

STATE OF OREGON

COUNTY OF BENTON

PERMIT TO CONSTRUCT A RESERVOIR AND STORE THE PUBLIC WATERS

THIS PERMIT IS HEREBY ISSUED TO

PAUL A RAUCH AND U.S. FISH AND WILDLIFE SERVICE; DIVISION OF
ENGINEERING
911 NE 11TH AVE (503)231-6260
PORTLAND, OREGON 97232 -4181

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

APPLICATION FILE NUMBER: R-84163

SOURCE OF WATER: MUDDY CREEK, A TRIBUTARY OF WILLAMETTE RIVER

STORAGE FACILITY: MCFADDEN MARSH RES

PURPOSE OR USE OF THE STORED WATER: WETLAND ENHANCEMENT AND WILDLIFE

MAXIMUM STORAGE VOLUME: 500.0 ACRE-FEET EACH YEAR

WATER MAY BE APPROPRIATED FOR STORAGE DURING THE PERIOD: NOVEMBER 1
THROUGH JUNE 30 OF EACH YEAR

DATE OF PRIORITY: JUNE 2, 1999

THE MAXIMUM HEIGHT OF THE DAM SHALL NOT EXCEED 9.90 FEET.

DAM LOCATION: SESW, SWSE, SESE, SEC 28 T13S, R5W, W.M.; ALSO; NWNE, SWNE,
NENW, NWSE, SWSE, SESE SEC 33 T13S, R5W, W.M.

THE AREA TO BE SUBMERGED BY THE RESERVOIR IS LOCATED AS FOLLOWS:
SWSW SECTION 27; SESW, SWSE, SESE SECTION 28; NENE, NWNE, SWNE, SENE,
NENW, NESE, NWSE, SWSE, SESE SECTION 33; NWNW, SWNW, NSW SECTION 34
TOWNSHIP 13 SOUTH, RANGE 5 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.

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.

Outlets shall be excavated to the June 1 water level to ensure no fish entrapment.

The storage of water allowed herein is subject to the installation and maintenance of an outlet pipe, or the provision of other means to evacuate water when determined necessary by the Water Resources Director to satisfy prior downstream rights.

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.

STANDARD CONDITIONS

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.

This permit is issued to correctly identify the dam location. Permit R-12864, dated June 23, 2000, is superceded by this instrument and is of no further force or effect.

Actual construction work shall begin by June 23, 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.

Issued August 31, 2000

Dwight French for
 Paul R. Cleary, 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.