

Application for a Permit to  
**Store Water in a Reservoir**  
 Alternate Review (ORS 537.409)



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

You may use this form for any reservoir storing less than 9.2 acre-feet or with a dam less than 10 feet high.

Use a separate form for each reservoir

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**SECTION 1: APPLICANT INFORMATION AND SIGNATURE**

**Applicant**

NAME <b>KRAIG &amp; NANSIE KELLY REVOCABLE LIVING TRUST</b>		PHONE (HM) <b>(503) 910-8858</b>	<b>OWRD</b>
PHONE (WK)	CELL	FAX	
ADDRESS <b>3410 NW VALLEY CRK. RD NW</b>			
CITY <b>SALEM</b>	STATE <b>OR</b>	ZIP <b>97304</b>	E-MAIL * <b>KKELLY@KELLYSHOMECENTER.COM</b> <b>NANSIEKELLY@GMAIL.COM</b>

**Organization**

NAME		PHONE	FAX
ADDRESS			CELL
CITY	STATE	ZIP	E-MAIL *

**Agent** – The agent is authorized to represent the applicant in all matters relating to this application.

AGENT / BUSINESS NAME <b>THOMPSON M. WARREN PLS CWRE</b>		PHONE <b>(503)314-0699</b>	FAX
ADDRESS <b>596 IDYLWOOD DR. SE</b>			CELL
CITY <b>SALEM</b>	STATE <b>OR</b>	ZIP <b>97302</b>	E-MAIL * <b>THETHOM@COMCAST.NET</b>

Note: Attach multiple copies as needed

\* By providing an e-mail address, consent is given to receive all correspondence from the department electronically. (paper copies of the final order documents will also be mailed.)

**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.
- I cannot legally store water until the Water Resources Department issues a permit.
- Oregon law requires that a permit be issued before beginning construction. Acceptance of this application does not guarantee a permit will be issued.
- 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 cancelled.
- The water use must be compatible with local comprehensive land use plans.
- Even if the Department issues a permit, I may have to stop using water to allow senior water right holders to get water to which they are entitled.

**I (we) affirm that the information contained in this application is true and accurate.**

<i>Kraig &amp; Kelly, Trustee</i>	<b>Kraig Kelly, Trustee</b>	<b>12/18/20</b>
Applicant Signature	Print Name and Title if applicable	Date
<i>Nansie A Kelly, Trustee</i>	<b>Nansie Kelly, Trustee</b>	<b>12/18/20</b>
Applicant Signature	Print Name and Title if applicable	Date

## SECTION 2: SOURCE OF WATER AND LOCATION OF RESERVOIR

Reservoir name:	Kelly Reservoir				
Source*:	Surface Runoff	Tributary:	Spring Valley Creek		
County:	Polk				
Quantity:	9 Acre-Feet [length x width x depth / 43,560]				
Reservoir Location:	Township (N or S)	Range (E or W)	Section	Quarter-Quarter	Tax Lot #
	6S	3W	34	NW NE	101
Maximum Height of Dam:	10 feet. If excavated write "zero feet."				

Surface runoff tributary to Spring Valley Creek...

\* Provide the name of the water body or other source from which water will be diverted, and the name of the stream or lake it flows into. Indicate if source is run-off, seepage, an unnamed stream, or spring.

## SECTION 3: WATER USE

Indicate the proposed use(s) of the stored water: WETLAND CREATION, STOCK WATER

**NOTE:** You may wish to consider filing for "Multipurpose use" for your reservoir. Multipurpose use does not limit the types of future uses for the stored water. Multipurpose covers all uses including: stock water, fish and wildlife, aesthetics, domestic, irrigation, agriculture, fire protection and pollution abatement.

## SECTION 4: PROPERTY OWNERSHIP

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

- Yes (please check appropriate box below then skip to section 5)
- There are no encumbrances
  - This land is encumbered by easements, right of way, roads of way, roads or other encumbrances
- 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). (Do not check this box if you described your use as "Multipurpose" in #3 above.)

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List the names and mailing addresses of all affected landowners:

N/A

SECTION 5: ENVIRONMENTAL IMPACT

Channel: Is the Reservoir:  in-stream or  off channel?

Wetland: Is the project in a wetland?  YES  NO  unknown

Existing: Is this an existing reservoir?  YES  NO

If YES, how long has it been in place? 20 years.

Fish Habitat: Is there a fish habitat upstream of the proposed structure?  YES  NO  unknown

If YES, how much? miles.

Existing: Have you been working with other agencies?  YES  NO

Indicate agency, staff and phone numbers of those involved. Also indicate any agencies that are cost sharing in this project.

SECTION 6: WITHIN A DISTRICT

Check here if the point of diversion or place of use are located within or served by an irrigation or other water district.

