerns that you may have about the Surface Water Application and Maps and can be reached by telephone at 503-698-3890 and by Fax at 503-698-3861.

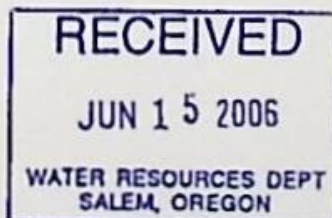
Sincerely,
CRANE ENGINEERING & SURVEYING, INC.



Edward A. Crane, CWRE
President

cc: Dan L. Nelson, President dba
Hans Nelson & Sons Nursery, Inc.
31020 SE Waybill Road
Boring, OR 97009-9427

Tel: 503-663-3348
Fax: 503-663-0138
Cell: 503-310-9708
E-Mail: dnelson@hansnelson.com



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For Local Government Use Only

The following section must be completed by a planning official from each county and city listed unless 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 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: Mike McCullough Date: 5-22-06

Title: Planner Phone: 503-353-4522

Signature: Mike McCullough

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.)

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SALEM, OREGON**

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**WATER RESOURCES DEPT
SALEM, OREGON**

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: _____



Oregon Water Resources Department Land Use Information Form

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MAY 23 2006

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

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)		
TL 2000 SW 1/4 SEC. 25, 1S 4E (EFU 200)		☒ Diverted	☒ Conveyed	☒ Used
TL 3200 & 7600, SE 1/4, SEC. 26, 1S, 4E		☐ Diverted	☒ Conveyed	☒ Used
TL 3200 & 3600 SE 1/4 SE 1/4 SEC. 26, T1S, R4E		☐ Diverted	☒ Conveyed	☒ Used
TL 3700 SE 1/4 SE 1/4 SEC. 26, T1S, R4E			☒ Conveyed	☒ Used
List counties and cities where water is proposed to be diverted, conveyed, or used.		<u>CLACKAMAS COUNTY</u>		

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 NURSERY USES, GENERAL AGRICULTURAL USES

Briefly describe: EXISTING RESERVOIR #1, BURIED PVC TRANSMISSION & DISTRIBUTION

PIPELINES, ROTATING RAINBIRD SPRINKLERS, 2 EXISTING END-SUCTION CENTRIFUGAL

PUMPS, DRIP LINES & HAND-SET PIPELINES.

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D. Source

Indicate the source for the proposed water use:

☒ Reservoir/Pond ☐ Ground Water ☒ Surface Water SPRINGS

(source)

E. Quantity

Indicate the estimated quantity of water the use will require:

1.390

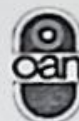
☒ CFS

☐ GPM

☐ Acre-Feet



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



May 31, 2006

Oregon Water Resources
North Mall Office Building
725 Summer Street NE, Suite A
Salem, Oregon 97301

To Whom It May Concern:

The Land Use Information form I submitted to you did not list Tax Lot 3700, SE 1/4 SE 1/4 Section 26, T1S, R4E in Clackamas County.

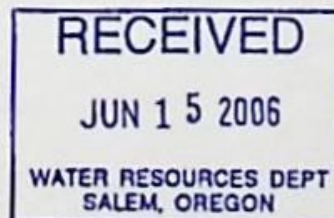
I talked with Mike McCallister, Clackamas County Planner to see if tax lot 3700 complies with the farming and irrigation uses I requested on the other tax lots. He said it does comply the same as the other tax lots listed on this form. I have added this tax lot to the form.

Should you have any questions you can contact me at 503-663-3348. Mike McCallister's number is 503-353-4522.

Sincerely,

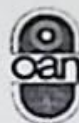
Dan L. Nelson
President

DLN:lbm
Encl.





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



June 14, 2006

Oregon Water Resources
North Mall Office Building
725 Summer Street NE, Suite A
Salem, Oregon 97301

To Whom It May Concern:

The enclosed surface water application is being resubmitted for your review. This application was sent back to me on May 23, 2006 with a checklist of questions. The answers to these questions were completed by Edward A. Crane, CWRE. Mr. Crane's phone number is 503-698-3890, fax 503-698-3861. Mr. Crane believes all answers to your questions are found in this application.

Following is my attempt to add information to your questions:

1. Source of water. The water incoming to this lake comes from field tile lines that have been added to these properties. Springs also fill this structure. A well with application number 15710, permit G15436 will be drilled to add water to this lake. All this information can be found in S-85058 and storage reservoir certificate 70836 dated 9/22/04.
2. Amount of water from each source. All tile and spring water come into the lake underground. There is no way to tell how much comes from each source. The drilled well will have a meter that will show gallons per minute. This well has not been started at this time.
3. Legal descriptions. Ed Crane believes these are all enclosed. Please call Mr. Crane for further information you need regarding legal descriptions.
4. Lane use form. Please refer to my enclosed letter dated 5/31/06. I talked with Mike McCallister of Clackamas County. He remembers me and that he filled out the land use form. He agreed that the tax lot you questioned is approved for farm use.

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JUN 15 2006

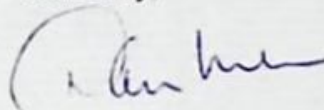
WATER RESOURCES DEPT
SALEM, OREGON

5-84622

5. Maps. If these are not complete, please contact Mr. Crane.
6. Location of main canals, ditches and pipelines. We have no permanent delivery structures.

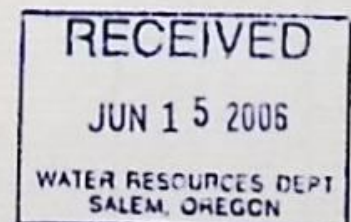
Mike McCord, District 20 water master, has observed this project. Perhaps he can help answer your questions.

Sincerely,



Dan L. Nelson
President

DLN:lbm
Enclosures



CONSENT TO ALLOW AN OREGON WATER RESOURCES DEPARTMENT
WELL / GROUNDWATER RIGHT APPLICATION TO BE APPLIED FOR ON MY
PROPERTY THAT LEASED TO THE NELSON NURSERY, P.O. BOX
(ADDRESS 7), CITY, OREGON 97209 (TEL: 503-663-3348 FAX: 503-663-0138)
31020 SE WAYBILL ROAD, BORING, OR 97009-9427
I / WE ARE THE OWNERS OF TAX LOT NE 1/4 OF THE NE 1/4 OF SECTION
TOWNSHIP SOUTH, RANGE EAST of the WILLAMETTE MERIDIAN,
COUNTY, OREGON.

38200 SE Lusted Rd, Boring OR. 97009
STREET ADDRESS, IF ANY)

Kim Ann Tamlinson
OWNER

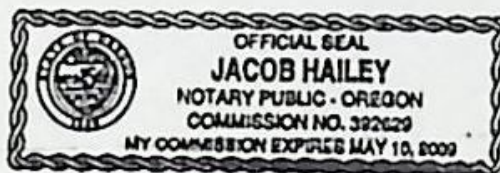
4-25-2006
DATE

OWNER

DATE

AS WITNESSES BY:

STATE OF OREGON } ss
COUNTY OF CLACKAMAS } ss



On April 25th 2006, 2005, PERSONALLY APPEARED THE ABOVE NAMED
Kim A Tamlinson AND ACKNOWLEDGED THE
FOREGOING INSTRUMENT TO BE THEIR VOLUNTARY ACT AND DEED.

BEFORE ME:

[Signature]
NOTARY PUBLIC FOR OREGON

STATE OF OREGON } ss
COUNTY OF CLACKAMAS } ss

On _____, 2005, PERSONALLY APPEARED THE ABOVE NAMED
AND ACKNOWLEDGED THE
FOREGOING INSTRUMENT TO BE THEIR VOLUNTARY ACT AND DEED.

BEFORE ME:

[Signature]
NOTARY PUBLIC FOR OREGON

D:\CRANE ENGR & SURVEYS\12-012\CWRE\CONSENT.DOC

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SALEM, OREGON

S-86077



Oregon

Theodore R. Kulengoski, Governor

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

May 24, 2006

Hans Nelson & Sons Nursery, Inc.
Attn: Dan Nelson - President
31020 SE Waybill Road
Boring, Oregon 97009

Nelson Return

KERRY

5/24/2006
J.H.S.

Dan Nelson Called 5/31/2006.
Will contact J. R. Sauter.
J.H.S.

