

Oregon Water Resources Department
Water Rights Division

Water Rights Application
Number G-16409

Hearing and Appeal Rights

Under the provisions of ORS 537.170 and ORS 537.622, the applicant may request a contested case hearing by submitting the information required for a protest under ORS 537.153(6) or ORS 537.621(7) to the Department within 14 days after the date of mailing of this order as shown below. If a contested case hearing is requested, the Department must schedule one. In the contested case hearing, however, only those issues based on the above modifications to the proposed final order may be addressed.

ORS 536.075 allows for additional appeal rights for other than contested case. 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.

Final Order Incorporating Settlement Agreement

Application History

On March 10, 2005, HARRY CAM AND CAMS NURSERY submitted an application to the Department for a water use permit. The Department issued a Proposed Final Order on March 28, 2006. The applicant filed a protest on August 2, 2005. A settlement agreement was signed by all parties as of April 13, 2006. The Settlement Agreement is incorporated into this final order and is attached hereto.

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

Order

Application G-16409 therefore is approved and Permit Number G-16051 is issued as limited by the conditions set forth therein.

DATED April 28, 2006

T. Timothy Wall for

Dwight French, Administrator,
Water Rights and Adjudications Division
for
Phillip C. Ward, Director
Oregon Water Resources Department
725 Summer St. NE, Suite A
Salem, OR 97301

This document was prepared by Jeana Eastman. 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 503-986-0859.

If you have previously filed a protest and want to know its status, please contact Mike Reynolds 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.

Oregon Water Resources Department
Water Rights Division

Water Rights Application
Number G-16409

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DRAFT Final Order Incorporating Settlement Agreement

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

DRAFT Order

Application G-16409 therefore is approved and Permit Number G-_____ is issued as limited by the conditions set forth therein.

DATED _____, 2006

-- DRAFT --

Dwight French, Administrator,
Water Rights and Adjudications Division
for
Phillip C. Ward, Director
Oregon Water Resources Department
725 Summer St. NE, Suite A
Salem, OR 97301

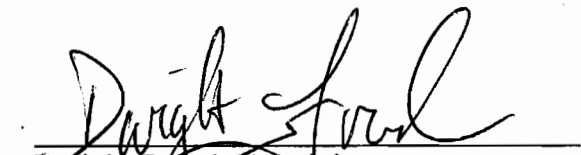
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5. Each Party to this Settlement Agreement represents, warrants, and agrees that the person who executes this Agreement on its behalf has the full right and authority to enter into this Agreement on behalf of that Party and bind that Party to the terms of this Settlement Agreement.
6. Each Party to this Settlement Agreement certifies that they have had a reasonable opportunity to review and request changes to the Settlement Agreement, and that they have signed this Settlement Agreement of their own free will and accord. Each Party to this Settlement Agreement also certifies that they have read the entire Settlement Agreement, draft final order, and draft permit, and understand and fully agree with the contents thereof.
7. This Settlement Agreement may be signed in counterparts, each of which will be deemed an original, and all of which together shall constitute one and the same Settlement Agreement.


Dwight French, Administrator,
Water Rights and Adjudications Division
for
Phillip C. Ward, Director
Oregon Water Resources Department
725 Summer St. NE, Suite A
Salem, OR 97301

April 10, 2006
Date


HARRY CAM and CAMS NURSERY,
Applicants

4-13-06
Date

STATE OF OREGON

COUNTY OF MARION

DRAFT PERMIT TO APPROPRIATE THE PUBLIC WATERS

THIS DRAFT PERMIT IS HEREBY ISSUED TO

HARRY CAM
CAMS NURSERY
12383 CARL RD NE
WOODBURN, OR 97071

503-982-1736

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

APPLICATION FILE NUMBER: G-16409

SOURCE OF WATER: WELL 1 (MARI 1488), WELL 2, AND WELL 3 IN PUDDING RIVER BASIN

PURPOSE OR USE: NURSERY USE ON 30.28 ACRES

MAXIMUM RATE: 0.89 CUBIC FOOT PER SECOND (CFS) FROM OCTOBER 1 THROUGH JUNE 30 AND 0.36 CFS FROM JULY 1 THROUGH SEPTEMBER 30

PERIOD OF USE: YEAR ROUND

DATE OF PRIORITY: MARCH 10, 2005

WELL LOCATIONS:

WELL 1 (MARI 1488): DLC: 60 (SE ¼ SE ¼), SECTION 4, T5S, R1W, W.M.; 1280 FEET NORTH & 235 FEET WEST FROM SE CORNER, SECTION 4

WELL 2: DLC: 60 (SE ¼ SE ¼), SECTION 4, T5S, R1W, W.M.; 1280 FEET NORTH & 840 FEET WEST FROM SE CORNER, SECTION 4

WELL 3: DLC: 60 (NE ¼ SE ¼), SECTION 4, T5S, R1W, W.M.; 2500 FEET NORTH & 825 FEET WEST FROM SE CORNER, SECTION 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.

THE PLACE OF USE IS LOCATED AS FOLLOWS:

NW ¼ SW ¼ 3.4 ACRES
 SW ¼ SW ¼ 0.18 ACRE
 BOTH PROJECTED WITHIN J PURVINE DLC 60
 SECTION 3

NE ¼ SE ¼ 25.0 ACRES
 SE ¼ SE ¼ 1.7 ACRES
 BOTH PROJECTED WITHIN J PURVINE DLC 60
 SECTION 4
 TOWNSHIP 5 SOUTH, RANGE 1 WEST, W.M.

Measurement, recording and reporting conditions:

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

The well(s) shall produce groundwater only from the alluvial groundwater reservoir.

STANDARD CONDITIONS

If the number, location, source, or construction of any well deviates from that proposed in the permit application or required by permit conditions, this permit may not be valid, unless the Department authorizes the change in writing.

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

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

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.

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

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

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

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

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

Completion of construction and complete application of the water to the use shall be made on or before October 1, 2010. 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 _____, 2006

DRAFT - THIS IS NOT A PERMIT

Phillip C. Ward, Director
Water Resources Department