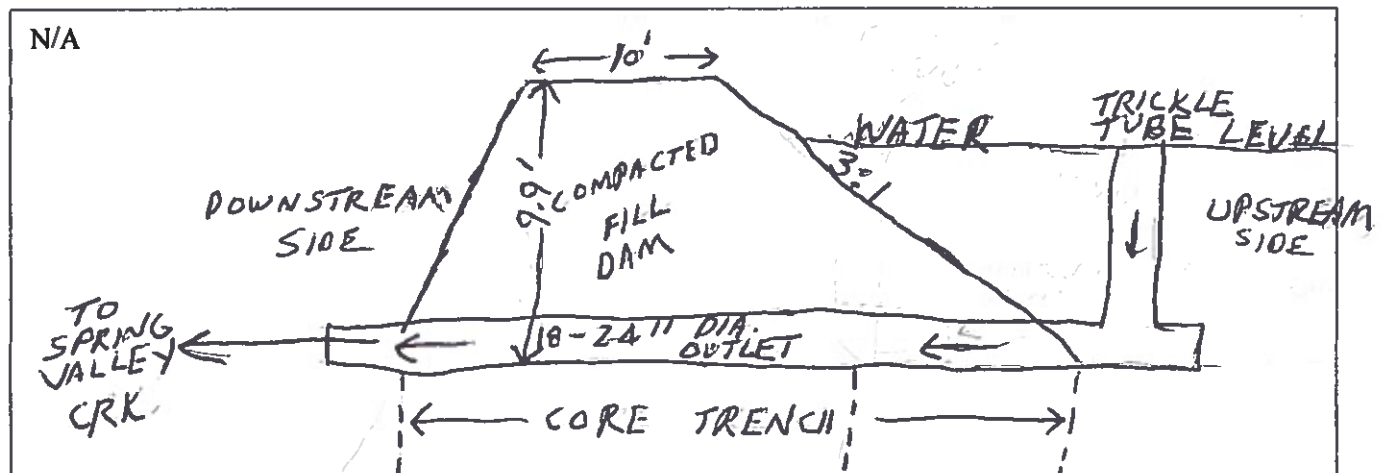
Irrigation District Name: <i>N/A</i>		Address:	
City:	State:	Zip:	

SECTION 7: DESCRIPTION

Provide a short description of the design and operation of the proposed diversion, including a description of how live flow will be passed outside the authorized storage season. Use this space for narrative. You may also provide narrative and sketches on separate pages.

An existing pond will receive surface runoff water through the winter months and no live flow will be available during summer months...Pond will be excavated to dimensions with maximum dam height of 9 ft. There will an over flow pipe and diameter outlet pipe which will drain into Spring Valley Creek..

If the diversion involves a dam, use this space below for sketches of the diversion (e.g. cross-section of the dam with its dimensions, dimension and placement of outlet pipe, means of passing live flow outside of the authorized storage season, and means for providing fish passage).



# Watermaster Alternate Reservoir Application Review Sheet

In lieu of the water right application process set forth in ORS 537.140 to 537.211, an owner of a reservoir may submit an alternate reservoir application for a reservoir that has a storage capacity less than 9.2 acre-feet or a dam or impoundment structure less than 10 feet in height. ORS 537.409 describes the criteria used to evaluate alternate reservoir applications.

The review shall be limited to issues pertaining to: a) water availability, b) potential detrimental impact to existing fishery resources; and c) potential injury to existing water rights. (ORS 537.409 (6))

Within 60 days after the Water Resources Department provides public notice, any person may submit detailed, legally obtained information in writing, requesting the Department to deny the application for a permit on the basis that the reservoir: (a) Would result in injury to an existing water right; or (b) Would pose a significant detrimental impact to existing fishery resources. (ORS 537.409 (5))

<b>Applicant's Name: Kraig &amp; Nansie Kelly Source of water is RUNOFF</b>		
1. Does the proposed reservoir have the potential to injure existing water rights? <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO Explain:		
2. Can conditions be applied to mitigate the potential injury to existing water rights? <input type="checkbox"/> YES <input type="checkbox"/> NO Explain: NA		
3. Is water available for the proposed reservoir? <input checked="" type="checkbox"/> YES <input type="checkbox"/> NO		
4. If yes, during what period? Beginning:                      End: yearround		
Attach a WARS printout at 50% exceedance. If WARS does not cover the proposed location, make a recommendation for a storage season based upon regulation history and your knowledge of the location. (Water Availability for Reservoir Policy found under OAR 690-410-0070(2)(c))		
5. Did you meet with staff from another agency to discuss this application? <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO		
Who:	Agency:	Date:
Who:	Agency:	Date:

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Watermaster Name: Joel Plahn  
Watermaster Signature: *Joel Plahn* Date: 9-16-2020

