STATE OF OREGON

COUNTY OF POLK

PERMIT TO CONSTRUCT A RESERVOIR AND STORE THE PUBLIC WATERS

THIS PERMIT IS HEREBY ISSUED TO

GARTH AND SUSAN MULKEY
13535 DE ARMOND RD
MONMOUTH, OR 97361

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

APPLICATION FILE NUMBER: R-87590

SOURCE OF WATER: RUNOFF, A TRIBUTARY OF BERRY CREEK, AND BERRY CREEK, A TRIBUTARY OF SOAP CREEK

STORAGE FACILITY: VALLEY VIEW RESERVOIR

PURPOSE OR USE OF THE STORED WATER: IRRIGATION, FISH, AND WILDLIFE USE

MAXIMUM VOLUME: 103.0 ACRE FEET EACH YEAR

WATER MAY BE APPROPRIATED FOR STORAGE DURING THE PERIOD: NOVEMBER 1 THROUGH JUNE 30

DATE OF PRIORITY: MARCH 12, 2010

The area submerged by the reservoir, when full, will be 11.27 acres and the maximum depth of water will be 19.0 feet. The maximum height of the dam shall not exceed 22.0 feet.

DAM LOCATION: SE ¼ SW ¼, SECTION 35, T9S, R5W, W.M.; 900 FEET NORTH AND 1325 FEET EAST FROM SW CORNER, SECTION 35

POINT OF DIVERSION LOCATION, BERRY CREEK: NE ¼ SW ¼, SECTION 2, T10S, R5W, W.M.; 70 FEET SOUTH AND 800 FEET WEST FROM CENTER SECTION 2

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

NE ¼ SW ¼
NW ¼ SW ¼
SW ¼ SW ¼
SE ¼ SW ¼
SECTION 35
TOWNSHIP 9 SOUTH, RANGE 5 WEST, W.M.

Measurement, recording and reporting conditions:

A. Before water use may begin under this permit, a staff gage that measures the entire range and stage between full reservoir level and dead pool storage must be installed in the reservoir. The staff gage shall be United States Geological Survey style porcelain enamel iron staff gage style A, C, E or I.

B. Before water use may begin under this permit, the permittee shall install a totalizing flow meter at the point of diversion from Berry Creek. The permittee shall maintain the meter and all other required devices in good working order.

C The permittee shall allow the watermaster access to the device; provided however, where any device is located within a private structure, the watermaster shall request access upon reasonable notice.

D. 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.

E. The Director may provide an opportunity for the permittee to submit alternative measuring and reporting procedures for review and approval.

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 (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 release stored water from the reservoir July 1 through October 31, unless determined necessary by the Water Resources Department to satisfy prior downstream rights.

DAM CONDITIONS

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

No embankment fill shall be placed until preparation of the foundation and the excavation of the core trench has been completed and examined in entirety by the engineer of record, or by the Water Resources Dam Safety Engineer, or both.

The constructed works shall conform to the approved plans and specifications on file with the Water Resources Dam Safety program. The engineer of record shall notify the Water Resources Dam Safety program before making any significant change to the approved design prior to or during construction.

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 final construction deviates from the approved design a set reproducible as constructed drawings, including a revised reservoir capacity graph or table, must accompany the engineer's letter of completion.

Routine maintenance or repair of the dam, its spillway and all 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 defective equipment necessary for the continued safe operation of the project works.

Except for routine repair and maintenance, design plans and specifications must be prepared by an Oregon licensed professional engineer and approved by the 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.

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 decrease 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 February 14, 2011

E. Timothy Wall

for Phillip C. Ward, Director
Water Resources Department