Dear Hans Nelson & Sons Nursery:

The Water Resources Department has received your application to use water. At this time however, we are unable to accept your application, because the minimum filing requirements are not met according to the Oregon Administrative Rules (OAR 690-310-0040 and 0050).

We are hereby returning the incomplete application and the fees submitted. Please return the application, the required information, and this checklist, so the Department may begin processing your application in a timely manner. A new version of the application form is included for your convenience. This form is slightly different from the one you submitted, and requires information that will clarify your request.

Should you have any questions, please do not hesitate to contact me at the address above or by telephone at 503-986-0817.

Sincerely,

Jerry Sauter
Water Rights Program Analyst

Cc: Gina Beaman - OWRD Fiscal

Application Checklist

- Source of water If stored water, is the stored water component filed out, including a non-expired agreement for stored water, if applicable, must be included. (ORS 537.400) *It is unclear if stored water is the only source of water requested, if so please clarify. If live flow from some source is also intended, please list.*
- Amount of water from *each* source in gallons per minute (GPM), cubic feet per second (CFS), or acre feet (AF)
- You must include a Legal description of the property involved that includes a metes and bounds, or other government survey description. A copy of the deed, land sales contract or title insurance policy can provide this information, or you may submit a lot book report prepared by a title company. The Department will not accept a copy of the tax bill. *Legal descriptions for Tax Lots 2000, 3200, and 7600 will need to be supplied.*
- A completed Land-Use Form or receipt signed and dated by the appropriate planning department officials. *The Land use form submitted did not list Tax Lot 3700.*
- The map must meet all the minimum requirements of OAR 690-310-0050.
 - Location of main canals, ditches, pipelines or flumes

PARCEL 1

page 1 of 3

DESCRIPTION:

That portion of Section 26, Township 1 South, Range 4 East, of the Willamette Meridian, in Clackamas County, Oregon, described as follows:

Beginning at the Southeast corner of said Section 26; thence North, along the East line of said Section 2930 feet, more or less, to the Southwest line of Bull Run Pipeline Road; thence Northwesterly, along said Southwest line, 150 feet, more or less, to the most Northerly corner of that tract conveyed to John V. Carlson, et ux, by Deed Recorded May 17, 1967, in Book 690, Page 381, and Re-recorded July 25, 1967, in Book 694, Page 78, Clackamas County Deed Records; thence Southwesterly along the east Northerly Northwesterly line of said Carlson tract, 460 feet, more or less, to an interior angle therein; thence West, along the east Northerly North line of said Carlson tract, 320 feet to the Northwest corner thereof; thence South, along the most Westerly West line of said Carlson tract, 165 feet to the most Northerly Southwest corner thereof; thence East, along the most Northerly South line of said Carlson tract, 69 feet to an interior angle corner therein; thence South, along the West line of said Carlson tract, 1815 feet to an exterior angle corner therein; thence East, 132 feet along a South line of said Carlson tract to an interior angle corner therein; thence South, along the most Easterly West line of said tract, 660 feet to the most Easterly Southwest corner thereof; thence East, along the South line of said tract, 520 feet to the point of beginning.

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Tomlinson
"Lease Land description" Page 2 of 3

DESCRIPTION:

PARCEL 2

Part of the Northeast one-quarter of Section 26, Township 1 South, Range 4 East, of the Willamette Meridian, in Clackamas County, Oregon, described as follows:

Beginning at a point in the East and West centerline of said Section 26 from which point the East one-quarter corner of said Section 26 bears South 89° 42' East, 409.23 feet; thence from the point of beginning, North 89° 42' West along said East and West centerline, 78.00 feet; thence North 51° 28' 40" West, 902.23 feet; thence North 38° 44' 20" East, 326.25 feet; thence North 64° 55' 10" East, 74.84 feet; thence North 39° 04' East, 127.54 feet to a point in the Southerly line of Pipe Line Road (Herrick Road), County Road No. 367; thence South 50° 46' 30" East along said Southerly line, 932.24 feet; thence South 39° 04' West, 461.12 feet to the point of beginning.

EXCEPTING THEREFROM that portion described as follows:

Beginning at the East one-quarter corner of said Section 26; thence North 89° 42' 00" West along the East and West centerline of said Section 26, a distance of 487.23 feet; thence North 51° 28' 40" West, 726.48 feet to the true point of beginning of the tract herein to be described; thence continuing North 51° 28' 40" West, 175.75 feet; thence North 38° 44' 20" East, 326.25 feet; thence North 64° 55' 10" East, 74.84 feet; thence North 39° 04' East, 127.54 feet to a point in the Southerly line of Pipe Line Road (Herrick Road), County Road No. 367; thence South 50° 46' 30" East along said Southerly line, 144.97 feet; thence South 39° 04' West, 519.07 feet to the true point of beginning.

PARCEL 3

Part of the Northeast one-quarter of Section 26, Township 1 South, Range 4 East, of the Willamette Meridian, in Clackamas County, Oregon, described as follows:

Beginning at the East one-quarter corner of said Section 26; thence North 89° 42' 00" West along the East and West centerline of said Section 26, a distance of 487.23 feet; thence North 51° 28' 40" West, 726.48 feet to the true point of beginning of the tract herein to be described; thence continuing North 51° 28' 40" West, 175.75 feet; thence North 38° 44' 20" East, 326.25 feet; thence North 64° 55' 10" East, 74.84 feet; thence North 39° 04' East, 127.54 feet to a point in the Southerly line

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page 3 of 3

DESCRIPTION (CONTINUED)

of Pipe Line Road (Herrick Road), County Road No. 367; thence South 50° 46' 30" East along said Southerly line, 144.97 feet; thence South 34° 04' West, 519.07 feet to the true point of beginning.

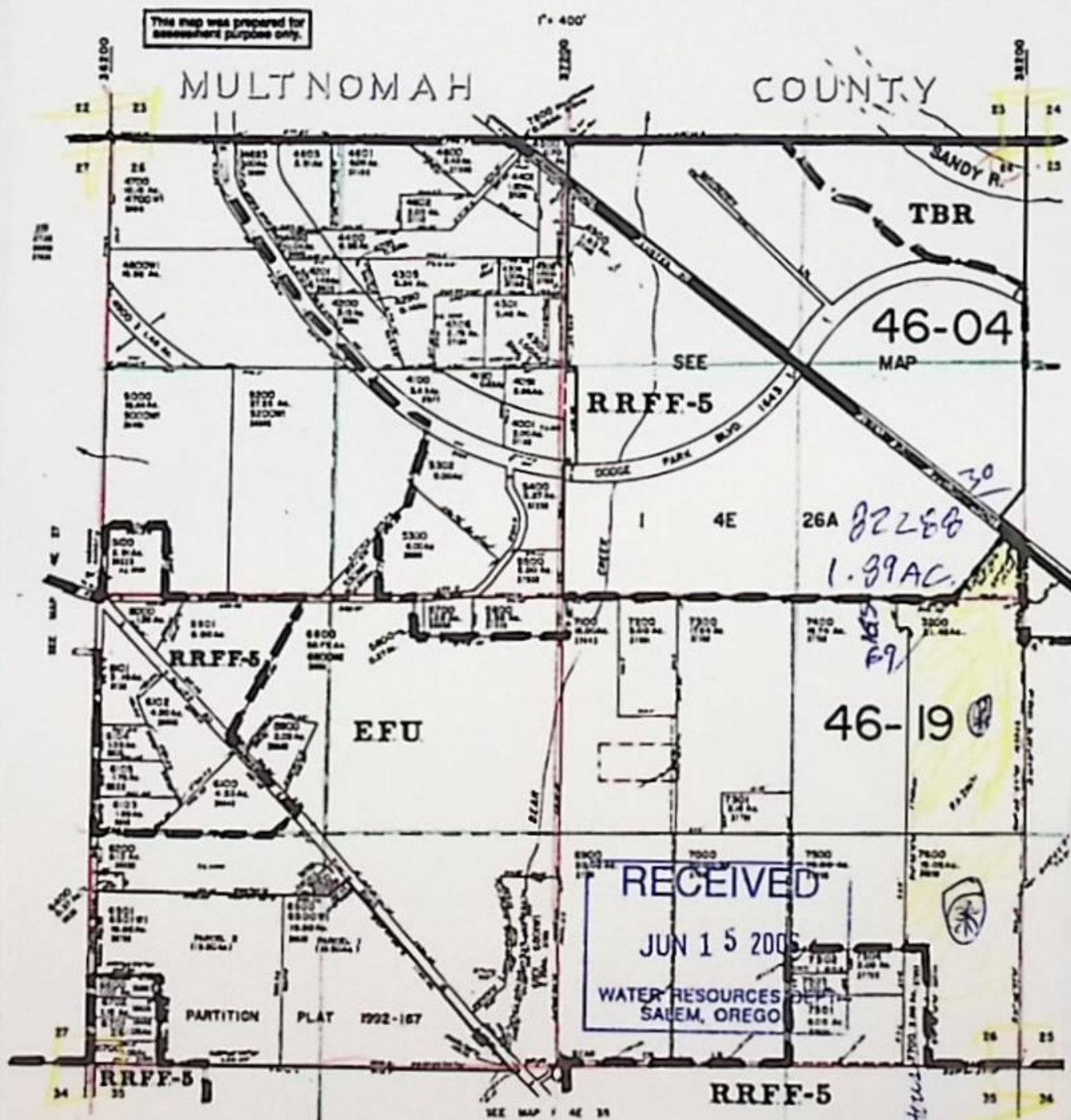
46° 30" East along said Southerly line, 144.97 feet; thence South 34°

04' West, 519.07 feet to the true point of beginning.