**NOTE: This completed form must be returned to the applicant**

# ODFW Alternate Reservoir Application Review Sheet

<b>This portion to be completed by the applicant.</b>	
Applicant Name: <u>Kraig &amp; Nansie Kelly Living Trust</u>	<b>RECEIVED</b>
Address: <u>3410 NW Valley Creek Road NW, Salem, OR 97304</u>	<b>DEC 23 2020</b>
Phone/Email: <u>503-910-8858; nansiekelly@gmail.com</u>	<b>OWRD</b>
Reservoir Name: <u>Kelly Reservoir</u>	Volume (AF): <u>9.1 AF</u>
Source: <u>Runoff</u>	<input type="checkbox"/> in-channel
Basin Name: <u>Spring Valley Creek/Willamette River</u>	<input checked="" type="checkbox"/> off-channel
Twp Rng Sec QQ: <u>6S 3W 30 NWNE</u>	
Note: It is unlikely that ODFW will be able to complete this form while you wait, nevertheless we recommend making an appointment to submit the form so as to provide any necessary clarifications. See pg. 6 of Instructions for contact information.	

**This portion to be completed by Oregon Department of Fish and Wildlife (ODFW) staff.**

1) Is the proposed project and AO<sup>1</sup> off channel?..... YES\*  NO  
(if yes then proceed to #4; if no then proceed to #2)

*\*Based on available information, the proposed use does not appear to involve instream structures that would create or maintain an artificial obstruction. However, if the applicant creates or maintains an artificial obstruction to fish passage for the proposed use, the applicant will need to address Oregon's fish passage laws.*

2) Is the proposed project or AO located where NMF<sup>2</sup> are or were historically present?..... YES  NO  
(if yes then proceed to #3; if no then proceed to #4)

3) If NMF are or were historically present:

- a. Is there an ODFW-approved fish-passage plan?..... YES  NO
- b. Is there an ODFW-approved fish-passage waiver or exemption?..... YES  NO

If fish passage is required under ORS 509.580 through .910, then either 3(a) or 3(b) must be "Yes" to move forward with the application. If responses to 3(a) and 3(b) are "No", then the proposed reservoir does not meet the requirements of Oregon Fish Passage Law and shall not be constructed as proposed.

4) Would the proposed project pose any other significant detrimental impact to an existing fishery resource locally or downstream?..... YES  NO

*Explain below (for example, list STE species or other existing fishery resources that would be impacted negatively.)*

Any diversion or appropriation of water for storage during the period type here through type here poses a significant detrimental impact to existing fishery resources. (For example, if diversion of water for storage during a certain time period would cause a significant detrimental impact to an existing fishery resource, then ODFW should recommend conditions or limitations.) If NMF fish are present at the project site or point

<sup>1</sup> AO = Artificial Obstruction means any dam, diversion, culvert or other human-made device placed in waters of this state that precludes or prevents the migration of native migratory fish. ORS 509.580 (1)

<sup>2</sup> NMF = Native Migratory Fish Species in Oregon as defined by OAR 635 - 412 - 0005 (32)

of water diversion then the applicant should be advised that a fish screen consistent with screening criteria will be required.

- This proposed pond or reservoir contemplates impounding water in the Columbia Basin above Bonneville Dam. ODFW has determined that additional diversions of water in this area pose a significant detrimental impact to existing fishery resources during the period April 15 through September 30.

ESA-listed fish (spring Chinook Salmon and winter steelhead) and Oregon sensitive species (Coastal Cutthroat Trout) are present in Spring Valley Creek. The proposed use could diminish physical habitat and alter the flow regime to which fish are naturally adapted. These changes could negatively affect their distribution, productivity, and abundance. Therefore, a further reduction in flow or alteration of habitat from the proposed water use may impair or be detrimental to an existing fishery resource and/or their habitat without appropriate conditions and/or mitigation.

If YES, can conditions be applied to mitigate the significant detrimental impact to an existing fishery resource?

- NO (explain)
- YES (select from Menu of Conditions on next page)

See applicable conditions selected from "Menu of Conditions" on next page

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ODFW Signature: 

Print Name: Jason Brandt

ODFW Title: SW Hydro Coordinator

Date: 11/2/20

**NOTE: This completed form must be returned to the applicant.**

## MENU OF CONDITIONS FOR WRD, ODFW, DEQ AND ODA

Revised May 12, 2020

DEC 23 2020

Use this menu to identify appropriate conditions to be included in the permit:

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**Agricultural Water Quality Management Area Rules:** The permittee shall comply with basin-specific Agricultural Water Quality Management Area Rules described in Oregon Administrative Rule Chapter 603-095. The permittee shall protect riparian areas, including through irrigation practices and the management of any livestock, allowing site capable vegetation to establish and grow along streams, while providing the following functions: shade (on perennial and some intermittent streams), bank stability, and infiltration or filtration of overland runoff.

**b52** Water may be diverted only when Department of Environmental Quality sediment standards are being met.

**b5** The water user shall install and maintain adequate treatment facilities meeting current DEQ requirements to remove sediment before returning the water to the stream.

