

STATE OF OREGON

COUNTY OF JOSEPHINE

PERMIT TO STORE PUBLIC WATERS

THIS PERMIT IS HEREBY ISSUED TO:

JAMES B. DARBY
10250 JAMESTOWN DR APT 8
ANCHORAGE AK 99507-5336

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

APPLICATION FILE NUMBER: R-88295

SOURCE OF WATER: JIMMY CREEK, TRIBUTARY TO ILLINOIS RIVER

STORAGE FACILITY: STELLA JANE RESERVOIR

MAXIMUM VOLUME: 4.0 ACRE-FEET

DATE OF PRIORITY: SEPTEMBER 30, 2016

WATER MAY BE APPROPRIATED AS FOLLOWS: DECEMBER 1 THROUGH APRIL 30

USE: MULTIPLE PURPOSE

Dam Location/Authorized Point of Diversion:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
39 S	8 W	WM	17	NE SW	730 FEET SOUTH AND 15 FEET WEST FROM C1/4 CORNER, SECTION 17
39 S	8 W	WM	17	NW SE	1075 FEET SOUTH AND 330 FEET EAST FROM C1/4 CORNER, SECTION 17

The Area To Be Submerged:

Twp	Rng	Mer	Sec	Q-Q
39 S	8 W	WM	17	NW SE

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

- A. The Director may require the permittee to install a staff gage that measures the entire range and stage between full reservoir level and dead-pool level in the reservoir. If no dead-pool, the gage must measure the full depth of the reservoir. If the Director notifies the permittee to install a staff gage, the permittee shall install such device within the period stated in the notice. Once installed, the permittee shall maintain the device in good working order and shall allow the watermaster access to the device.
- B. 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.

- C. The Director may provide an opportunity for the permittee to submit alternative measuring and reporting procedures for review and approval.

Diversion of water under this permit is contingent on designated scenic waterway flows being met downstream. No appropriate gage currently exists for this scenic waterway, however at the discretion of the Director, the water user may be required to monitor streamflow at a specific location and discontinue diversion when the flows specified below are unmet at the gage. Should the Director require such streamflow monitoring, the location and nature of monitoring is subject to change at the discretion of the Director. Notwithstanding the lack of a gage, 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.

Illinois Scenic Waterway	
Month	Minimum Flow (cfs)
December	1500
January	1500
February	1500
March	1500
April	1500

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.

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.

As required by ORS 509.585, a person owning or operating an artificial obstruction (AO) may not construct or maintain any AO across any water of this state that are inhabited or historically inhabited, by native migratory fish (NMF) without providing passage for NMF. A person owning or operating an AO shall, prior to construction, fundamental change in permit status or abandonment of the AO in any waters of this state, obtain a determination from ODFW as to whether NMF are or historically have been present in the waters. If ODFW determines that NMF are or historically have been present in the waters, the person owning or operating the AO shall either submit a proposal for fish passage to ODFW or apply for a waiver or exemption. Approval of the proposed fish-passage facility, waiver, or exemption must be obtained from the Department prior to construction, permit modification or abandonment of the AO. Approved fish-passage plans, waivers and exemptions shall maintain adequate passage of NMF at all times (ORS 509.601) as per the approved plan, waiver or exemption.

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.

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.

STANDARD CONDITIONS

1. 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.
2. 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.
3. 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.
4. 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.
5. 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 Chapter 635, Division 415, shall be followed.
6. The use may be restricted if the quality of downstream waters decreases to the point that those waters no longer meet existing state or federal water quality standards due to reduced flows.
7. 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.
8. Construction of the water system shall begin within five years of the date of permit issuance. The deadline to begin construction may not be extended. This permit is subject to cancellation proceedings if the begin construction deadline is missed.
9. 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.
10. Within one year after storage of water, the permittee shall submit a claim of beneficial use to the Oregon Water Resources Department.
11. The claim of beneficial use shall be prepared by a Certified Water Right Examiner in conformance with the requirements of OAR 690-014 if an associated secondary permit exists for the use of stored water under this permit, or if the reservoir capacity is equal to or greater than 9.2 acre-feet.

12. If no secondary permit exists and the reservoir capacity is less than 9.2 acre-feet of water, the claim of beneficial use need not be prepared by a Certified Water Right Examiner. The information submitted to the Oregon Water Resources Department shall include:

- a. the dimensions of the reservoir;
- b. the maximum capacity of the reservoir in acre-feet; and
- c. a map identifying the location of the reservoir prepared in compliance with Water Resource Department standards.

Issued APRIL 20 2017



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