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SALEM, OREGON



r = 400

MULTNOMAH

COUNTRY

TBR

46-04
MAP

RRFF-5

4E

26A

1.39 AC

46-19

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JUN 15 2009

WATER RESOURCES
SALEM, OREGO

RRFF-5

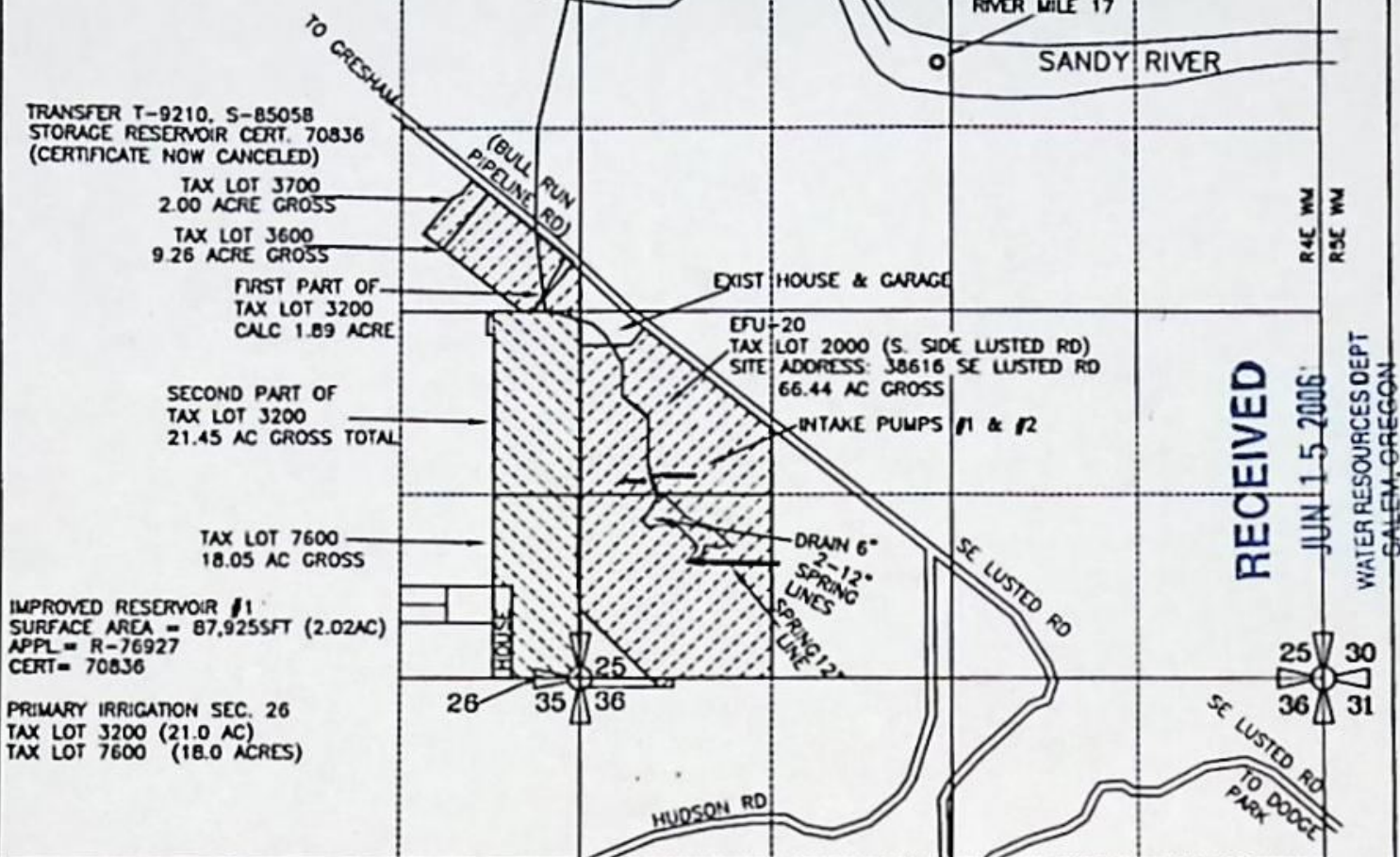
EFU

PARTITION	PLAT	1992-16
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99	99	99
100	100	100

RRFF-5

CORPORATE
BOUNDARY LINE _____
DONATION LAND
CLAIM (DLC #) - - - - -

W 1/2 of the SW 1/4 of SECTION 25, T1S, R4E of the WM
SE 1/4 of the NE 1/4 of SECTION 26, T1S, R4E of the WM
E 1/2 of the SE 1/4 of SECTION 26, T1S, R4E of the WM
NW 1/4 of the NW 1/4 of SECTION 36, T1S, R4E of the WM



TRANSFER T-9210, S-85058
STORAGE RESERVOIR CERT. 70836
(CERTIFICATE NOW CANCELED)
TAX LOT 3700
2.00 ACRE GROSS
TAX LOT 3600
9.26 ACRE GROSS

FIRST PART OF
TAX LOT 3200
CALC 1.89 ACRE

SECOND PART OF
TAX LOT 3200
21.45 AC GROSS TOTAL

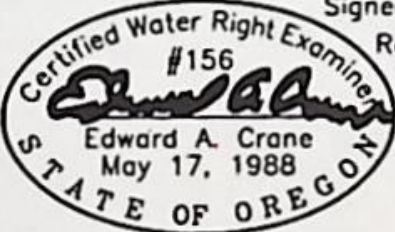
TAX LOT 7600
18.05 AC GROSS

IMPROVED RESERVOIR #1
SURFACE AREA = 87,925SFT (2.02AC)
APPL = R-76927
CERT = 70836

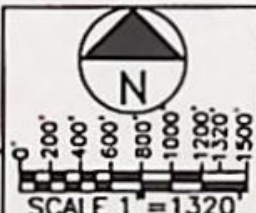
PRIMARY IRRIGATION SEC. 26
TAX LOT 3200 (21.0 AC)
TAX LOT 7600 (18.0 ACRES)

SEC.	1/4 1/4	ACRES IRRIG.	CFS (APPROX. GPM)
25	NW SW	28.50 AC IRRIG	0.3563 CFS (160 GPM)
25	SW SW	35.40 AC IRRIG	0.4425 CFS (199 GPM)
26	SE NE	11.90 AC IRRIG	0.1488 CFS (67 GPM)
26	NE SE	18.75 AC IRRIG	0.2340 CFS (105 GPM)
26	SE SE	16.50 AC IRRIG	0.2063 CFS (93 GPM)
36	NW NW	0.20 AC IRRIG	0.0025 CFS (1.12 GPM)
TOTAL IRRIG.		111.25 ACRES	1.390 CFS (625 GPM)

Signed *Edward A. Crane*
Renewal 12/31/2007



SURVEYED APRIL 7, 2006
BY EDWARD A. CRANE, CWRE



125° SOUTH SANDY 7.5 MIN. QUAD
LINE of SEC. 36 ASSESSOR MAP 15 4E 25 & 36 INDEX

RESERVOIR APPLICATION R-76927 (UNDER HOUSE BILL-2153)
WAS FOR WILDLIFE USES ONLY. TRANSFER APPLICATION ADDED
IRRIGATION USES (GENERAL NURSERY USES & AGRICULTURAL USES)
APPL R-86099 INCREASED STORAGE FROM 5 AC-FT TO 19 AC-FT
THIS APPLICATION INCREASES SURFACE WATER VOLUME USE FOR
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RESERVOIR INTAKES #1 & #2 are located 1300 FEET NORTH & 590FT
EAST from the SOUTHWEST CORNER of SECTION 25, TOWNSHIP 1
SOUTH, RANGE 4 EAST of the WM, CLACKAMAS COUNTY, OREGON

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OR LOCATION OF PROPERTY OWNERSHIP LINES.