**b51a** The period of use has been limited to type here through type here.

**b57** Before water use may begin under this permit, a totalizing flow meter must be installed at each diversion point.

**b58** Before water use may begin under this permit, a staff gage that measures the entire range and stage between full reservoir level and dead-pool storage must be installed in the reservoir. The staff gage shall be United States Geological Survey style porcelain enamel iron staff gage style A, C, E or I.

**Bypass Flows:** Per 690-410-0070 (2)(c), the following flows shall be bypassed or passed through the reservoir during the filling season:

- 1) When the biologically necessary flows identified below are not available immediately upstream of the impacted area, the permittee shall pass all live flow downstream at a rate equal to the inflow, minus the amount of mitigation water provided upstream, if applicable, and
- 2) When the biologically necessary flows identified below are available immediately upstream of the impacted area, the permittee shall pass flow downstream at a rate equal to or greater than the biologically necessary flows.

Once the reservoir has reached the permitted volume, all live flow shall be passed downstream at a rate equal to the inflow.

The permittee shall quantify and document inflow and outflow and maintain the bypass flows for the life of the permit and subsequent certificate per the approved Bypass Plan. The bypass flow data shall be available upon request by the Oregon Water Resources Department, Oregon Department of Fish and Wildlife, Oregon Department of Environmental Quality, or Oregon Department of Agriculture.

**Construction Activities:** For construction activities (clearing, grading, excavation, staging, and stockpiling) that will disturb one or more acres and may discharge to state waters, the permittee is required to obtain from DEQ a 1200-C NPDES Stormwater Construction Permit prior to project construction.

**fence:** The stream and its adjacent riparian area shall be fenced to exclude livestock.

**fishpass:** As required by ORS 509.585, a person owning or operating an artificial obstruction (AO) may not construct or maintain any AO across any waters of this state that are inhabited, or historically inhabited, by native migratory fish (NMF) without providing passage for NMF. A person owning or operating an AO shall, prior to construction, fundamental change in permit status or abandonment of the AO in any waters of this state, obtain a determination from ODFW as to whether NMF are or historically have been present in the waters. If ODFW determines that NMF are or historically have been present in the waters, the person owning or operating the AO shall either submit a proposal for fish passage to ODFW or apply for a waiver or exemption. Approval of the proposed fish-passage facility, waiver, or exemption must be obtained from the department prior to construction, permit modification or abandonment of the AO. Approved fish-passage plans, waivers, and exemptions shall maintain adequate passage of NMF at all times (ORS 509.601) as per the approved plan, waiver or exemption.

**fishself:** The permittee shall install, maintain, and operate fish screening and by-pass devices consistent with current Oregon Department of Fish and Wildlife (ODFW) standards. Fish screening is to prevent fish from entering the proposed diversion while by-pass devices provide adequate upstream and downstream passage for fish. The required screen and by-pass devices are to be in place and functional prior to diversion of any water. Permittee shall obtain written approval from ODFW that the installation of the required screen and by-pass devices meets the state's criteria or the permittee shall submit documentation that ODFW has determined screens and/or by-pass devices are not necessary.

**fishapprove:** The permittee shall install, maintain, and operate fish screening and by-pass devices consistent with current Oregon Department of Fish and Wildlife (ODFW) standards. Fish screening is to prevent fish from entering the proposed diversion while by-pass devices provide adequate upstream and downstream passage for fish. The required screen and by-pass devices are to be in place and functional, and approved in writing by ODFW prior to diversion of any water. The permittee may submit evidence in writing that ODFW has determined screens and/or by-pass devices are not necessary.

**fishdiv33:** 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 decrease to the point that those waters no longer meet existing state or federal water quality standards due to reduced flows.

**Applicant Name: Kraig & Nansie Kelly Living Trust**

**ODFW Review**

The permittee shall install, maintain, and operate fish screening and by-pass devices consistent with current Oregon Department of Fish and Wildlife

(ODFW) standards. Fish screening is to prevent fish from entering the proposed diversion while by-pass devices provide adequate upstream and downstream passage for fish. The required screen and by-pass devices are to be in place and functional, and approved in writing by ODFW prior to diversion of any water. The permittee may submit evidence in writing that ODFW has determined screens and/or by-pass devices are not necessary.

**fishmay:** Notwithstanding that ODFW 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 by-pass devices to prevent fish from entering the proposed diversion and to provide adequate upstream and downstream passage for fish.

**futile call:** The use of water allowed herein may be made only at times when waters from the (NAME OF SURFACE WATER) would not otherwise flow into a tributary of the type here River or sufficient water is available to satisfy all prior rights, including rights for maintaining instream flows.

