

STATE OF OREGON

COUNTY OF CROOK

PERMIT TO CONSTRUCT A RESERVOIR AND STORE PUBLIC WATERS

THIS PERMIT IS HEREBY ISSUED TO:

SHOTGUN RANCH LLC  
2730 NW NIGHTFALL CIRCLE  
BEND OR 97701

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

APPLICATION FILE NUMBER: R-87071

SOURCE OF WATER: DRAKE CREEK, TRIBUTARY TO CROOKED RIVER

STORAGE FACILITY: RESERVOIR #1 (DRAKE CREEK)

MAXIMUM VOLUME: 7.0 ACRE FEET

DATE OF PRIORITY: JANUARY 25, 2008

WATER MAY BE APPROPRIATED DURING THE PERIOD: MARCH 1 THROUGH APRIL 1

USE: MULTIPLE PURPOSE

**Dam Location/Authorized Point of Diversion:**

|                         | <b>Twp</b> | <b>Rng</b> | <b>Mer</b> | <b>Sec</b> | <b>Q-Q</b> | <b>Measured Distances</b>                                      |
|-------------------------|------------|------------|------------|------------|------------|--|
| Dam Location            | 17 S       | 20 E       | WM         | 10         | NE NW      | 140 FEET SOUTH AND 870 FEET WEST FROM N1/4 CORNER, SECTION 10  |
| Drake Creek             | 17 S       | 20 E       | WM         | 10         | SW SW      | 2290 FEET SOUTH AND 690 FEET EAST FROM W1/4 CORNER, SECTION 10 |
| "Old Ream Ditch" (pipe) | 17 S       | 20 E       | WM         | 10         | NW SW      | 220 FEET SOUTH AND 250 FEET EAST FROM W1/4 CORNER, SECTION 10  |

**The Area To Be Submerged:**

| <b>Twp</b> | <b>Rng</b> | <b>Mer</b> | <b>Sec</b> | <b>Q-Q</b> |
|------------|------------|------------|------------|------------|
| 17 S       | 20 E       | WM         | 10         | NE NW      |

Measurement, recording and reporting conditions:

- A. Before water use may begin under this permit, the permittee shall install a totalizing flow meter or other suitable measuring device as approved by the Director at each point of diversion. 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(s) or measuring device(s); provided however, where a meter or measuring device is located within a private structure, the watermaster shall request access upon reasonable notice.

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.

The Director may require the user to measure inflow and outflow, above and below the reservoir respectively, to ensure that live flow is not impeded outside the storage season. Measurement devices and their implementation must be acceptable to the Director, and the Director may require that data be recorded on a specified periodic basis and reported to the Department annually or more frequently.

The permittee shall not construct, operate or maintain any dam or artificial obstruction to fish passage in the channel of the subject stream without providing a fishway to ensure adequate upstream and downstream passage for fish, unless the permittee has requested and been granted a fish passage waiver by the Oregon Fish and Wildlife Commission. The permittee is hereby directed to contact an Oregon Department of Fish and Wildlife Fish Passage Coordinator, before beginning construction of any in-channel obstruction.

This permit allows an annual appropriation (not to exceed the specified volume). This permit does not provide for the appropriation of water for out-of-reservoir uses, the maintenance of the water level or maintaining a suitable freshwater condition. If any water is to be used for out-of-reservoir purposes, a secondary water right is required. If any additional live flow is to be appropriated to maintain either the water level or a suitable freshwater condition, an additional water right is required.

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 prior to diversion of any water. Permittee shall obtain written approval from ODFW that the installation of the required screen and by-pass devices meets the state's criteria, or the permittee shall submit documentation that ODFW has determined screens and/or by-pass devices are not necessary.

### STANDARD CONDITIONS

1. 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.
2. 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.
3. 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.
4. 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.
5. 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, shall be followed.

6. The use may be restricted if the quality of the source stream or downstream waters decreases to the point that those waters no longer meet existing state or federal water quality standards due to reduced flows.
7. If the volume of the completed reservoir is 9.2 acre feet or more and a dam is used to impound the water, the height of the dam shall be less than 10.0 feet.
8. Construction shall be completed and up to the permitted volume of water shall be stored within five years of the date of permit issuance.
9. 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.
10. 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 capacity is equal to or greater than 9.2 acre-feet.
11. If no secondary permit exists and the reservoir capacity is 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 MARCH 16, 2009.

E. Timothy Wall.

for Phillip C. Ward, Director  
Water Resources Department