

STATE OF OREGON

COUNTY OF DESCHUTES

PERMIT TO APPROPRIATE THE PUBLIC WATERS

THIS PERMIT IS HEREBY ISSUED TO:

THE CITY OF BEND  
PO BOX 431  
BEND, OR 97709

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

APPLICATION FILE NUMBER: G-13097

SOURCE OF WATER: THREE WELLS IN THE DESCHUTES RIVER BASIN

PURPOSE OR USE: MUNICIPAL USE

MAXIMUM RATE/VOLUME: 12.0 CUBIC FEET PER SECOND, LIMITED TO A  
MAXIMUM ANNUAL VOLUME OF 3223.0 ACRE FEET (AF), FURTHER LIMITED BY  
THE CORRESPONDING MITIGATION PROVIDED UNDER THE INCREMENTAL  
DEVELOPMENT PLAN

PERIOD OF USE: YEAR ROUND

DATE OF PRIORITY: AUGUST 27, 1992

WELL LOCATIONS:

BEAR CREEK WELL #3 SE¼ SE¼, SECTION 33, T17S, R12E, W.M.; 766  
FEET NORTH & 813 FEET WEST FROM SE CORNER OF  
SECTION 33

BEAR CREEK WELL #4 SE¼ SE¼, SECTION 33, T17S, R12E, W.M.; 966  
FEET NORTH & 733 FEET WEST FROM SE CORNER OF  
SECTION 33

BEAR CREEK WELL #5 SE¼ SE¼, SECTION 33, T17S, R12E, W.M.; 1114  
FEET NORTH & 736 FEET WEST FROM SE CORNER OF  
SECTION 33

THE PLACE OF USE IS LOCATED AS FOLLOWS:

WITHIN THE SERVICE BOUNDARY OF THE CITY OF BEND

Measurement, recording and reporting conditions:

- A. Before water use may begin under this permit, the permittee shall install a totalizing flow meter at each well. The totalizing flow meter(s) must be installed and maintained in good working order consistent with those standards identified in OAR 690-507-645(1) through (3). 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.

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. However, the use of ground water allowed under the terms of this permit will not be subject to regulation for Scenic Waterway flows so long as mitigation is maintained.

**GROUND WATER MITIGATION CONDITIONS**

Mitigation Obligation: 1611.5 acre-feet of mitigation water in the General Zone of Impact (anywhere in the Deschutes River above the Madras gage, which is located below Lake Billy Chinook.)

Mitigation Source: Mitigation Credits or a Mitigation Project, in accordance with the incremental development plan on file with the Department, meeting the requirements of OAR Chapter 690,

The first stage of incremental development was met with 204.5 AF of mitigation, being 84.7 mitigation credits originating from mitigation project (MP) MP-5; 89.7 mitigation credits originating from MP-23; and, 30.1 mitigation credits originating from MP-86.

Pursuant to the provisions of a Settlement Agreement, for the purposes of calculating the permittee's mitigation obligation, a consumptive use coefficient of 50 percent will be applied, subject to other provisions of this Permit.

Mitigation water must be legally protected instream for instream use within the General Zone of Impact and committed for life of the permit and subsequent certificate(s). Regulation of the use and/or cancellation of the permit, or subsequent certificate(s) will occur if the required mitigation is not maintained.

If mitigation is from a secondary right for stored water from a storage project not owned or operated by the permittee, the use of water under this right is subject to the terms and conditions of a valid contract, or a satisfactory replacement, with the owner/operator of the storage project, a copy of which must be on file in the records of the Water Resources Department prior to use of water.

The permittee shall provide additional mitigation if the Department determines that average annual consumptive use of the subject appropriation has increased beyond the originally mitigated amount.

The permittee shall provide timely written notice to the appropriate OWRD Watermaster in the event that the permittee intends to irrigate with reclaimed water that originates from water use under this permit.

The permittee shall provide mitigation prior to each stage of development under the permit, as described in the incremental development plan on file with the Department, and in accordance with the standards of the Deschutes Ground Water Mitigation Rules, OAR Chapter 690, Division 505.

The permittee shall not increase the volume of water diverted, as described in the incremental development plan, prior to increasing the corresponding mitigation.

The permittee shall seek and receive Department approval prior to changing the incremental development plan and related incremental mitigation obligation for each stage of permit development.

The permittee shall report to the Department the progress of implementing the incremental development plan and related mitigation consistent with the timelines in the permittee's approved incremental development plan. The report shall be provided no later than April 1 of the reporting year. This notification is not necessary if the permittee has completed development and submitted a Claim of Beneficial Use to the Department.

The permittee shall submit a new or updated Water Management and Conservation Plan pursuant to OAR Chapter 690, Division 86 no later than January 1, 2010.

Failure to comply with these mitigation conditions shall result in the Department regulating the ground water permit, or subsequent certificate(s), proposing to deny any permit extension application for the ground water permit, and proposing to cancel the ground water permit or subsequent certificate(s).

#### **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.

The permit holder shall commence and complete the construction of any proposed works within 20 years from the date of permit issuance. The Department may order and allow an extension of time to complete construction or to perfect a water right beyond 20 years from the date of permit issuance.

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 April 26, 2007

*E. Timothy Ward* for

Dwight French, Administrator  
Water Rights and Adjudications  
for  
Phillip C. Ward, Director  
Oregon Water Resources Department

Application G-13097  
Basin 5

Water Resources Department  
Volume 1 DESCHUTES R MISC

PERMIT G-16177  
District 11