APPLICATION FOR A PERMIT
SURFACE WATER

PREPARED BY EDWA

DATE
MAY 2006

PROJECT NO.
347-008



**CRANE ENGINEERING
& SURVEYING, INC.**
13755 SE 119TH DRIVE
CLACKAMAS, OREGON 97015
OFFICE: 503-698-3890
FAX NO: 503-698-3861
CELL: 503-679-3253
E-MAIL: eces@verizon.net

APPLICATION FOR PERMIT NO
PERMIT NUMBER S-

DAN L. NELSON dba
& SONS NURSERY, INC. TEL
31020 SE WAYBILL RD., BC

3 maps
transfer
turnover

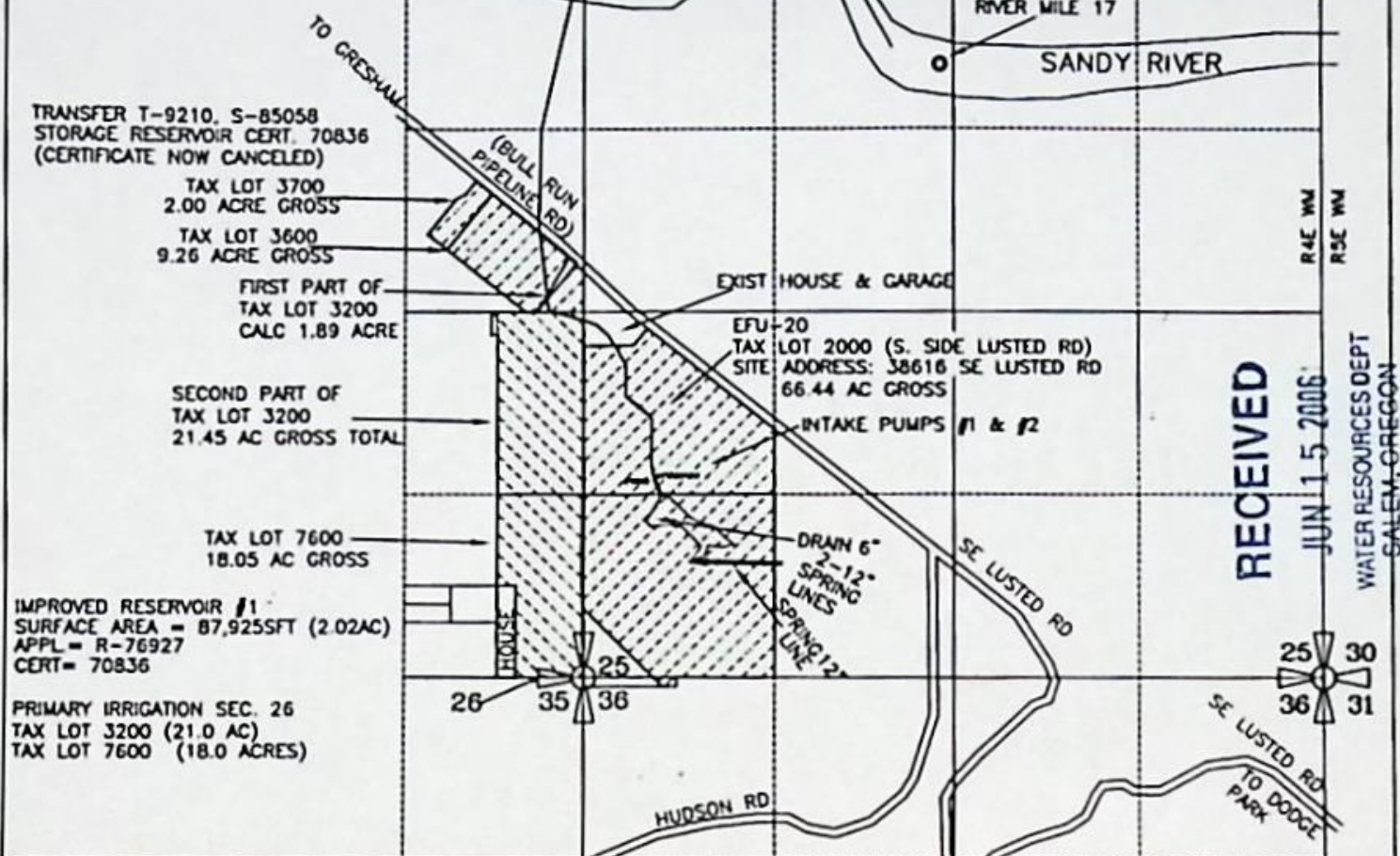
RECEIVED

JUN 15 2006

WATER RESOURCES DEPT
SALEM, OREGON

CORPORATE
BOUNDARY LINE _____
DONATION LAND
CLAIM (DLC #) - - - - -

W 1/2 of the SW 1/4 of SECTION 25, T1S, R4E of the WM
SE 1/4 of the NE 1/4 of SECTION 26, T1S, R4E of the WM
E 1/2 of the SE 1/4 of SECTION 26, T1S, R4E of the WM
NW 1/4 of the NW 1/4 of SECTION 36, T1S, R4E of the WM



TRANSFER T-9210, S-85058
STORAGE RESERVOIR CERT. 70836
(CERTIFICATE NOW CANCELED)

TAX LOT 3700
2.00 ACRE GROSS
TAX LOT 3600
9.26 ACRE GROSS

FIRST PART OF
TAX LOT 3200
CALC 1.89 ACRE

SECOND PART OF
TAX LOT 3200
21.45 AC GROSS TOTAL

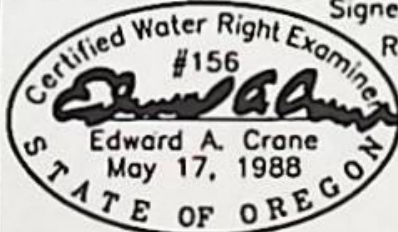
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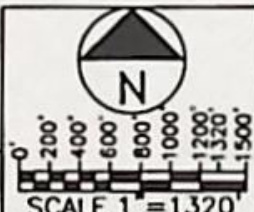
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TOTAL IRRIG.		111.25 ACRES	1.390 CFS (625 GPM)

Signed *E. A. Crane*
Renewal 12/31/2007



SURVEYED APRIL 7, 2006
BY EDWARD A. CRANE, CWRE



T2S 0 SOUTH
LINE of SEC. 36 SANDY 7.5 MIN. QUAD
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APPLICATION FOR A PERMIT SURFACE WATER APPLICATION

PREPARED BY EDWARD A. CRANE, CWRE

DATE
MAY 2006

PROJECT NO.
347-008



**CRANE ENGINEERING
& SURVEYING, INC.**
13755 SE 119TH DRIVE
CLACKAMAS, OREGON 97015
OFFICE: 503-698-3890
FAX NO: 503-698-3861
CELL: 503-679-3253
E-MAIL: ecrane@verizon.net

APPLICATION FOR PERMIT NUMBER S-86622
PERMIT NUMBER S- IN THE NAME OF:

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

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SALEM, OREGON

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WATER RESOURCES DEPT
SALEM, OREGON

