

STATE OF OREGON

COUNTY OF MARION

PERMIT TO APPROPRIATE THE PUBLIC WATERS

THIS PERMIT IS HEREBY ISSUED TO

DAVID J. BIELENBERG RLT  
16425 HERIGSTAD RD NE  
SILVERTON OR 97381

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

APPLICATION FILE NUMBER: R-88765

SOURCE OF WATER: PUDDING RIVER, TRIBUTARY TO MOLALLA RIVER

STORAGE FACILITY: RESERVOIR LG-12, CONSTRUCTED UNDER PERMIT R-11534 AND RESERVOIR LG-60,  
CONSTRUCTED UNDER PERMIT R-11533

MAXIMUM DAM HEIGHT: RESERVOIR LG-12 12.0 FEET AND RESERVOIR LG-60 14.3 FEET

PURPOSE OR USE OF THE STORED WATER: IRRIGATION AND AESTHETIC USE

MAXIMUM VOLUME: 174.0 ACRE-FEET (AF), BEING 90.0 AF IN RESERVOIR LG-12 AND 84.0 AF IN  
RESERVOIR LG-60

WATER MAY BE APPROPRIATED FOR STORAGE DURING THE PERIOD: NOVEMBER 1 THROUGH MAY 31

DATE OF PRIORITY: MARCH 22, 2019

AUTHORIZED POINT OF DIVERSION:

| Twp | Rng | Mer | Sec | Q-Q   | Measured Distances   |
|-----|-----|-----|-----|-------|--|
| 6 S | 1 W | WM  | 32  | NE NW | 726 FEET SOUTH AND 3750 FEET WEST FROM NE CORNER, SECTION 32 |

DAM LOCATIONS:

| Reservoir Name | Twp | Rng | Mer | Sec | Q-Q   | Measured Distances  | Dam Height (feet) | Area (acres) |
|----------------|-----|-----|-----|-----|-------|---|-------------------|--------------|
| LG-12          | 6 S | 1 W | WM  | 32  | SW NE | 1,955 FEET SOUTH AND 2,500 FEET WEST FROM NE CORNER, SECTION 32 | 12.0              | 10.9         |
| LG-60          | 6 S | 1 W | WM  | 29  | SE SE | 965 FEET NORTH AND 465 FEET WEST FROM NE CORNER, SECTION 32     | 14.3              | 9.5          |

THE AREA TO BE SUBMERGED BY THE RESERVOIRS:

| Twp | Rng | Mer | Sec | Q-Q   |
|-----|-----|-----|-----|-------|
| 6 S | 1 W | WM  | 29  | SE SE |
| 6 S | 1 W | WM  | 32  | SW NE |
| 6 S | 1 W | WM  | 32  | SE NW |

**PERMIT SPECIFIC 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. **Water Use Measurement, Recording, and Reporting:**
  - A. Before water use may begin under this permit, the permittee shall install a totalizing flow meter, or other suitable measuring device as determined by the watermaster, 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 permittee shall keep a complete record of the volume of water diverted each month, and shall submit a report which includes 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.
  - D. The Director may provide an opportunity for the permittee to submit alternative measuring and reporting procedures for review and approval.

**3. Fish Screen:**

The permittee shall install, maintain, and operate fish screening consistent with current Oregon Department of Fish and Wildlife (ODFW) standards or submit documentation that ODFW has determined fish screening is not necessary or is exempted. Fish screening is to prevent fish from entering the proposed diversion. The required screen is to be in place and functional, and approved in writing by ODFW **prior to diversion of any water**. The permittee shall operate and maintain the fish screen consistent with ODFW's operation and maintenance standards. The permittee is hereby directed to schedule a consultation with an ODFW Fish Screen Coordinator.

**4. Riparian Area Restoration:**

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.

**5. Water Quality:**

All water use under this permit shall comply with state and federal water quality laws. The permittee shall not violate any state and federal water quality standards, shall not cause pollution of any waters of the state, and shall not place or cause to be placed any wastes in a location where such wastes are likely to escape or be carried into the waters of the state by any means. The use may be restricted if the quality of source stream or downstream waters decrease to the point that those waters no longer meet existing state or federal water quality standards. Permittee is responsible for obtaining any necessary state and federal permits.

**6. Agricultural Water Quality Management Area Rules:**

The permittee shall comply with basin-specific Agricultural Water Quality Management Area Rules described in Oregon Administrative Rule Chapter 603-095. The permittee shall protect riparian areas, allowing site capable vegetation to establish and grow along streams, while providing the following functions: shade (on perennial and some intermittent streams), bank stability, and infiltration or filtration of overland runoff.

**7. Off-Channel Stored Water Releases:**

The permittee shall not release polluted water from this off-channel reservoir into waters of the state except when the release is directed by the State Engineer to prevent dam failure.

**DAM CONDITIONS**

1. Routine maintenance or repair of the dam, its spillway, and all appurtenant structures shall be performed to include, but not be 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.
2. 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 a Registered Professional Engineer licensed in Oregon. These plans must be submitted to and approved by the State Engineer prior to such alterations of the dam, its spillway, or any appurtenant structure(s). No water shall be stored until the Department receives written certification from the engineer of record that construction has been completed in accordance with the approved plans and specifications.

3. 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 operation, and necessary inspections of pressurized conduits for the dam.
4. If used, flashboards shall be maintained in good condition, replaced as needed, and removed as necessary prior to potential winter storms, or unusual rainfall or snowmelt events at any time of the year.
5. Failure to comply with any portion of Oregon Revised Statute 540.443 through 540.491 and Oregon Administrative Rules Chapter 690 Division 20 may result in action including, but not limited to, restrictions on use, civil penalties, or cancellation of the permit.

### **RESERVOIR CONDITIONS**

1. The permittee shall pass all live flow outside the storage season described above.
2. 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.
3. 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. 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.
2. 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.
3. 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.

## DEVELOPMENT AND COMPLETION TIMELINE REQUIREMENTS

1. Construction work must be supervised by the Engineer of Record for the project. 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.
2. 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.
3. 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 MAY 17, 2024

*Katherine Ratcliffe*

Katherine Ratcliffe  
Water Rights Section Manager, for  
Douglas E. Woodcock, Acting Director  
Oregon Water Resources Department

