

STATE OF OREGON

COUNTY OF WHEELER

PERMIT TO CONSTRUCT A RESERVOIR AND STORE THE PUBLIC WATERS

THIS PERMIT IS HEREBY ISSUED TO

4 DSD, LLC.
175 PHILLIPS RD
WOODSIDE, CA 94062

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

APPLICATION FILE NUMBER: R-87489

SOURCE OF WATER: RUNOFF, UNNAMED TRIBUTARY, LOW GILCHRIST SPRING, AND HIGH GILCHRIST SPRING, TRIBUTARIES OF SIXSHOOTER CREEK

STORAGE FACILITY: POND A

PURPOSE OR USE OF THE STORED WATER: IRRIGATION AND LIVESTOCK

MAXIMUM VOLUME: 200.0 ACRE FEET EACH YEAR

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

DATE OF PRIORITY: JUNE 30, 2009

RESERVOIR LOCATION: SE $\frac{1}{4}$ NW $\frac{1}{4}$, SECTION 15, T11S, R24E, W.M.; 1490 FEET SOUTH AND 1680 FEET EAST FROM NW CORNER, SECTION 15

POINTS OF DIVERSION LOCATIONS:

UNNAMED TRIBUTARY - NE $\frac{1}{4}$ NW $\frac{1}{4}$, SECTION 15, T11S, R24E, W.M.; 957 FEET SOUTH AND 1830 FEET EAST FROM NW CORNER, SECTION 15

LOW GILCHRIST SPRING - NE $\frac{1}{4}$ NW $\frac{1}{4}$, SECTION 15, T11S, R24E, W.M.; 1120 FEET SOUTH AND 2465 FEET EAST FROM NW CORNER, SECTION 15

HIGH GILCHRIST SPRING - SW $\frac{1}{4}$ NE $\frac{1}{4}$, SECTION 15, T11S, R24E, W.M.; 1723 FEET SOUTH AND 2658 FEET EAST FROM NW CORNER, SECTION 15

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

NE $\frac{1}{4}$ NW $\frac{1}{4}$
SE $\frac{1}{4}$ NW $\frac{1}{4}$
SECTION 15
TOWNSHIP 11 SOUTH, RANGE 24 EAST, W.M.

Application R-87489 Water Resources Department

PERMIT R-15050

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.
- B. If the reservoir is constructed on-channel, then before water use may begin under this permit, the user shall install measuring devices in order 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.
- C. The permittee shall maintain all required devices in good working order.
- D. The permittee shall allow the watermaster access to the devices; provided however, where any device is located within a private structure, the watermaster shall request access upon reasonable notice.
- E. 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.
- F. The Director may provide an opportunity for the permittee to submit alternative measuring and reporting procedures for review and approval.

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 14048000, 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)
January	500
February	1000
March	2000
April	2000

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.

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.

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.

DAM CONDITIONS

All construction shall be performed under the supervision by the engineer of record. If the engineer of record cannot supervise construction, the Water Resources Department dam safety engineer must be notified in writing, prior to construction activity, with the name of the engineer supervising construction.

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, removal of woody or high vegetation from the embankment, abutments and spillway, removal of debris from the reservoir, and annual or more frequent cycling of the valve or gate for the low level conduit.

Repair or replacement of defective or worn out equipment (including but not limited to gates, valves, and conduits) shall be completed as needed to keep the dam safe.

If the dam is enlarged, modified or otherwise altered, this work must be based on design plans and specifications prepared by an Registered Professional engineer licensed in Oregon. These plans must be approved by the Water Resources Dam Safety program prior such alterations of the dam, its spillway or any appurtenant structure(s).

No valve shall be installed at the downstream end of the low level conduit, and the low level conduit shall not be operated in a pressurized condition unless the dam has been designed for pressurized operation by the design engineer. There must be an operations manual for the dam that describes pressurized operations, and necessary inspections of pressurized conduits for the dam.

If used, flashboards shall be maintained in good condition, replaced as needed and removed as necessary prior to forecasted extreme flood events. Determination of such flood events is the responsibility of the dam owner.

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 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 January 24, 2014



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