RESERVOIR #1
APPL = R-76927
CERT = 70836

8" DRAIN

24" OVERFLOW

INTAKE #1

6" DRAIN

2-12" SPRING LINES

12" SPRING LINE

SW 1/4 OF SW 1/4 SEC. 25
35.40 ACRES IRRIGATED

EFU-20
TAX LOT 2000 (S. SIDE LUSTED RD)
SITE ADDRESS: 38616 SE LUSTED RD

NW 1/4 SW 1/4 SEC. 25
35.75 AC IRRIGATED

8" DRAIN

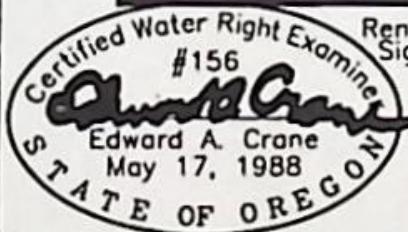
24" OVERFLOW

DOCK
6" PVC
VERT PIPE
2" SQ GV BELOW
8" SDR 3034 DRAIN

CONC SLAB
3-FLOW GUARD FILTERS
PUMP #1
PUMP #2

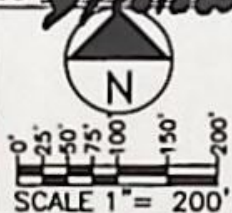
W 1/2 of the SW 1/4 of SECTION 25
NW 1/4 of the NW 1/4 of SECTION 36
T1S, R4E of the WM
CLACKAMAS COUNTY, OREGON

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



SURVEYED APR. 7, 2006

Renewal 12/31/2007
Signed *E. Crane*



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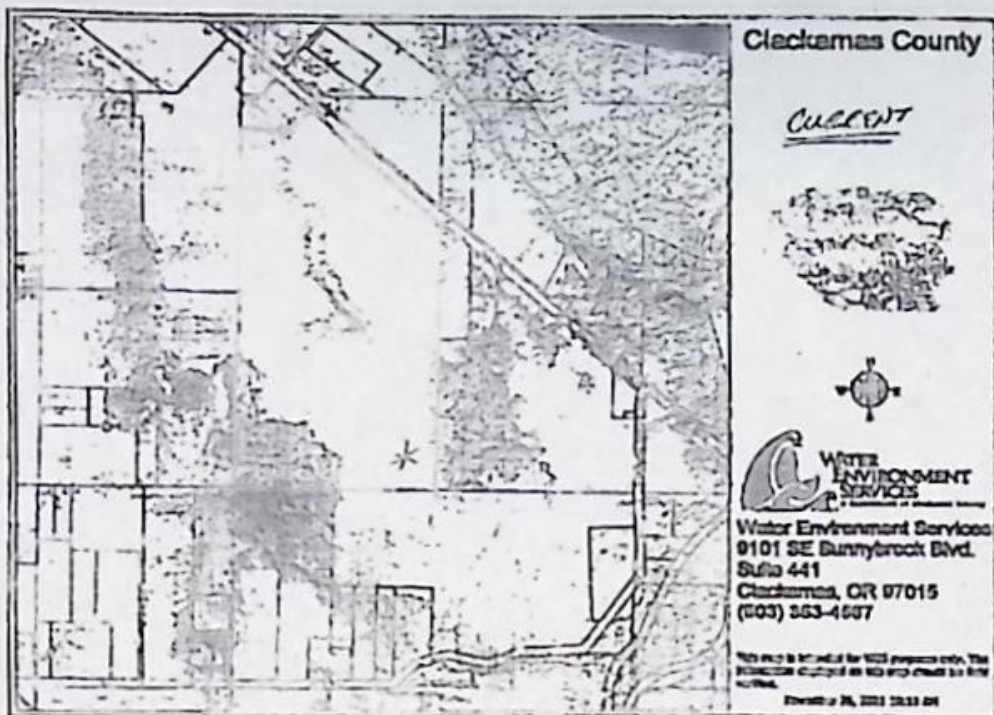
**CRANE ENGINEERING
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CLACKAMAS, OREGON 97015
OFFICE: 503-698-3890
FAX NO: 503-698-3861
CELL: 503-679-3253
E-MAIL: eces@verizon.net

APPLICATION FOR PERMIT NUMBER S-8(6622)
PERMIT NUMBER S-_____ IN THE NAME OF:

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

SHEET

2/3



SUN LIVES IN HOUSE

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WATER RESOURCES DEPT
SALEM, OREGON

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WATER RESOURCES DEPT
SALEM, OREGON

Renewal 12/31/2007

TRANSFER T-9210, S-85058
STORAGE RESERVOIR CERT. 70836
SURVEYED APR. 7, 2006

APPLICATION FOR A PERMIT
SURFACE WATER APPLICATION

PREPARED BY EDWARD A. CRANE, CWRE

DATE

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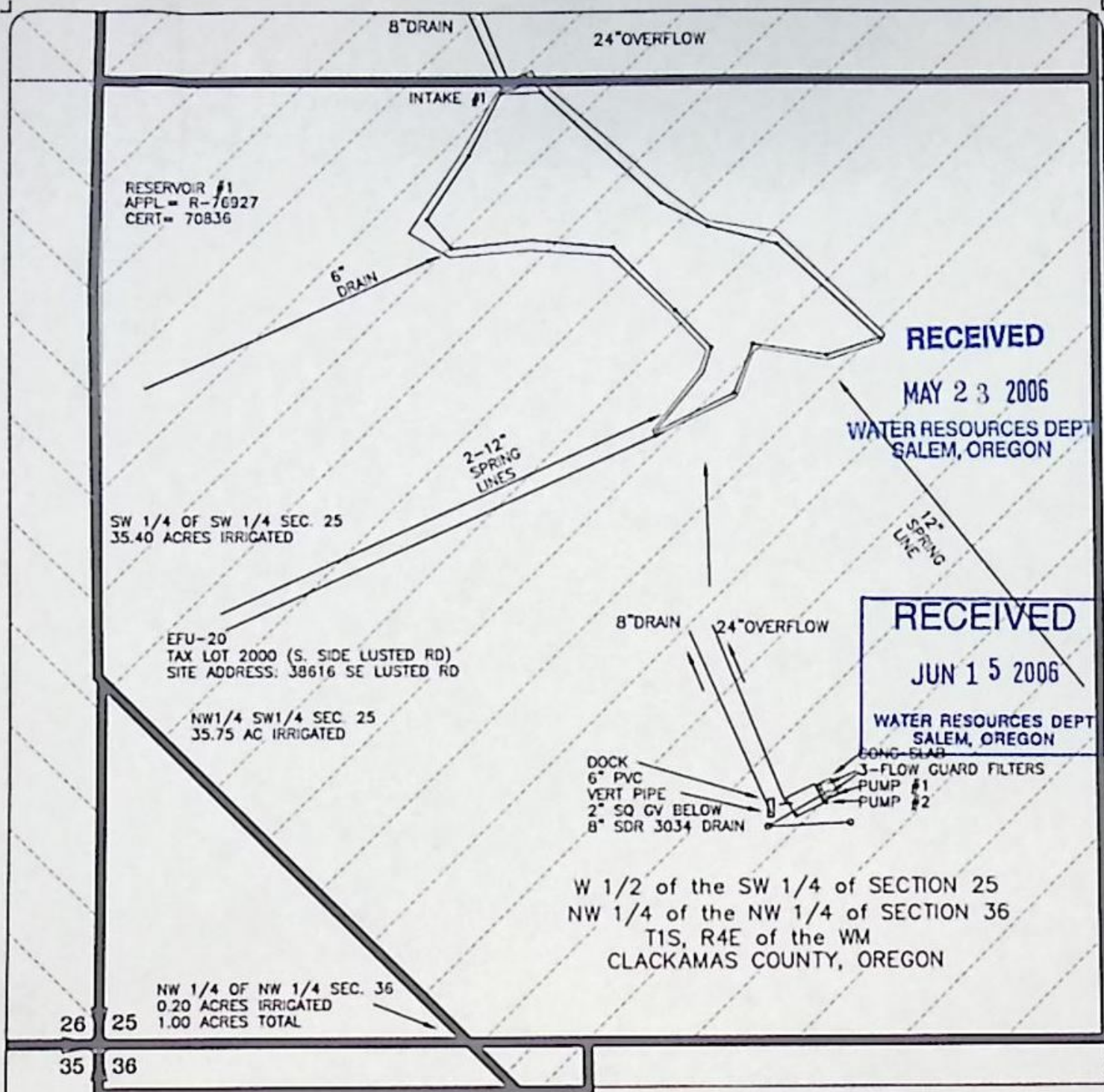
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31020 SE WAYBILL RD., BORING, OR 97009

SHEET

3/3

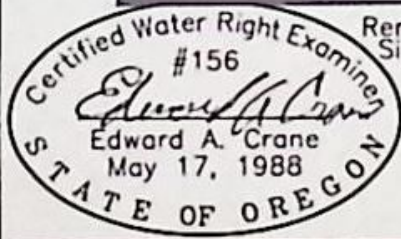


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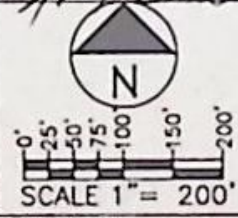
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SALEM, OREGON