**In-Water or Riparian Construction:** For in-water or riparian construction, permittee may be required to obtain additional permits from the Oregon Department of State Lands, the U.S. Army Corps of Engineers, and the DEQ Section 401 certification program prior to construction. The applicant must contact these agencies to confirm requirements.

**In-Water Work:** Any in-water work related to construction, development, or maintenance of the proposed use shall be conducted during the preferred work period of type here unless an alternate time period is approved by the Oregon Department of Fish and Wildlife.

**Live Flow:** Once the allocated volume has been stored, permittee shall pass all live flow downstream at a rate equal to inflow, using methods that protect instream water quality.

**Off-Channel Stored Water Releases:** The permittee shall not release polluted water from this off-channel reservoir into waters of the state except when the release is directed by the State Engineer to prevent dam failure.

**On-Channel Reservoir:** The permittee shall design and operate the water storage facility such that all waters within and below the reservoir meet water quality criteria. The permittee shall develop a reservoir operations plan that details how water quality criteria and standards will be met. A Certified Water Rights Examiner shall verify that the reservoir operations are consistent with the plan before a certificate is issued. The reservoir operator shall maintain a copy of the plan and make it available for review upon request.

**riparian:** 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.

**Water Quality:** All water use under this permit shall comply with state and federal water quality laws. The permittee shall not violate any state and federal water quality standards, shall not cause pollution of any waters of the state, and shall not place or cause to be placed any wastes in a location where such wastes are likely to escape or be carried into the waters of the state by any means. The use may be restricted if the quality of source stream or downstream waters decrease to the point that those waters no longer meet existing state or federal water quality standards.

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

**wetland:** The permittee must submit an offsite determination request to the Oregon Department of State Lands (DSL) to determine the need for a wetland delineation prior to disturbance or development of the point of diversion and/or diversion of water.

**blv:** Water must be diverted to a trough or tank through an enclosed water delivery system. The delivery system must be equipped with an automatic shutoff or limiting flow control mechanism or include a means for returning water to the stream source through an enclosed delivery system. The use of water shall not exceed 0.10 cubic feet per second per 1000 head of livestock.

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# Land Use Information Form



Oregon Water Resources Department  
 725 Summer Street NE, Suite A  
 Salem, Oregon 97301-1266503-986-0900  
 www.oregon.gov/OWRD

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NAME KRAIG & NANSIE KELLY			PHONE (HM)		
PHONE (WK)		CELL (503)910-8858		FAX	
ADDRESS 3410 NW VALLEY CRK. RD. NW					
CITY SALEM		STATE OR	ZIP 97304	E-MAIL* NANSIEKELLY@GMAIL.COM	

## A. Land and Location

Please include the following information for all tax lots where water will be diverted (taken from its source), conveyed (transported), and/or used or developed. 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.

Township	Range	Section	¼ ¼	Tax Lot #	Plan Designation (e.g., Rural Residential/RR-5)	Water to be:			Proposed Land Use:
6S	3W	30	NWNE	101	EFU	<input type="checkbox"/> Diverted	<input type="checkbox"/> Conveyed	<input checked="" type="checkbox"/> Used	Multipurpose
_____	_____	_____	_____	_____	_____	<input type="checkbox"/> Diverted	<input type="checkbox"/> Conveyed	<input type="checkbox"/> Used	_____
_____	_____	_____	_____	_____	_____	<input type="checkbox"/> Diverted	<input type="checkbox"/> Conveyed	<input type="checkbox"/> Used	_____
_____	_____	_____	_____	_____	_____	<input type="checkbox"/> Diverted	<input type="checkbox"/> Conveyed	<input type="checkbox"/> Used	_____

List all counties and cities where water is proposed to be diverted, conveyed, and/or used or developed:

Polk

## B. Description of Proposed Use

Type of application to be filed with the Water Resources Department:

- Permit to Use or Store Water   
  Water Right Transfer   
  Permit Amendment or Ground Water Registration Modification  
 Limited Water Use License   
  Allocation of Conserved Water   
  Exchange of Water

Source of water:  Reservoir/Pond     Ground Water     Surface Water (name) Runoff

Estimated quantity of water needed: 2.1     cubic feet per second     gallons per minute     acre-feet

Intended use of water:  Irrigation     Commercial     Industrial     Domestic for \_\_\_\_\_ household(s)  
 Municipal     Quasi-Municipal     Instream     Other Multipurpose

Briefly describe:

Surface runoff, tributary to Spring Valley Creek, small reservoir for water storage. Only runoff will be available in Winter months. USES INCLUDE CREATION OF A WETLAND, STOCK WATER,

Note to applicant: If the Land Use Information Form cannot be completed while you wait, please have a local government representative sign the receipt at the bottom of the next page and include it with the application filed with the Water Resources Department.

### For Local Government Use Only

The following section must be completed by a planning official from each county and city listed unless the project will be located entirely within the city limits. In that case, only the city planning agency must complete this form. This deals only with the local land-use plan. Do not include approval for activities such as building or grading permits.

