



Oregon

Theodore R. Kulongoski, Governor

Water Resources Department

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

CARLTON NURSERY CO., LLC
ALLAN ELLIOTT
PO BOX 398
DAYTON, OR 97114

June 11, 2010

Reference: File S-87564

Dear Mr. Elliott:

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 1.0 cubic foot per second (CFS) of water from Palmer Creek, tributary to Yamhill River, for nursery use on 261.8 acres November 1 through March 31 of each year.

The application also requested the use of 60.0 acre feet (AF) of water from Gordon Farm Irrigation Reservoir (to be constructed under Application R-87569), tributary to Palmer Creek, for nursery use on 261.8 acres year-round.
2. The proposed use is not prohibited by law or rule except where otherwise noted below.
3. Uses included in nursery use are fully included in irrigation and agriculture uses, both of which are allowed by OAR 690-502, the Willamette Basin Program. Therefore, the use of water from Palmer Creek, tributary to Yamhill River and Gordon Farm Irrigation Reservoir, tributary to Palmer Creek, in Palmer Creek Basin for nursery use is allowable.
4. Surface water is not available during the period July through September.
5. Stored water is available for further appropriation from Gordon Farm Irrigation Reservoir, contingent upon approval of Application R-87569.

Summary of Initial Determinations

The use of 1.0 CFS of water from Palmer Creek, tributary to Yamhill River, for nursery use on 261.8 acres may be allowed during the full period requested, November 1 through March 31 of each year.

The use of 60.0 AF of water from Gordon Farm Irrigation Reservoir (to be constructed under Application R-87569), tributary to Yamhill River, for nursery use on 261.8 acres may be allowed during the full period requested, year-round, contingent upon approval of Application R-87569.

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 \$200 processing charge per application). To accomplish this you must notify the Department in writing by **Friday, June 25, 2010**. 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 or other suitable measuring device as approved by the Director at each point of diversion. The permittee shall maintain the meter or measuring device 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 or measuring device; provided however, where any meter or measuring device 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.
2. You may be required to install fish screens at the point of diversion to meet Oregon Department of Fish and Wildlife specifications for adequate protection of aquatic life.

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 503-986-0853 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: Michele McAleer, Oregon Water Resources Department, 725 Summer St NE Ste A, Salem OR 97301-1266. Our fax number is 503-986-0901.

Sincerely,



Michele McAleer
Water Right Application Caseworker

enclosures: Application Process Description and Stop Processing Request Form

S-87564
WAB 2-30200801
POU 2-30200801
GW

APPLICATION FACT SHEET

Application File Number: S-87564

Applicant: ALLAN ELLIOTT CARLTON NURSERY CO. LLC

County: YAMHILL

Watermaster: 16

Priority Date: DECEMBER 28, 2009

Source: PALMER CREEK, TRIBUTARY TO YAMHILL RIVER AND GORDON FARM IRRIGATION RESERVOIR, TRIBUTARY TO PALMER CREEK

Use: NURSERY USE ON 261.8 ACRES

Quantity: 1.0 CUBIC FOOT PER SECOND AND 60.0 ACRE FEET

Basin Name & Number: Willamette, #2

Stream Index Reference: Volume 12A PALMER CR

Point of Diversion(s):

POD1/PALMER CREEK: NENW, SECTION 8, T5S, R3W, W.M.; 4020 FEET SOUTH AND 1350 FEET EAST FROM SE CORNER, DLC 42

POD 2/GORDON FARM IRRIGATION RESERVOIR: SWNW, SECTION 5, T5S, R3W, W.M.; 780 FEET SOUTH AND 0 FEET WEST FROM SE CORNER, DLC 42

Place of Use:

SW $\frac{1}{4}$ NW $\frac{1}{4}$ 3.0 ACRES
NW $\frac{1}{4}$ SW $\frac{1}{4}$ 27.4 ACRES
SW $\frac{1}{4}$ SW $\frac{1}{4}$ 10.2 ACRES
SECTION 4

SW $\frac{1}{4}$ NE $\frac{1}{4}$ 11.5 ACRES
SE $\frac{1}{4}$ NE $\frac{1}{4}$ 7.1 ACRES
SW $\frac{1}{4}$ NW $\frac{1}{4}$ 1.3 ACRES
SE $\frac{1}{4}$ NW $\frac{1}{4}$ 29.8 ACRES
NE $\frac{1}{4}$ SW $\frac{1}{4}$ 37.7 ACRES
NW $\frac{1}{4}$ SW $\frac{1}{4}$ 3.5 ACRES
SW $\frac{1}{4}$ SW $\frac{1}{4}$ 0.5 ACRE
SE $\frac{1}{4}$ SW $\frac{1}{4}$ 6.6 ACRES
NE $\frac{1}{4}$ SE $\frac{1}{4}$ 40.0 ACRES
NW $\frac{1}{4}$ SE $\frac{1}{4}$ 37.7 ACRES
SW $\frac{1}{4}$ SE $\frac{1}{4}$ 32.7 ACRES
SE $\frac{1}{4}$ SE $\frac{1}{4}$ 12.4 ACRES
SECTION 5

NW $\frac{1}{4}$ NE $\frac{1}{4}$ 0.2 ACRE
NE $\frac{1}{4}$ NW $\frac{1}{4}$ 0.2 ACRE
SECTION 8

TOWNSHIP 5 SOUTH, RANGE 3 WEST, W.M.

14 DAY STOP PROCESSING DEADLINE DATE: Friday, June 25, 2010

PUBLIC NOTICE DATE: Tuesday, June 15, 2010

30 DAY COMMENT DEADLINE DATE: Thursday, July 15, 2010

Mailing List for IR Copies

Application #S-87564

IR Date: June 11, 2010

Original mailed to applicant:

CARLTON NURSERY CO. LLC
ALLAN ELLIOTT
PO BOX 398
DAYTON, OR 97114

Copies sent to:

1. WRD - File # S-87564
2. WRD - Water Availability: Ken Stahr

IR, Map, and Fact Sheet Copies sent VIA E-MAIL to:

3. WRD - Watermaster # 16 (include Division 33 form)
4. ODFW: Danette Faucera (include Division 33 form)
5. DEQ: Nancy Gramlich (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"):

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

7. CWRE #60772, Malia Kupillas, Pacific Hydro-Geology, Inc., 18477 S. Valley Vista Rd, Mulino,
OR 97042
8. Lee Hardy, H & R Engineering, 690 Loring Dr NW, Salem, OR 97304

<p>Copies Mailed By: _____ (SUPPORT STAFF) on: _____ (DATE)</p>

Caseworker: Michele McAleer

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