

STATE OF OREGON

COUNTY OF LINN

PERMIT TO CONSTRUCT A RESERVOIR AND STORE THE PUBLIC WATERS

THIS PERMIT IS HEREBY ISSUED TO

CITY OF LYONS
449 5TH ST
LYONS, OR 97358

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

APPLICATION FILE NUMBER: R-87877

SOURCE OF WATER: UNNAMED STREAM, A TRIBUTARY OF NORTH SANTIAM RIVER

STORAGE FACILITY: FERES PARK POND 1 AND FERES PARK POND 2

PURPOSE OR USE OF THE STORED WATER: STORAGE FOR FISH LIFE, RECREATION,
WILDLIFE, AND WETLAND ENHANCEMENT

MAXIMUM VOLUME: 51.5 ACRE FEET (AF) EACH YEAR, BEING 44.0 AF IN FERES
POND 1 AND 7.5 AF IN FERES PARK POND 2

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

DATE OF PRIORITY: MARCH 7, 2013

POINTS OF DIVERSION LOCATIONS:

POD 1 (UNNAMED STREAM) - SW $\frac{1}{4}$ NE $\frac{1}{4}$, SECTION 19, T9S, R2E, W.M.;
1925 FEET SOUTH AND 400 FEET EAST FROM N1/4 CORNER, SECTION 19

POD 2 (POND 1 - PROPOSED OUTLET WITH REMOVABLE WEIR SYSTEM TO
MAINTAIN LEVELS OF POND 1 AND POND 2) - NW $\frac{1}{4}$ NE $\frac{1}{4}$, SECTION 19, T9S,
R2E, W.M.; 780 FEET SOUTH AND 280 FEET EAST FROM N1/4 CORNER,
SECTION 19

POD 3 (POND 2) - NW $\frac{1}{4}$ NE $\frac{1}{4}$, SECTION 19, T9S, R2E, W.M.; 600 FEET
SOUTH AND 125 FEET EAST FROM N1/4 CORNER, SECTION 19

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

NW $\frac{1}{4}$ NE $\frac{1}{4}$
SW $\frac{1}{4}$ NE $\frac{1}{4}$
SECTION 19
TOWNSHIP 9 SOUTH, RANGE 2 EAST, 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 and maintained in each reservoir.
- B. The permittee shall maintain all required devices in good working order.
- C. The permittee shall allow the watermaster access to the device(s); 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 stored each month, and shall submit a report which includes the recorded report water-storage 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 reservoirs shall be constructed and maintained outside the channel of the source stream such that flows in the source stream that are not diverted and/or stored under the permit pass the reservoir site without flowing through the reservoir.

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.

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 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 water user shall install, use 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.

The permittee shall not release stored water from the reservoir(s) June 1 through September 30 directly into the stream channel leading to the North Santiam River unless determined necessary by the Water Resources Department to satisfy prior downstream rights.

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 *DECEMBER 12 2013*

E. Timothy Wallin

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