**Please check the appropriate box below and provide the requested information**

- Land uses to be served by the proposed water uses (including proposed construction) are allowed outright or are not regulated by your comprehensive plan. Cite applicable ordinance section(s): 136.030(A) + (D) "Farm use + creation, restoration and enhancement of wetland."
- Land uses to be served by the proposed water uses (including proposed construction) involve discretionary land-use approvals as listed in the table below. (Please attach documentation of applicable land-use approvals which have already been obtained. Record of Action/land-use decision and accompanying findings are sufficient.) **If approvals have been obtained but all appeal periods have not ended, check "Being pursued."**

Type of Land-Use Approval Needed (e.g., plan amendments, rezones, conditional-use permits, etc.)	Cite Most Significant, Applicable Plan Policies & Ordinance Section References	Land-Use Approval:	
		<input type="checkbox"/> Obtained <input type="checkbox"/> Denied	<input type="checkbox"/> Being Pursued <input type="checkbox"/> Not Being Pursued
		<input type="checkbox"/> Obtained <input type="checkbox"/> Denied	<input type="checkbox"/> Being Pursued <input type="checkbox"/> Not Being Pursued
		<input type="checkbox"/> Obtained <input type="checkbox"/> Denied	<input type="checkbox"/> Being Pursued <input type="checkbox"/> Not Being Pursued
		<input type="checkbox"/> Obtained <input type="checkbox"/> Denied	<input type="checkbox"/> Being Pursued <input type="checkbox"/> Not Being Pursued
		<input type="checkbox"/> Obtained <input type="checkbox"/> Denied	<input type="checkbox"/> Being Pursued <input type="checkbox"/> Not Being Pursued
		<input type="checkbox"/> Obtained <input type="checkbox"/> Denied	<input type="checkbox"/> Being Pursued <input type="checkbox"/> Not Being Pursued

Local governments are invited to express special land-use concerns or make recommendations to the Water Resources Department regarding this proposed use of water below, or on a separate sheet.

\* see attached

Name: Miranda Muller Title: Assistant Planner  
 Signature: [Signature] Phone: 503-623-9237 Date: 10/13/2020  
 Government Entity: Polk County Community Development

**Note to local government representative:** Please complete this form or sign the receipt below and return it to the applicant. If you sign the receipt, you will have 30 days from the Water Resources Department's notice date to return the completed Land Use Information Form or WRD may presume the land use associated with the proposed use of water is compatible with local comprehensive plans.

### Receipt for Request for Land Use Information

Applicant name: \_\_\_\_\_  
 City or County: \_\_\_\_\_ Staff contact: \_\_\_\_\_  
 Signature: \_\_\_\_\_ Phone: \_\_\_\_\_ Date: \_\_\_\_\_

\*The applicant indicated that they would construct the reservoir outside of the floodplain (see plot plan), however, this serves as notification that the subject property is located within the Special Flood Hazard Area (SFHA). Any non-structural floodplain development, such as excavating, drilling, removal or fill material, etc., within the SFHA would require a land use application and approval prior to conducting the non-structural floodplain development activities. The applicable review and decision criteria for non-structural floodplain development can be found in the Polk county Zoning Ordinance Chapter 178.

The subject property also contains wetlands identified on the NWI map. According to the SRA map the wetlands are not inventoried as being fish bearing, however this serves as notification to the property owners of the presence of wetlands. Any development within the inventoried wetland areas may require permits from the Oregon Department of State Land (DSL) and Oregon Department of Fish and Wildlife (ODFW).

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THIS SPACE RESERVED FOR RECORDER'S USE

88026 AM  
AmeriTitle

After recording return to:

Kraig and Nansie Kelly Revocable Living Trust Dated  
3-20-1998 and Beutler Exchange Group, LLC  
1893 37th Ave NW  
Salem, OR 97304

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Until a change is requested all tax statements shall be sent to the following address:

Kraig and Nansie Kelly Revocable Living Trust Dated  
3-20-1998 and Beutler Exchange Group, LLC  
1893 37th Ave NW  
Salem, OR 97304

RECORDED IN POLK COUNTY	<b>2016-003648</b>
Valerie Unger, County Clerk	04/08/2016 11:42:14 AM
REC-WD      Cnt=1    SIn=12    K. WILLIAMS	\$56.00
\$10.00 \$11.00 \$10.00 \$5.00 \$20.00	

File No.            88026AM

**STATUTORY WARRANTY DEED**

Greg A. Waggoner,

Grantor(s), hereby convey and warrant to

Kraig L. Kelly, Trustee and Nansie A. Kelly, Trustee of the Kraig and Nansie Kelly Revocable Living Trust Dated 3-20-1998 ,

Grantee(s), the following described real property in the County of Polk and State of Oregon free of encumbrances except as specifically set forth herein:

