

STATE OF OREGON

COUNTY OF POLK

PERMIT TO CONSTRUCT A RESERVOIR AND STORE THE PUBLIC WATERS

THIS PERMIT IS HEREBY ISSUED TO

FREEMAN LAND AND LIVESTOCK CO
3750 OAK GROVE RD
RICKREALL, OR 97371-9745

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

APPLICATION FILE NUMBER: R-86291

SOURCE OF WATER: RUNOFF, A TRIBUTARY OF RICHARDS CREEK; AND RICHARDS CREEK, A TRIBUTARY OF MCMAHAN BRANCH

STORAGE FACILITY: FREEMAN AND SONS 1

PURPOSE OR USE OF THE STORED WATER: MULTIPLE PURPOSE

MAXIMUM STORAGE VOLUME: 124.0 ACRE FEET EACH YEAR

WATER MAY BE APPROPRIATED FOR STORAGE DURING THE PERIOD: OCTOBER 1 THROUGH MAY 31 OF EACH YEAR

DATE OF PRIORITY: MAY 4, 2005

POINT OF DIVERSION LOCATION: NW ¼ SW ¼ SECTION 3, T7S, R4W, W.M.; 2170 FEET NORTH & 780 FEET EAST FROM SW CORNER, SECTION 3

DAM/RESERVOIR LOCATION: NW ¼ SW ¼ SECTION 3, T7S, R4W, W.M.; 2300 FEET NORTH & 950 FEET EAST FROM SW CORNER, SECTION 3

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

NW ¼ SW ¼
SECTION 3
TOWNSHIP 7 SOUTH, RANGE 4 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 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 Chapter 635, Division 415, Section 030 adopted November 13, 1991 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.

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.

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.

The permittee shall pass all live flow outside the storage season described above.

This permit does not provide for the appropriation of water for any out of reservoir uses, the maintenance of the water level or maintaining a suitable fresh water condition. If any water is used for out of reservoir uses, or any live flow is appropriated to maintain either the water level or a suitable freshwater condition, a secondary water right is required.

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.

This permit does not authorize the permit holder to pursue this right in such a way as to interfere with or affect adjacent property not under the ownership of the permit holder.

The reservoir shall be filled and complete application of the stored water to the use shall be made on or before October 1, 2010.

Within one year after complete application of water to the proposed use, the permittee shall submit a claim of beneficial use to the Oregon Water Resources Department.

The claim of beneficial use shall be prepared by a Certified Water Right Examiner in conformance with the requirements of OAR 690-014 if an associated secondary permit exists for the use of stored water under this permit, or if the reservoir stores 9.2 or more acre-feet of water.

If no secondary permit exists and the reservoir stores less than 9.2 acre-feet of water, the claim of beneficial use need not be prepared by a Certified Water Right Examiner. The information submitted to the Oregon Water Resources Department shall include:

- (a) the dimensions of the reservoir;
- (b) the maximum capacity of the reservoir in acre-feet; and

- (c) a map identifying the location of the reservoir prepared in compliance with Water Resource Department standards.

Issued July 31, 2006

E. Timothy Wall

Phillip C. Ward, Director
Water Resources Department

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