

STATE OF OREGON

COUNTY OF WASCO

PERMIT TO CONSTRUCT A RESERVOIR AND STORE THE PUBLIC WATERS

THIS PERMIT IS HEREBY ISSUED TO

IRL DAVIS
82859 HWY 216
TYGH VALLEY, OR 97063

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

APPLICATION FILE NUMBER: R-87763

SOURCE OF WATER: SPRING 1, TRIBUTARY TO BUTLER CANYON, AND SPRING 2 AND SPRING 3, TRIBUTARIES TO WHITE RIVER

STORAGE FACILITIES: RESERVOIR 1, RESERVOIR 2, AND RESERVOIR 3

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

MAXIMUM VOLUME: 10.0 ACRE FEET (AF), BEING 0.5 AF IN RESERVOIR 1, 9.0 AF IN RESERVOIR 2, AND 0.5 AF IN RESERVOIR 3

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

DATE OF PRIORITY: NOVEMBER 3, 2011

POINTS OF DIVERSION LOCATIONS:

SPRING 1 - SWNE, SECTION 33, T3S, R13E, W.M.; 2320 FEET SOUTH AND 2240 FEET WEST FROM NE CORNER, SECTION 33

SPRING 2 - SESE, SECTION 26, T3S, R13E, W.M.; 351 FEET NORTH AND 1104 FEET WEST FROM SE CORNER, SECTION 26

SPRING 3 - SWSE, SECTION 35, T3S, R13E, W.M.; 652 FEET NORTH AND 2226 FEET WEST FROM SE CORNER, SECTION 35

RESERVOIR LOCATIONS:

RESERVOIR 1 - SWNE, SECTION 33, T3S, R13E, W.M.; 2504 FEET SOUTH AND 2443 FEET WEST FROM NE CORNER, SECTION 33

RESERVOIR 2 - NENE, SECTION 35, T3S, R13E, W.M.; 1221 FEET SOUTH AND 937 FEET WEST FROM NE CORNER, SECTION 35

RESERVOIR LOCATIONS (continued):

RESERVOIR 3 - SWSE, SECTION 35, T3S, R13E, W.M.; 436 FEET NORTH AND 2174 FEET WEST FROM SE CORNER, SECTION 35

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

SW $\frac{1}{4}$ NE $\frac{1}{4}$
SECTION 33

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

TOWNSHIP 3 SOUTH, RANGE 13 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 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 / stored, and may require the permittee to report water use / water storage 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.
- 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 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.

Diversion 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 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.

Deschutes River Scenic Waterway	
<i>Month</i>	<i>Minimum Flow (cfs)</i>
January	4500
February	4500
March 1-15	4500
March 16-31	4000
April 1-14	4000

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.

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 November 8 , 2012

E. Timothy Wallin

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