

STATE OF OREGON

COUNTY OF WASCO

PERMIT TO CONSTRUCT A RESERVOIR AND STORE THE PUBLIC WATERS

THIS PERMIT IS HEREBY ISSUED TO

BLAINE LIMITED PARTNERSHIP
P.O. BOX 450
PARKDALE, OREGON 97041

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

APPLICATION FILE NUMBER: R-84768

SOURCE OF WATER: LOST & BOULDER DITCH, TRIBUTARY TO GATE CREEK

STORAGE FACILITIES: RESERVOIR 1 AND RESERVOIR 2 (ENLARGEMENT, ORIGINALLY CONSTRUCTED UNDER PERMIT R-14054)

PURPOSE OR USE OF THE STORED WATER: STORAGE FOR SUPPLEMENTAL IRRIGATION OF 462.1 ACRES TO BE APPROPRIATED UNDER PERMIT S-54669

MAXIMUM VOLUME: 160.0 ACRE FEET (AF), BEING 80.0 AF IN RESERVOIR 1 AND 80.0 AF IN RESERVOIR 2

WATER MAY BE APPROPRIATED FOR STORAGE DURING THE PERIOD: JANUARY 1 THROUGH APRIL 14

DATE OF PRIORITY: JUNE 1, 2001

THE AREA SUBMERGED BY RESERVOIR 1, WHEN FULL, WILL BE 10.3 ACRES AND THE MAXIMUM DEPTH OF WATER WILL BE 14.0 FEET. THE MAXIMUM HEIGHT OF THE DAM SHALL NOT EXCEED 16.0 FEET.

THE AREA SUBMERGED BY RESERVOIR 2, WHEN FULL, WILL BE 23.0 ACRES AND THE MAXIMUM DEPTH OF WATER WILL BE 20.0 FEET. THE MAXIMUM HEIGHT OF THE DAM SHALL NOT EXCEED 22.0 FEET.

DAM LOCATIONS:

RESERVOIR 1: SW $\frac{1}{4}$ SW $\frac{1}{4}$, SECTION 33, T4S, R12E, W.M.; 1070 FEET NORTH & 1000 FEET EAST FROM SW CORNER, SECTION 33

RESERVOIR 2: NE $\frac{1}{4}$ NE $\frac{1}{4}$, SECTION 32, T4S, R12E, W.M.; 330 FEET SOUTH & 35 FEET WEST FROM NE CORNER, SECTION 32

POINTS OF DIVERSION LOCATIONS:

POD #1 (FOR DAM #1): NW $\frac{1}{4}$ NW $\frac{1}{4}$, SECTION 4, T5S, R12E, W.M.; 120 FEET SOUTH & 860 FEET EAST FROM NW CORNER, SECTION 4

POD #2 (FOR DAM #2): NE $\frac{1}{4}$ NW $\frac{1}{4}$, SECTION 5, T5S, R12E, W.M.; 1150 FEET SOUTH & 2840 FEET WEST FROM NE CORNER, SECTION 5

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

NE $\frac{1}{4}$ NE $\frac{1}{4}$ RESERVOIR 2

SE $\frac{1}{4}$ NE $\frac{1}{4}$ RESERVOIR 2

SECTION 32

SW $\frac{1}{4}$ SW $\frac{1}{4}$ RESERVOIR 1

SECTION 33

TOWNSHIP 4 SOUTH, RANGE 12 EAST, W.M.

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 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.
- C. The permittee shall allow the watermaster access to the meter or measuring device; provided however, where any meter or measuring device is located within a private structure, the watermaster shall request access upon reasonable notice.
- D. The Director may provide an opportunity for the permittee to submit alternative measuring and reporting procedures for review and approval.

The storage of water allowed herein is subject to the installation and maintenance of an outlet pipe (with a minimum diameter of 8" for any in-channel reservoir). This requirement may be waived if the Department determines other means have been provided to evacuate water when necessary.

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.

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 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.

Notwithstanding that Oregon Department of Fish and Wildlife has made a determination that fish screens and/or by-pass devices are not necessary at the time of permit issuance, the permittee may be required in the future to install, maintain, and operate fish screening and/or by-pass devices to prevent fish from entering the proposed diversion, and to provide adequate upstream and downstream passage for fish.

Use of water under this permit ~~is contingent~~ on designated scenic waterway flows being met downstream. The user is required to monitor streamflow at USGS gage 14103000, Deschutes River at Moody, near Biggs, OR, and discontinue diversion when the flows specified below are unmet. At the discretion of the Director, the location and nature of streamflow monitoring required to protect scenic waterway flows is subject to change. In addition, the watermaster may regulate diversion under this right if it is determined by the Department that the flows listed below are unmet.

| Deschutes River Scenic Waterway | |
|---------------------------------|----------------------------------|
| Month | Minimum Bypass Flow (cfs) |
| January | 4500 |
| February | 4500 |
| March 1-15 | 4500 |
| March 16-31 | 4000 |
| April | 4000 |

DAM CONDITIONS

The outlet gate shall be cycled at least once each year and shall be fully operational at all times. The embankment and spillway shall be kept clear of brush, debris, and burrowing animals.

Routine maintenance of the dam, spillway and appurtenant structures shall be performed as necessary to remove trees, brush and debris, and to repair slumps, areas of erosion, or defective equipment.

The earthen dam, concrete spillway and resultant reservoir shall be constructed and maintained according to the approved plans and specifications dated October 4, 1996, on file with Oregon Water Resources Dam Safety program. Any changes in the approved design prior to construction shall be documented in a letter to Dam Safety.

All construction shall be performed under the supervision of a professional engineer licensed in Oregon. No fill shall be placed until excavation of the foundation has been completed 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 of as-built drawings must accompany the engineer's written certification of completion.

The completed structure shall not be enlarged, modified, altered or otherwise changed without the prior written approval of the Director of the Water Resources Department or the Director's authorized representative. Except for routine repair and maintenance, plans and specifications prepared by an Oregon licensed engineer are required for any modification to the dam, spillway or appurtenant structures.

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.

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 August 5, 2010

E. Timothy Wall

for Phillip C. Ward, Director
Water Resources Department