

STATE OF OREGON

COUNTY OF POLK

PERMIT TO CONSTRUCT A RESERVOIR AND STORE THE PUBLIC WATERS

THIS PERMIT IS HEREBY ISSUED TO

SCHARF BROTHERS FARMS
9950 BETHEL ROAD
AMITY, OREGON 97101

(503) 835-6445

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

APPLICATION FILE NUMBER: R-84165

SOURCE OF WATER: WEST BRANCH ASH SWALE, A TRIBUTARY OF ASH SWALE

STORAGE FACILITY: N MCKEE RESERVOIR AND S MCKEE RESERVOIR

PURPOSE OR USE OF THE STORED WATER: TO BE APPROPRIATED UNDER APPLICATION S-84166, PERMIT 53656 FOR IRRIGATION.

MAXIMUM VOLUME: 123.9 ACRE-FEET (AF) PER YEAR, BEING 46.7 AF IN N MCKEE RES AND 77.2 AF IN S MCKEE RES

WATER MAY BE APPROPRIATED FOR STORAGE FROM: NOVEMBER 1 THROUGH JUNE 30

DATE OF PRIORITY: JUNE 8, 1999

The area submerged by N McKee reservoir, when full, will be 3.89 acres and the maximum depth of water will be 18.5 feet. The maximum height of the dam shall not exceed 3.8 feet.

The area submerged by S McKee reservoir, when full, will be 7.81 acres and the maximum depth of water will be 21.1 feet. The maximum height of the dam shall not exceed 5.8 feet.

DAM LOCATION: NE 1/4 SE 1/4, SE 1/4 SE 1/4, SECTION 23, T6S, R5W, W.M.;
N MCKEE - 1120 FEET NORTH & 350 FEET EAST FROM NW CORNER, W HOWE DLC 65;
S MCKEE - 440 FEET SOUTH & 755 FEET EAST FROM NW CORNER, W HOWE DLC 65

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

NE 1/4 SE 1/4

NW 1/4 SE 1/4

SE 1/4 SE 1/4

SECTION 23

TOWNSHIP 6 SOUTH, RANGE 5 WEST, W.M.

Application R-84165 Water Resources Department

PERMIT R-12790

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.

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.

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

The permittee shall install, maintain, and operate fish screening to prevent fish from entering the proposed diversion. The permittee shall also install a fishway at the obstruction that will provide adequate upstream and downstream passage for fish. The permittee may submit evidence that the Oregon Department of Fish and Wildlife (ODFW) has determined screens and/or fishways are not necessary. The required screens and fishways are to be in place, functional, and approved by ODFW before diversion of any water.

STANDARD CONDITIONS

Use under this permit is limited to the reservoir area. This permit does not provide for the appropriation of water for maintaining the water level or maintaining a suitable fresh water condition.

The storage of water allowed herein is subject to the installation and maintenance of a fully functional conduit/gate assembly having a minimum diameter of 8 inches.

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.

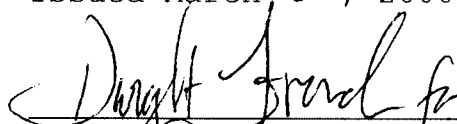
By law, the land use associated with this water use must be in compliance with statewide land-use goals and any local acknowledged land-use plan.

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.

The Director finds that the proposed use(s) of water described by this permit, as conditioned, will not impair or be detrimental to the public interest.

Actual construction work shall begin by March 3, 2001. The reservoir shall be filled and complete application of the stored water to the use shall be made on or before October 1, 2004. 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 March 3, 2000


Martha O. Pagel, Director
Water Resources Department

NOTE: 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.