A parcel of land lying in Section 19, Township 6 South, Range 3 West of the Willamette Meridian, County of Polk and State of Oregon, described as follows:

Beginning at the Northwest corner of the Andrew J. Doak Donation land Claim No. 54 in Township 6 South, Range 3 West of the Willamette Meridian in Polk County, Oregon; thence South 0°15'47" East 2784.75 feet along the West line of said Doak Claim to an iron pipe; thence North 89°18'39" West 1360.19 feet to an iron rod; thence North 851 feet to the center of Valley Creek; thence Northerly along the center of Valley Creek the following bearings and distances: North 33° East 276 feet; North 42° West 167 feet; North 6° East 47 feet; North 36° East 226 feet; North 65° East 83 feet; North 21° East 101 feet; North 41° West 181 feet; North 15° West 267 feet; North 63° East 186 feet; North 6° East 228 feet; North 13° East 522 feet; North 2° West 594 feet; North 46° West 107 feet; West 215 feet; North 77° West 153 feet; North 14° East 148 feet; North 67°01' East 56 feet, to the South line of Valley Creek Road; thence East along the South line of said Road 604.65 feet to an iron rod; thence South 0°33'30" East 544.52 feet to an axle shaft; thence East 703.34 feet to an iron rod; thence South 0°15'47" East 334.86 feet to a stone marking the point of beginning.

FOR INFORMATION PURPOSES ONLY, THE MAP/TAX ACCT #(S) ARE REFERENCED HERE:

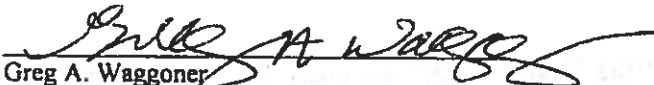
06S-03W-19 02103  
06S-03W-30 101

The true and actual consideration for this conveyance is PURSUANT TO AN IRC 1031 TAX DEFERRED EXCHANGE ON BEHALF OF GRANTOR/GRANTEE.

The above-described property is free of encumbrances except all those items of record, if any, as of the date of this deed and those shown below, if any:

BEFORE SIGNING OR ACCEPTING THIS INSTRUMENT, THE PERSON TRANSFERRING FEE TITLE SHOULD INQUIRE ABOUT THE PERSON'S RIGHTS, IF ANY, UNDER ORS 195.300, 195.301 AND 195.305 TO 195.336 AND SECTIONS 5 TO 11, CHAPTER 424, OREGON LAWS 2007, SECTIONS 2 TO 9 AND 17, CHAPTER 855, OREGON LAWS 2009, AND SECTIONS 2 TO 7, CHAPTER 8, OREGON LAWS 2010. THIS INSTRUMENT DOES NOT ALLOW USE OF THE PROPERTY DESCRIBED IN THIS INSTRUMENT IN VIOLATION OF APPLICABLE LAND USE LAWS AND REGULATIONS. BEFORE SIGNING OR ACCEPTING THIS INSTRUMENT, THE PERSON ACQUIRING FEE TITLE TO THE PROPERTY SHOULD CHECK WITH THE APPROPRIATE CITY OR COUNTY PLANNING DEPARTMENT TO VERIFY THAT THE UNIT OF LAND BEING TRANSFERRED IS A LAWFULLY ESTABLISHED LOT OR PARCEL, AS DEFINED IN ORS 92.010 OR 215.010, TO VERIFY THE APPROVED USES OF THE LOT OR PARCEL, TO DETERMINE ANY LIMITS ON LAWSUITS AGAINST FARMING OR FOREST PRACTICES, AS DEFINED IN ORS 30.930, AND TO INQUIRE ABOUT THE RIGHTS OF NEIGHBORING PROPERTY OWNERS, IF ANY, UNDER ORS 195.300, 195.301 AND 195.305 TO 195.336 AND SECTIONS 5 TO 11, CHAPTER 424, OREGON LAWS 2007, SECTIONS 2 TO 9 AND 17, CHAPTER 855, OREGON LAWS 2009, AND SECTIONS 2 TO 7, CHAPTER 8, OREGON LAWS 2010.

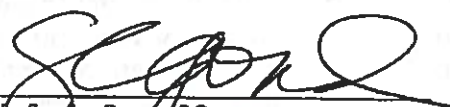
Dated this 4 day of APRIL, 116.

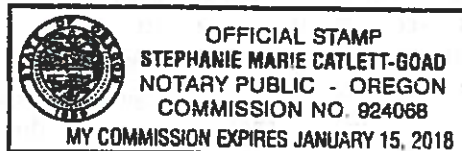
  
Greg A. Waggoner

State of Oregon } ss  
County of Marion }

On this 4 day of April, 2016, before me, Stephanie Catlett Goad a Notary Public in and for said state, personally appeared Greg A. Waggoner, known or identified to me to be the person(s) whose name(s) is/are subscribed to the within Instrument and acknowledged to me that he/she/they executed same.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the day and year in this certificate first above written.

