

STATE OF OREGON

COUNTY OF MALHEUR

PERMIT TO CONSTRUCT A RESERVOIR AND STORE THE PUBLIC WATERS

THIS PERMIT IS HEREBY ISSUED TO

GORDON DALE LUTHER
1001 FOOTHILL DR
ONTARIO, OREGON 97914

(541)889-5743

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

APPLICATION FILE NUMBER: R-84505

SOURCE OF WATER: IRRIGATION RUNOFF, TRIBUTARY OF MALLETT DRAIN,
TRIBUTARIES OF MAHLEUR RIVER

STORAGE FACILITY: LUTHER'S CONSTRUCTED WETLAND RESERVOIR

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

MAXIMUM STORAGE VOLUME: 30.0 ACRE-FEET EACH YEAR

WATER MAY BE APPROPRIATED FOR STORAGE DURING THE PERIOD: MARCH 1 THROUGH
APRIL 14 OF EACH YEAR

DATE OF PRIORITY: AUGUST 10, 2000

THE MAXIMUM HEIGHT OF THE DAM SHALL NOT EXCEED 4.00 FEET.

DAM LOCATION: NE 1/4 NW 1/4, NW 1/4 NE 1/4, SECTION 17, T18S, R46E,
W.M.;

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

NW 1/4 NE 1/4
NE 1/4 NW 1/4
SECTION 17

TOWNSHIP 18 SOUTH, RANGE 46 EAST, 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.

- 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.
- C. The Director may require the permittee to keep and maintain a record of the amount (volume) of water used and may require the permittee to report water use on a periodic schedule as established by the Director. In addition, the Director may require the permittee to report general water use information, the periods of water use and the place and nature of use of water under the permit. The Director may provide an opportunity for the permittee to submit alternative reporting procedures for review and approval.

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.

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

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

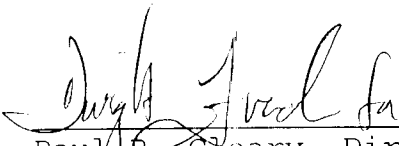
land-use plan.

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.

The reservoir shall be filled and complete application of the stored water to the use shall be made on or before October 1, 2005. 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 24, 2001


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.