

STATE OF OREGON

COUNTY OF YAMHILL

PERMIT TO STORE THE PUBLIC WATERS

THIS PERMIT IS HEREBY ISSUED TO

KENNY UNGER
9816 BURNETT AVE
NORTH HILLS, CA 91343

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

APPLICATION FILE NUMBER: R-87364

SOURCE OF WATER: HUTCHCROFT CREEK, A TRIBUTARY OF NORTH YAMHILL RIVER

STORAGE FACILITY: UNGER 1 RESERVOIR

PURPOSE OR USE OF THE STORED WATER: MULTIPLE PURPOSE

MAXIMUM VOLUME: 50.0 ACRE FEET EACH YEAR

MAXIMUM RATE: UNGER 1 RESERVOIR SHALL NOT BE FILLED AT A RATE GREATER THAN 0.5 CFS

WATER MAY BE APPROPRIATED FOR STORAGE DURING THE PERIOD: NOVEMBER 15 THROUGH THE END OF FEBRUARY

DATE OF PRIORITY: DECEMBER 12, 2008

DAM LOCATION: SW $\frac{1}{4}$ SW $\frac{1}{4}$, SECTION 36, T2S, R5W, W.M.; 900 FEET NORTH AND 40 FEET EAST FROM SW CORNER, SECTION 36

POINT OF DIVERSION, POD 4: NW $\frac{1}{4}$ SW $\frac{1}{4}$ SECTION 36, T2S, R5W, W.M.; 1590 FEET NORTH AND 215 FEET EAST FROM SW CORNER, SECTION 36

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

SE $\frac{1}{4}$ SE $\frac{1}{4}$
SECTION 35

SW $\frac{1}{4}$ SW $\frac{1}{4}$
SECTION 36

TOWNSHIP 2 SOUTH, RANGE 5 WEST, W.M.

The area submerged by the reservoir, when full, will be 5.0 acres and the maximum height of the dam shall not exceed 25.0 feet.

Application R-87364 Water Resources Department PERMIT R-14794

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.
- 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 diverted, and may require the permittee to report amount of water diverted on a periodic schedule as established by the Director.
- D. The Director may provide an opportunity for the permittee to submit alternative measuring and reporting procedures for review and approval.

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

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 used for out-of-reservoir purposes, or any live flow is appropriated to maintain either the water level or a suitable freshwater condition, a secondary water right is required.

~~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.~~

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.

DAM SAFETY CONDITIONS

Routine maintenance or repair of the dam, spillway and appurtenant structures shall be performed to include, but not limited to, the removal of woody vegetation or debris, prompt restoration of areas of erosion, or to replace the defective equipment necessary for the continued safe operation of the project works.

The constructed works shall conform to the approved plans and specifications on file with Oregon Water Resources Dam Safety Program. The engineer of record shall notify the Water Resources Dam Safety Program prior to any change to construction of the approved design.

Any changes in the approved design prior to construction shall be documented in a letter to Oregon Water Resources Dam Safety Program.

All construction shall be performed under the supervision of a registered professional engineer licensed in Oregon.

No embankment fill shall be placed until the upstream face of the dam to receive the new fill has been prepared and examined in its entirety by the engineer of record, or by the Water Resources Dam Safety Engineer.

No water shall be stored until the Water Resources Department receives written certification from the engineer of record that construction has been completed in accordance with the approved plans and specifications. If construction deviates from the approved design, a set as-built drawings, including a revised reservoir capacity graph or table, must accompany the engineer's written certification of completion.

Except for routine repair and maintenance, plans and specifications must be prepared by an Oregon licensed engineer and approved by Oregon Water Resources Dam Safety Program, prior to any enlargement, modification, or alteration of the dam, its spillway or any appurtenant structure.

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.

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 or an approved alternative siphon or pumping system subject to approval by the dam safety section.

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 635-415, shall be followed.

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.

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.

Construction shall be completed and the permitted volume of water shall be stored within five years of the date of permit issuance. If additional time is needed, the permittee may submit an

application for extension of time, which may be approved based upon the merit of the application.

Within one year after storage of water, the permittee shall submit a claim of beneficial use, which includes a map and report, prepared by a Certified Water Rights Examiner.

Issued November 30, 2009



for Phillip C. Ward, Director
Water Resources Department.