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

DOCK
6" PVC
VERT PIPE
2" SQ GV BELOW
8" SDR 3034 DRAIN
LONG FLAP
3-FLOW GUARD FILTERS
PUMP #1
PUMP #2



Renewal Signed 12/31/2007
5/10/2006



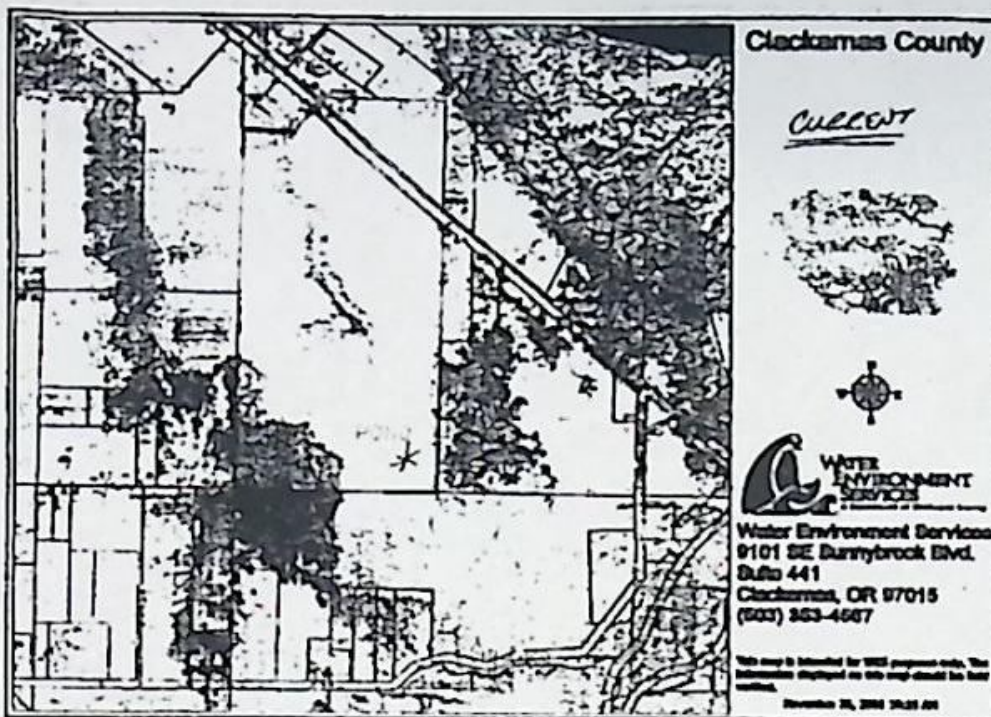
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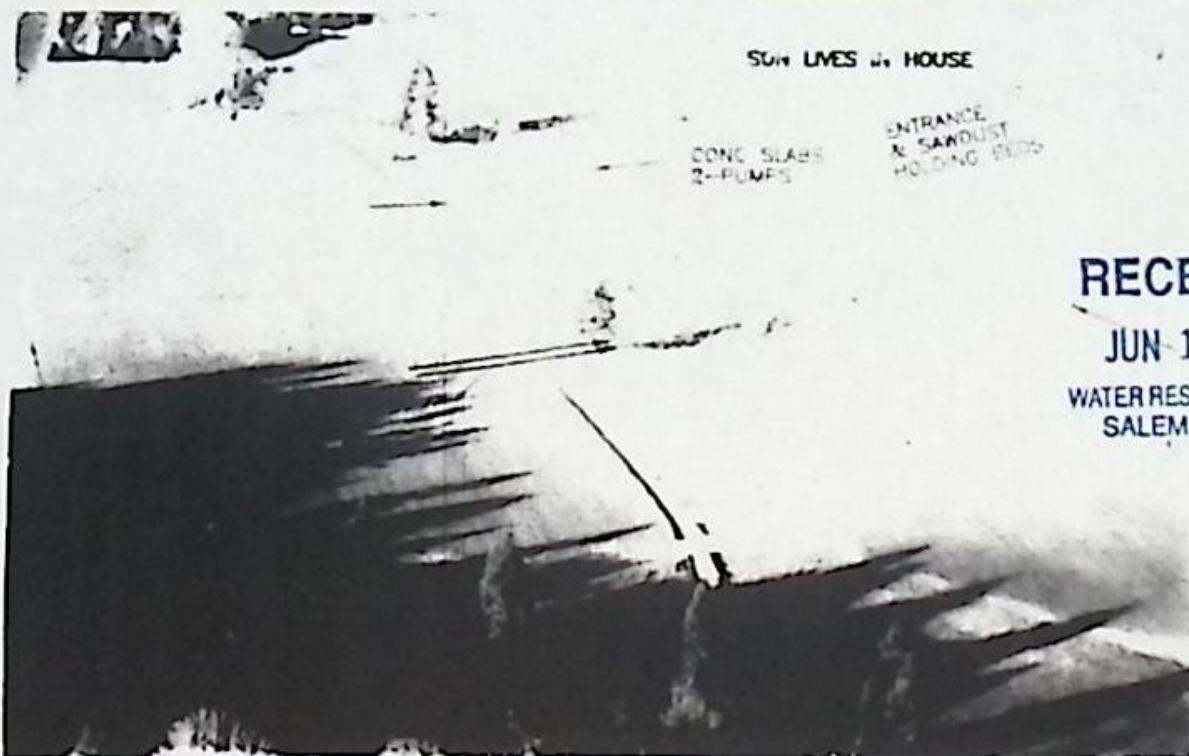
APPLICATION FOR A PERMIT SURFACE WATER APPLICATION

PREPARED BY EDWARD A. CRANE, CWRE

DATE MAY 2006 PROJECT NO. 347-008		CRANE ENGINEERING & SURVEYING, INC. 13755 SE 119TH DRIVE CLACKAMAS, OREGON 97015 OFFICE: 503-698-3890 FAX NO: 503-698-3861 CELL: 503-679-3253 E-MAIL: edes@verizon.net	APPLICATION FOR PERMIT NUMBER S-_____ PERMIT NUMBER S-_____ IN THE NAME OF: DAN L. NELSON dba HANS NELSON & SONS NURSERY, INC. TEL: 503-663-3348 31020 SE WAYBILL RD., BORING, OR 97009	SHEET 2/3
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SCALE 1"=1320'



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WATER RESOURCES DEPT
SALEM, OREGON

Renewal 12/31/2007

TRANSFER T-9210, S-85058
STORAGE RESERVOIR CERT 70836
SURVEYED APR. 7, 2006

APPLICATION FOR A PERMIT
SURFACE WATER APPLICATION

PREPARED BY EDWARD A. CRANE, CWRE

DATE
MAY 2006

PROJECT NO.
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APPLICATION FOR PERMIT NUMBER S-81dc22
PERMIT NUMBER S- IN THE NAME OF:

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

SHEET

3/3

This map was prepared for
assessment purpose only.

1" = 200'

MULTNOMAH

COUNTY

MABERY

46-04

TBR

SANDY RIVER

LUSTED RD
HERRICK ROAD

PARK DOGGE PARK BLVD

RREF-5

46-19

DODGE

BULL RUN

PIPELINE ROAD

1999 - 12

SCENIC RIVERS

1 4E 26A

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WATER RESOURCES DEPT
SALEM, OREGON

This map was prepared for
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1" = 400'

MULTNOMAH

COUNTY

46-04

SANDY

RIVER

TBR

RRFF-5

P.P.

