

STATE OF OREGON

COUNTY OF POLK

PERMIT TO CONSTRUCT A RESERVOIR AND STORE THE PUBLIC WATERS

THIS PERMIT IS HEREBY ISSUED TO

PETER DINSDALE
BLUE HERON FARM
PO BOX 357
INDEPENDENCE, OR 97351

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

APPLICATION FILE NUMBER: R-87793

SOURCE OF WATER: RUNOFF, A TRIBUTARY OF SOUTH FORK ASH CREEK, AND SOUTH FORK ASH CREEK, A TRIBUTARY OF ASH CREEK

STORAGE FACILITIES: ALAN WEST RESERVOIR AND BEN RESERVOIR

PURPOSE OR USE OF THE STORED WATER: TO BE APPROPRIATED UNDER PERMIT S-54779 FOR IRRIGATION

MAXIMUM VOLUME: 145.0 ACRE FEET EACH YEAR (AF), BEING 80.0 AF IN ALAN WEST RESERVOIR AND 65.0 AF IN BEN RESERVOIR

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

DATE OF PRIORITY: APRIL 5, 2012

POINT OF DIVERSION: SW ¼ NE ¼, SECTION 31, T8S, R4W, W.M.; 720 FEET NORTH AND 900 FEET EAST FROM C1/4 CORNER, SECTION 31

ALAN WEST RESERVOIR: SE ¼ NW ¼, SECTION 31, T8S, R4W, W.M.; 900 FEET WEST FROM C1/4 CORNER, SECTION 31

BEN RESERVOIR: SE ¼ NE ¼, SECTION 31, T8S, R4W, W.M.; 670 FEET NORTH AND 1330 FEET EAST FROM C1/4 CORNER, SECTION 31

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

SE ¼ NE ¼
SE ¼ NW ¼
NE ¼ SW ¼
SECTION 31
TOWNSHIP 8 SOUTH, RANGE 4 WEST, 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 diverted 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.

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.

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 permittee shall not release stored water from the reservoirs June 2 through October 31 unless determined necessary by the Water Resources Department to satisfy prior downstream rights.

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. The 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.

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 state or federal water quality standards due to reduced flows.

The water user shall install and maintain adequate treatment facilities meeting current DEQ requirements to remove sediment before returning the water to the stream.

Water may be diverted only when Department of Environmental Quality sediment standards are being met.

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.

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.

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 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 October 11, 2012



E. Timothy Wallin, Water Rights Program Manager
for Phillip C. Ward, Director