

**Oregon Water Resources Department
Water Right Services Division**

Water Rights Application
Number R-87941

Final Order

Hearing and Appeal Rights

Under the provisions of ORS 537.170 and ORS 537.622, the applicant may request a contested case hearing by submitting the information required for a protest under ORS 537.153(6) or ORS 537.621(7) to the Department within 14 days after the date of mailing of this order as shown below. If a contested case hearing is requested, the Department must schedule one. In the contested case hearing, however, only those issues based on the modifications to the Proposed Final Order may be addressed.

ORS 536.075 allows for additional appeal rights for other than contested case. This is a Final Order in other than contested case. This order is subject to judicial review under ORS 183.484. Any petition for judicial review must be filed within the 60 day time period specified by ORS 183.484(2). Pursuant to ORS 536.075 and OAR 137-004-0080 you may either petition for judicial review or petition the Director for reconsideration of this order. A petition for reconsideration may be granted or denied by the Director, and if no action is taken within 60 days following the date the petition was filed, the petition shall be deemed denied.

This statement of judicial review rights does not create a right to judicial review of this order, if judicial review is otherwise precluded by law. Where no changes have been made to a Proposed Final Order on a water right application and no protests have been filed during the protest period, the Final Order is not subject to judicial review.

Findings of Fact

On November 8, 2013, Ron Quiring submitted an application to the Department for a water use permit. The Department issued a Proposed Final Order on November 18, 2014. The protest period closed January 2, 2015, and no protest was filed.

Conclusions of Law

The proposed use would not impair or be detrimental to the public interest pursuant to ORS 537.153(2), but the Department's continuing evaluation reveals that the Proposed Final Order requires modification to correctly indicate that the submission and approval of engineered plans and specifications is **not** required prior to the issuance of a permit. The Draft Permit in the Proposed Final Order should have also indicated that the maximum height of the dam shall not exceed 9.0 feet.

Order

Application R-87941 therefore is approved with the above modifications to the Proposed Final Order, and Permit R-15092 is issued as limited by the conditions set forth therein.

DATED February 5, 2015

E. Timothy Wallin

E. Timothy Wallin, Water Rights Program Manager
for Thomas M. Byler, Director

This document was prepared by Kim French. If you have any questions about any of the statements contained in this document I am most likely the best person to answer your questions. You can reach me at 503-986-0816.

If you have questions about how to file a protest or a request for standing, please refer to the section in this Final Order entitled "Hearing and Appeal Rights". If you have previously filed a protest and want to know its status, please contact Patricia McCarty at 503-986-0820.

If you have other questions about the Department or any of its programs please contact our Customer Service Group at 503-986-0801.

Address all other correspondence to: Water Rights Section, Oregon Water Resources Department, 725 Summer St NE Ste A, Salem OR 97301-1266, Fax: 503-986-0901.

STATE OF OREGON

COUNTY OF POLK

PERMIT TO CONSTRUCT A RESERVOIR AND STORE THE PUBLIC WATERS

THIS PERMIT IS HEREBY ISSUED TO

RON QUIRING
PO BOX 143
RICKREALL, OR 97371

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

APPLICATION FILE NUMBER: R-87941

SOURCE OF WATER: RUNOFF, A TRIBUTARY OF BASKETT SLOUGH

STORAGE FACILITY: DAVENPORT RESERVOIR

PURPOSE OR USE OF THE STORED WATER: LIVESTOCK, IRRIGATION, SUPPLEMENTAL IRRIGATION, NURSERY USE, AGRICULTURE, FISH LIFE, WILDLIFE AND WETLAND ENHANCEMENT

MAXIMUM VOLUME: 48.0 ACRE FEET EACH YEAR

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

DATE OF PRIORITY: NOVEMBER 8, 2013

THE MAXIMUM HEIGHT OF THE DAM SHALL NOT EXCEED 9.0 FEET

DAM LOCATION: SW ¼ SW ¼, SECTION 19, T7S, R4W, W.M.; 700 FEET NORTH AND 350 FEET EAST FROM SW CORNER, SECTION 19

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

SW ¼ SW ¼
SECTION 19
TOWNSHIP 7 SOUTH, RANGE 4 WEST, W.M.

SE ¼ SE ¼
SECTION 24
TOWNSHIP 7 SOUTH, RANGE 5 WEST, W.M.

Measurement devices, and recording/reporting of annual water storage 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. If no dead-pool, the gage must measure the full depth of the reservoir. The permittee shall maintain the device in good working order.

- B. 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.
- C. The Director may require the permittee to keep and maintain a record of the volume of water stored, and may require the permittee to report 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.

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 outlet shall be screened using 1/4 inch open mesh.

Except for live flow, no releases of water shall occur from the reservoir directly into the stream channel from July 1 through September 30 of each year.

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.

Notwithstanding that Oregon Department of Fish and Wildlife has made a determination that fish screens are not necessary at the time of permit issuance, the permittee may be required in the future to install, maintain, and operate fish-screening devices to prevent fish from entering the proposed diversion.

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 February 5 , 2015

A handwritten signature in black ink that reads "E. Timothy Wallin". The signature is written in a cursive style with a horizontal line at the end.

E. Timothy Wallin, Water Rights Program Manager
for Thomas M. Byler, Director