EFU

46-19

2002-9

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JUN 15 2006

WATER RESOURCES DEPT
SALEM, OREGON

SCENIC RIVERS

I 4E 25

BOX 6

JUN 15 2006

WATER RESOURCES DEPT
SALEM, OREGON

1 4E 26
PAGE 6

Memorandum

TO: Dan L. Nelson, President dba
Hans Nelson & Sons Nursery, Inc.
31020 SE Waybill Road
Boring, OR 97009-9427
Tel: 503-663-3348
Fax: 503-663-0138
Cell: 503-310-9708
E-Mail: dnelson@hansnelson.com

FROM: Edward A. Crane, CWRE

SUBJECT: Surface Irrigation from Additional 14af Storage in a Reservoir
Reservoir Application R-86099; Permit R-14141
Properties are Located at 38615 & 38200 SE Lusted Road
TL 2000, W1/2 of SW 1/4 of Sec. 25 & NW of NW Sec.36, T1S, R4E of WM
TL 3200 & 7200 W 1/2 of SE 1/4 Section 26, T1S, R4E of WM (Tomlinson)
TL 3700 & 3500 SE 1/4 of SE 1/4 Section 26, T1S, R4E of WM (Tomlinson)
All in Clackamas County, Oregon

D:\CRANE ENGR & SURVEY\PROJECTS\347-008\347-008 TRANS1 SURFACE.DOC

DATE: May 16, 2006

Attached is my revised transmittal letter to the manager of the Application and Permit Section of the Oregon State Water Resources Department (OWRD) in Salem; that has the following documents and maps attached to it. Please accomplish the items shown in bold below and then forward or deliver the completed letter with attachments to the OWRD office in Salem if everything is correctly shown or called out. If something needs correction, please return the letter & map to me for correction.

1. **Application for a Permit to Use Surface Water, and Oregon Water Resources Department Form "I" (Irrigation).** Please sign the Application at the yellow sticker.
2. **Surface Water Permit Application Maps**
If any major corrections are needed, please return the map to me and I'll make the corrections. I will then return the maps to you for sending on to OWRD in Salem.
3. **Copy of Property Deeds & Legal Descriptions**
Please include a copy of the deeds for the Tax Lots in the letter to be sent to Oregon Water Resources Department in Salem.

CRANE ENGINEERING & SURVEYING, INC.
13755 SE 119th Drive, Clackamas, OR 97015
TEL: 503-698-2690; FAX: 503-698-3861
CELL: 503-679-3253; E-MAIL: ECES@VERIZON.NET



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MAY 23 2006

WATER RESOURCES DEPT
SALEM, OREGON

4. **Land Use Information Form & Description of Water Use**
Please take these forms to the Clackamas County Planning and Permit Department and have a planner initial these forms. Please then re-attach them to my letter to be sent to OWRD in Salem.
5. **Please attach a check for \$850.00 total to the Oregon Water Resources Department**
for the Application. It includes the required non-refundable OWRD Base \$300 "Examination Fee" to process the application and the basic fee of \$200 for the first cubic foot per second (cfs) or fraction of a cfs and \$100 for each additional cfs of fraction thereof. It also includes the basic \$250 "Permit Recording Fee". (You can wait to pay the \$250 Permit Recording Fee to a later date when the permit is issued, if you so wish).

Thank you for your assistance in the preparation of these documents, and please give me a call at 503-698-3890 if you have any questions or need further assistance.

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JUN 15 2006

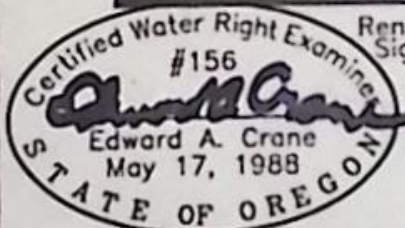
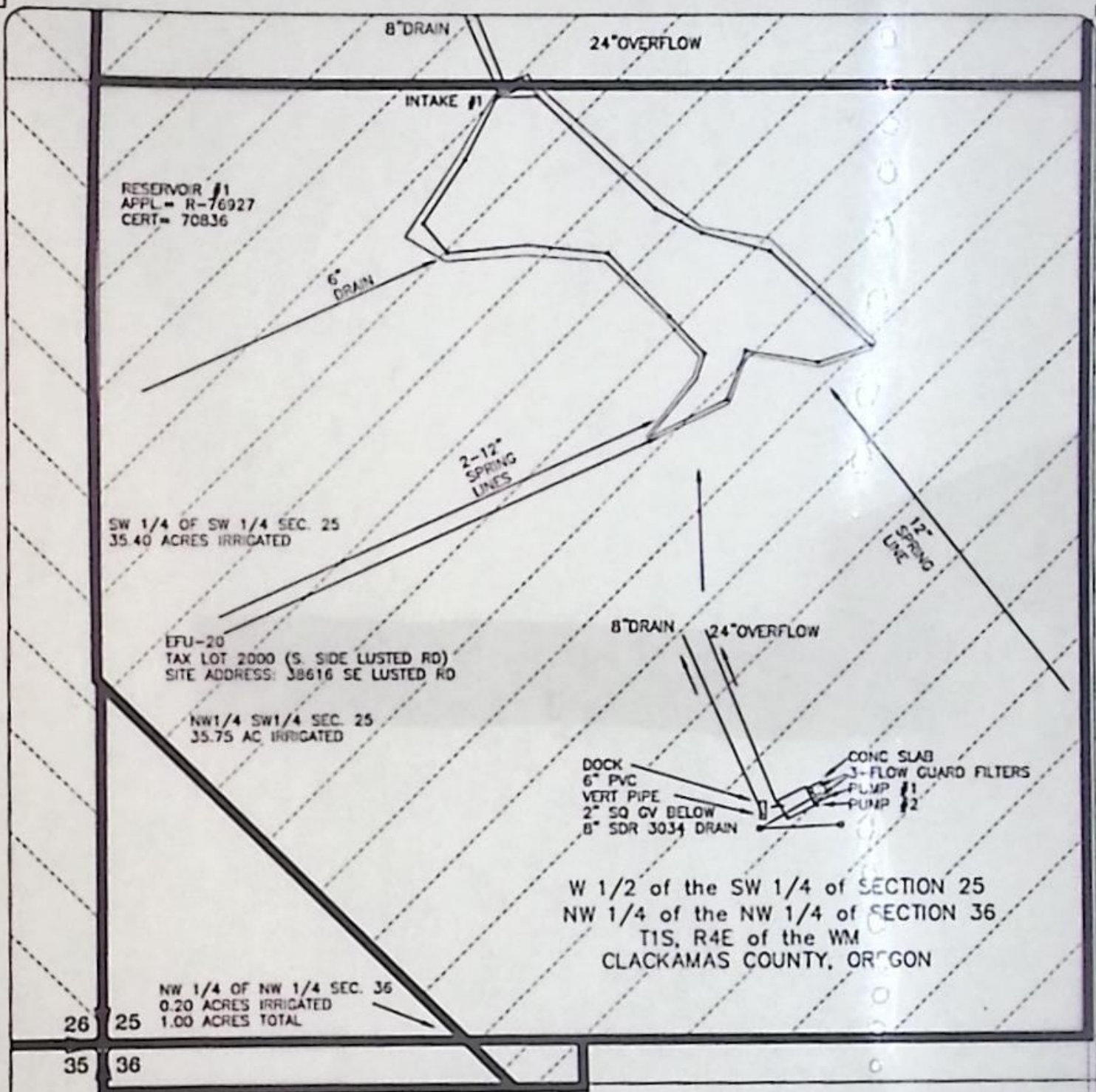
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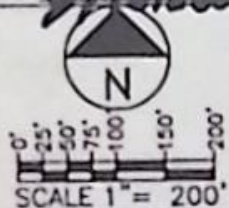
MAY 23 2006