  
Notary Public for the State of Oregon  
Residing at: Salem  
Commission Expires: 1-15-2018



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Trust Name: *Kraig and Nansie Kelly Revocable Living Trust*

Date of Execution of Trust: *March 20, 1998*

Settlors: *Kraig L. Kelly and Nansie A. Kelly*

Trustees: *Kraig L. Kelly and Nansie A. Kelly*

Successor Trustee: *Pioneer Trust Bank, N.A.*

TRUSTEES' MAILING ADDRESS: *3410 VALLEY CREEK RD. NW, SALEM, OR 97304*

If there are multiple currently acting Trustees, designate how many are required to sign in order to exercise trust power: All \_\_\_ One X A Majority \_\_\_ Other

Trust Taxpayer Identification Nos. (Social Security Nos. of Settlers): XXX-XX-8845 (Kraig) - or -  
XXX-XX-2616 (Nansie)

The above trust is Revocable X Irrevocable \_\_\_\_. The above trust Can X or Cannot \_\_\_ be modified or amended. If revocable, or subject to modification or amendment, state by whom: *Kraig L. Kelly and Nansie A. Kelly.*

THE ABOVE TRUST IS IN EXISTENCE AT THIS TIME AND HAS NOT BEEN REVOKED, MODIFIED OR AMENDED IN ANY MANNER THAT WOULD CAUSE THE REPRESENTATIONS CONTAINED IN THIS CERTIFICATION TO BE INCORRECT. The trust powers include at least all of those trust powers contained in the Oregon Uniform Trust Code, and more specifically as set forth in ORS 130.720 to 130.725.

Title to Trust assets should be taken as follows: *Kraig L. Kelly and Nansie A. Kelly, Trustees of the Kraig and Nansie Kelly Revocable Living Trust dated March 20, 1998, and any amendments thereto.*

Below are the signatures of the current acting Trustees.

DATED: December 11, 2018

Kraig L. Kelly  
Kraig L. Kelly, Trustee

DATED: December 11, 2018

Nansie A. Kelly  
Nansie A. Kelly, Trustee

STATE OF OREGON )  
 ) ss.  
COUNTY OF MARION )

Personally appeared the above named persons and acknowledged the Certification before me this 11 day of December, 2018.



[Signature]  
Notary Public for Oregon  
My Commission Expires: 6.26.2021

# Application Completeness Checklist

Applicants are encouraged to use this checklist before submitting a complete application to the Department.

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1.  Landowner name, mailing address and telephone number provided
2.  Application signed – All parties noted as applicants must sign the application
3.  Source and tributary listed.
4.  Reservoir Location. TRSQQ and tax lot provided.
5.  Dam height indicated, if applicable
6.  Property ownership completed
7.  If applicant does not own all the land, is the affected landowner's name and mailing address listed?
8.  Environmental impact section completed?
9.  **Completed Watermaster review sheet**, signed and dated. Note: Must be completed within last 6 months.
  - Will the reservoir injure an existing water right?  YES  NO
  - If YES, can conditions be applied to mitigate injury?  YES  NO
  - If NO, return the application.
10.  **Completed ODFW review sheet**, signed and dated. Note: Must be completed within last 6 months.
  - Will the reservoir pose a significant detrimental impact to an existing fishery resource?  YES  NO
  - If YES, can conditions be applied to mitigate the impact?  YES  NO  N/A
  - If NO, return the application.
11.  **Completed Land-Use Form** or receipt signed by the appropriate planning department official enclosed?  
Note: Does the use on land-use form match the proposed use on the application? Must be completed within the last 12 months.
12.  **Include a copy of a Legal Description** of all the property involved with this application. A copy of a deed, land sales contract, or title insurance to meet this requirement.
13.  **Acceptable Map**. Note: Requirements set forth by the Commission; causes fatal flaw if not provided by the applicant.
  - Reservoir Location - noting Township, Range, Section, 1/4 1/4 and Tax Lot number(s)
  - Scale of the Map, even scale such as 1" = 400', 1" = 1000', or 1" = 1320'
  - Reference corner on map
  - North directional symbol
  - 1/4's clearly identified
  - Reservoir clearly identified \*\*
  - Dam location identified, with measured distances from survey corner. If no dam, use coordinates to the center of reservoir.
  - If diverting water from a river or stream to a reservoir located off-channel, include measured distances from survey corner

14. **Fees:** Are the appropriate fees included? Use this fee calculator to determine the application fees:

[https://apps.wrd.state.or.us/apps/misc/wrd\\_fee\\_calculator/Permit\\_for\\_AltRes.aspx](https://apps.wrd.state.or.us/apps/misc/wrd_fee_calculator/Permit_for_AltRes.aspx)