

STATE OF OREGON

COUNTY OF BENTON

PERMIT TO CONSTRUCT A RESERVOIR AND STORE THE PUBLIC WATERS

THIS PERMIT IS HEREBY ISSUED TO

OR TWO LLC  
c/o JONATHAN GLASS  
422 ABEYTA ST  
SANTA FE, NM 87505

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

APPLICATION FILE NUMBER: R-88040

SOURCE OF WATER: RUNOFF, A SEASONAL STREAM, AND AN UNNAMED SPRING,  
TRIBUTARIES OF BOWERS SLOUGH

STORAGE FACILITIES: LADDER POND, FISH POND, EAST TURKEY NEST POND, BIG  
SADDLE POND, EAST VALLEY POND, SPRING POND, TOP TURKEY'S NEST POND, WEST  
SADDLE POND, WEST UPPER VALLEY POND

PURPOSE OR USE OF THE STORED WATER: FISH CULTURE, LIVESTOCK, WILDLIFE,  
IRRIGATION, AND AGRICULTURE

MAXIMUM VOLUME: 80.5 ACRE FEET EACH YEAR, BEING 2.0 AF IN LADDER POND,  
9.0 AF IN FISH POND, 1.0 AF IN EAST TURKEY NEST POND, 45.0 AF IN BIG  
SADDLE POND, 8.5 AF IN EAST VALLEY POND, 2.0 AF IN SPRING POND, 3.0 AF  
IN TOP TURKEY'S NEST POND, 7.0 AF IN WEST SADDLE POND, AND 3.0 AF IN  
WEST UPPER VALLEY POND

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

DATE OF PRIORITY: DECEMBER 31, 2014

POINTS OF DIVERSION:

POD #1 (A SEASONAL STREAM): NESW SECTION 27, JOHNSON DLC 63,  
T10S, R4W, W.M.; 487 FEET SOUTH AND 1268 FEET EAST OF NE CORNER  
HALTER DLC 73;

POD #2 (AN UNNAMED SPRING): SESE SECTION 28, HALTER DLC 73, T10S,  
R4W, W.M.; 864 FEET SOUTH AND 1968 FEET WEST OF NE CORNER HALTER  
DLC 73;

DAM LOCATIONS:

LADDER POND: SWSE SECTION 28, HALTER DLC 73, T10S, R4W, W.M.; 960  
FEET SOUTH AND 2182 FEET WEST OF NE CORNER HALTER DLC 73;

FISH POND: SWSE SECTION 28, HALTER DLC 73, T10S, R4W, W.M.; 1102 FEET SOUTH AND 2535 FEET WEST OF NE CORNER HALTER DLC 73;

EAST TURKEY NEST POND: SESW SECTION 27, JOHNSON DLC 63, T10S, R4W, W.M.; 1732 FEET SOUTH AND 1534 FEET EAST OF NE CORNER HALTER DLC 73;

BIG SADDLE POND (WEST DAM WALL): SWSW SECTION 27, HALTER DLC 73, T10S, R4W, W.M.; 974 FEET SOUTH AND 40 FEET WEST OF NE CORNER HALTER DLC 73;

BIG SADDLE POND (EAST DAM WALL): SWSW SECTION 27, JOHNSON DLC 63, T10S, R4W, W.M.; 1125 FEET SOUTH AND 460 FEET EAST OF NE CORNER HALTER DLC 73;

EAST VALLEY POND: SESW SECTION 27, JOHNSON DLC 63, T10S, R4W, W.M.; 1428 FEET SOUTH AND 1368 FEET EAST OF NE CORNER HALTER DLC 73;

SPRING POND: SESE SECTION 28, HALTER DLC 73, T10S, R4W, W.M.; 864 FEET SOUTH AND 1968 FEET WEST OF NE CORNER HALTER DLC 73;

TOP TURKEY NEST POND: SWSW SECTION 27, HALTER DLC 73, T10S, R4W, W.M.; 1540 FEET SOUTH AND 40 FEET WEST OF NE CORNER HALTER DLC 73;

WEST SADDLE POND: NESE SECTION 28, HALTER DLC 73, T10S, R4W, W.M.; 713 FEET SOUTH AND 1600 FEET WEST OF NE CORNER HALTER DLC 73;

WEST UPPER VALLEY POND: SESE SECTION 28, HALTER DLC 73, T10S, R4W, W.M.; 775 FEET SOUTH AND 1800 FEET WEST OF NE CORNER HALTER DLC 73

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

SW ¼ SW ¼  
SE ¼ SW ¼  
SECTION 27

NE ¼ SE ¼  
SW ¼ SE ¼  
SE ¼ SE ¼  
SECTION 28

TOWNSHIP 10 SOUTH, RANGE 4 WEST, W.M.

Measurement devices, and recording/reporting of annual water storage conditions:

- A. Before water use may begin under this permit, the permittee shall install a totalizing flow meter at each point of diversion. 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.

If the volume of a reservoir is 9.2 acre feet or more and dams are used to impound the water, the height of the dams 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.

A fishway to ensure adequate upstream and downstream passage for fish is required for any in-channel obstruction, unless the permittee has requested and been granted a fish passage waiver by the Oregon Fish and Wildlife Commission.

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 *OCTOBER 22 2015*

*E. Timothy Wallin*

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