WATER RESOURCES DEPT
SALEM, OREGON



SURVEYED APR. 7, 2006

Renewal 12/31/2007
Signed *[Signature]*



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APPLICATION FOR A PERMIT SURFACE WATER APPLICATION

PREPARED BY EDWARD A. CRANE, CWRE

DATE
MAY 2006

PROJECT NO.
347-008



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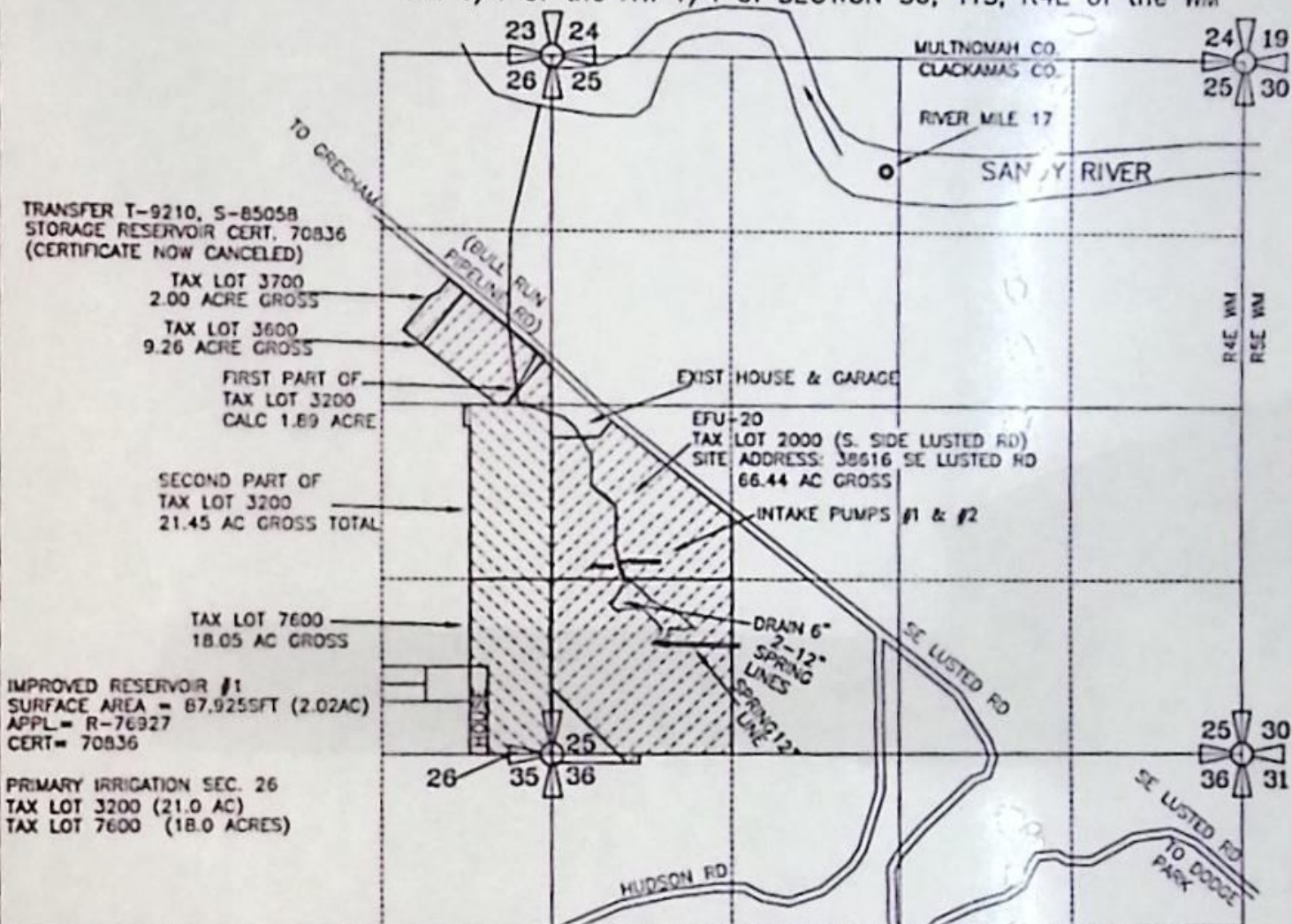
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31020 SE WAYBILL RD., BORING, OR 97009

SHEET
2/3

CORPORATE
BOUNDARY LINE ————
DONATION LAND
CLAIM (DLC #) - - - - -

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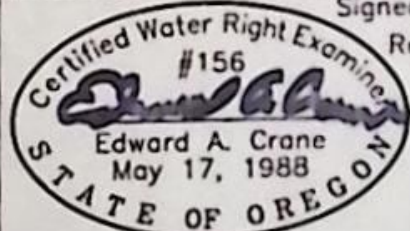


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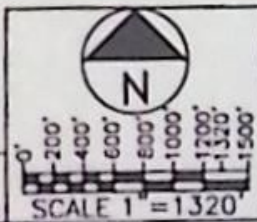
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Renewal 12/31/2007



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LINE of SEC. 36 ASSESSOR MAP 15 4E 25 & 36 INDEX

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DATE

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CLACKAMAS, OREGON 97015

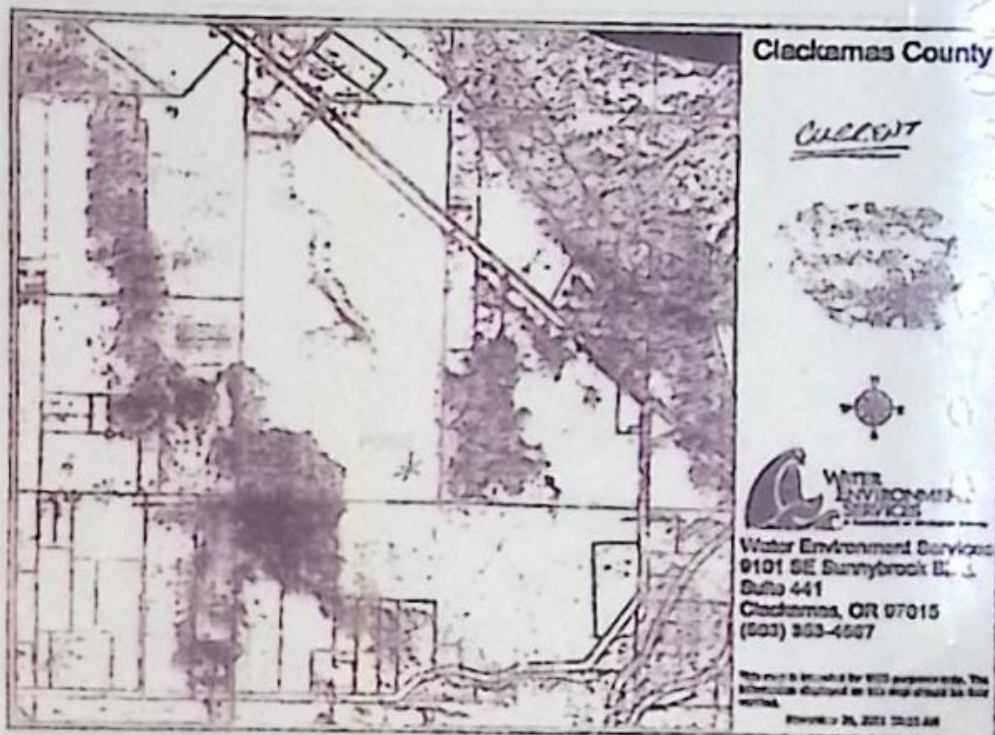
OFFICE: 503-698-3890
FAX NO: 503-698-3861
CELL: 503-679-3253
E-MAIL: ecrane@verizon.net

APPLICATION FOR PERMIT NUMBER S-76927
PERMIT NUMBER S- IN THE NAME OF:

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

SHEET

1/3



SCALE 1"=1320'



Renewal 12/31/2007
TRANSFER T-9210, S-85058
STORAGE RESERVOIR CERT. 70836
SURVEYED APR. 7, 2006

APPLICATION FOR A PERMIT SURFACE WATER APPLICATION

PREPARED BY EDWARD A. CRANE, CWRE

DATE MAY 2006 PROJECT NO. 347-008		CRANE ENGINEERING & SURVEYING, INC. 13755 SE 119TH DRIVE CLACKAMAS, OREGON 97015 OFFICE: 503-698-3890 FAX NO: 503-698-3861 CELL: 503-679-3253 E-MAIL: ecrane@verizon.net	APPLICATION FOR PERMIT NUMBER <u>S-56622</u> PERMIT NUMBER S-_____ IN THE NAME OF: DAN L. NELSON dba HANS NELSON & SONS NURSERY, INC. TEL: 503-663-3348 31020 SE WAYBILL RD., BORING, OR 97009	SHEET 3/3
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S-86622
DAN NELSON
HANS NELSON AND SONS NURSERY INC.
31020 SE WAYBILL RD
BORING OR 97009-9427

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HANS NELSON & SONS NURSERY, INC.

25186

ACCOUNT NO.			VENDOR		CHECK NO. 25186	CHECK DATE 5/22/06	
VOUCHER	INVOICE NUMBER	INV. DATE	REFERENCE	INVOICE AMOUNT	AMOUNT PAID	DISCOUNT TAKEN	NET CHECK AMOUNT
	06/5	5/22/06	OWRD Base Examination Fee Basic fee Permit Recording Fee	850.00	850.00		850.00
RECEIVED JUN 15 2006 WATER RESOURCES DEPT SALEM, OREGON					RECEIVED MAY 23 2006 WATER RESOURCES DEPT SALEM, OREGON		
						CHECK TOTAL	850.00