

STATE OF OREGON
 COUNTY OF WHEELER
 PERMIT TO STORE PUBLIC WATERS

THIS PERMIT IS HEREBY ISSUED TO:

JAMES L. KEMMER
 PO BOX 1054
 LONG BEACH WA 98631

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

APPLICATION FILE NUMBER: R-87280

SOURCE OF WATER: UNNAMED STREAM, TRIBUTARY TO ALDER CREEK

STORAGE FACILITY: RESERVOIR 3

MAXIMUM VOLUME: 2.0 ACRE FEET

DATE OF PRIORITY: AUGUST 27, 2008

WATER MAY BE APPROPRIATED DURING THE PERIOD: DECEMBER 1 THROUGH APRIL 14

USE: MULTIPLE PURPOSE

Dam Location/Authorized Point of Diversion:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
8 S	24 E	WM	6	SE NW	385 FEET NORTH AND 590 FEET WEST FROM C1/4 CORNER, SECTION 6

The Area To Be Submerged:

Twp	Rng	Mer	Sec	Q-Q
8 S	24 E	WM	6	SE NW

Measurement, recording and reporting conditions:

- A. The Director may require the permittee to install a staff gage or other suitable measuring device(s) as approved by the Department. If the Director notifies the permittee to install a measuring device(s), the permittee shall install such devices within the period stated in the notice. Such installation period shall not be less than 90 days unless special circumstances warrant a shorter installation period. Once installed, the permittee shall maintain the devices in good working order and shall allow the Watermaster access to the devices. The Director may provide an opportunity for the permittee to submit alternative measurement procedures for review and approval.
- B. 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 (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.

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 ODFW 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 by-pass devices to prevent fish from entering the proposed diversion, and to provide adequate upstream and downstream passage for fish.

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.

Use of water under this permit is contingent on designated scenic waterway flows being met downstream. The user is required to monitor streamflow at John Day River at McDonald Ferry, Oregon, gage 1048000, and discontinue diversion when the flows specified below are unmet at the gage. 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 at the gage.

John Day Scenic Waterway	
Month	Minimum Flow (cfs)
December	500
January	500
February	1000
March	2000
April	2000

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 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 annual volume of water shall be stored within five years of the date of permit issuance.
9. Within one year after storage of water, 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 Departmental standards.

Issued OCTOBER 14 2010.

E. Timothy Wall. for

Phillip C. Ward, Director
Water Resources Department