

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

Water Right Application R-88393 in the	)	
name of TONY LANGDON and LANGDON	)	PROPOSED FINAL ORDER
FARMS	)	

Summary: The Department proposes to issue an order approving Application R-88393 and a permit consistent with the attached draft permit.

Authority

The application is being processed in accordance with Oregon Revised Statute (ORS) 537.153 through 537.175, and 390.826, and Oregon Administrative Rule (OAR) Chapter 690, Divisions 5, 33, 300, 310, 400, 410, and the Willamette Basin Program (OAR 690-502). These statutes and rules can be viewed on the following website: <https://www.oregon.gov/OWRD/programs/policylawandrules/Pages/default.aspx>.

The Department's main website can be found at: <https://www.oregon.gov/OWRD>.

The Department shall presume that a proposed use will not impair or be detrimental to the public interest if:

- a) The proposed use is allowed in the applicable basin program established pursuant to ORS 536.300 and 536.340 or given a preference under ORS 536.310(12);
- b) Water is available;
- c) The proposed use will not injure other water rights; and
- d) The proposed use complies with the rules of the Commission. ORS 537.153(2); OAR 690-310-0110(1)

All four criteria must be met for a proposed use to be presumed to not impair or be detrimental to the public interest. When the criteria are met and the presumption is established, or if the proposed use can be modified or conditioned to meet the presumption criteria, the Department must further evaluate the proposed use, any comments received, information available in its files or received from other interested agencies and any other available information to determine whether the presumption is overcome. OAR 690-310-0120(3).

If the Department determines that the presumption is established and not overcome, the Department shall issue a Proposed Final Order recommending issuance of the permit subject to any appropriate modifications or conditions.

FINDINGS OF FACT

Application History

1. On April 17, 2017, Tony Langdon and Langdon Farms filed a complete application for the following water use:

Source: RUNOFF AND LITTLE MUDDY CREEK, TRIBUTARIES OF MUDDY CREEK;
AND BISHOP CREEK, PUTNAM CREEK AND AN UNNAMED CREEK,
TRIBUTARIES OF LITTLE MUDDY CREEK

Use: STORAGE FOR IRRIGATION, WILDLIFE, AND RECREATION

Rate/Volume: 109.4 ACRE-FEET (AF)

Period of Use: JANUARY 1 THROUGH DECEMBER 31

County: LINN COUNTY

Place of Use: SECTION 22, TOWNSHIP 15 SOUTH, RANGE 3 WEST, W.M.

2. On June 23, 2017, the Department mailed the applicant notice of its Initial Review, determining that the diversion of 109.4 AF of water from runoff and Little Muddy Creek, tributaries of Muddy Creek; and Bishop Creek, Putnam Creek, and an unnamed creek, tributaries of Little Muddy Creek, for storage in twenty-six (26) reservoirs for irrigation, wildlife, and recreation is allowable November 1 through June 30 of each year, contingent upon the Department receiving an updated map per OAR 690-310-0050(4)(a). The applicant did not notify the Department to stop processing the application within 14 days of that date.
3. On June 27, 2017, the Department provided notice of the application in its weekly public notice, requesting comments, and providing information for interested persons about obtaining future notices and a copy of the Proposed Final Order.
4. On January 22, 2019, the Department received an updated map per OAR 690-310-0050(4)(a), as required in the Initial Review.

Presumption Criteria (a) Consistency with Basin Program

5. Storage for irrigation, wildlife, and recreation is allowed under the Willamette Basin Program (OAR 690-502-0040(4)(a)) November 1 through June 30 of each year. ORS 537.153(2); OAR 690-310-0110(1)(a)

Presumption Criteria (b) Water Availability

6. An assessment of water availability at 50% exceedance for the proposed use was completed using the Department's Water Availability Reporting System (WARS). A copy of this assessment is in the application file. The Department uses WARS at 50% exceedance for determining water availability to provide a consistent method of avoiding periods of the year when flows are low and seldom exceed the needs of water rights and when additional flows are needed to support public uses. This review is done consistent with OAR 690-410-0070(2)(c). The assessment established that surface water is available during the period January 1 to December 31 of each year. ORS 537.153(3)(c); OAR 690-310-0150(2)(c)

Presumption Criteria (c) Injury Determination

7. The proposed use will not injure other water rights. ORS 537.153(2); OAR 690-310-0150(2)(e)

Presumption Criteria (d) Whether the Use Complies with Rules of the Commission

8. Documentation has been submitted from the relevant land-use planning jurisdiction that indicates the proposed use is allowed outright. ORS 537.153(2)(b); OAR 690-310-0150(2)(b)
9. The proposed use is in an area of the state in which OAR 690-033-0210 thru -0230 and OAR 690-033-0310 thru -0340 apply. These rules establish definitions, additional procedures, and standards to aid the Department in determining whether a proposed use will impair or be detrimental to the public interest with regard to sensitive, threatened, or endangered fish species.

OAR 690-033-0210 Lower Columbia Rules (Below Bonneville Dam)

- A. The proposed use of water is detrimental to the protection or recovery of a threatened or endangered species. OAR 690-033-0220(1)
- B. The proposed use can be conditioned or mitigated to avoid the detriment. OAR 690-033-0220(1)
- C. The application, as conditioned, is not presumed to impair or be detrimental to the public interest.

OAR 690-033-0310 Statewide Rules

- A. The proposed use occurs occur in an area that may affect the habitat of sensitive, threatened or endangered fish species. OAR 690-033-0310(2)
- B. The applicant has been notified that based on a preliminary determination, the proposed use may affect the habitat of sensitive, threatened or endangered fish species and the application may be conditioned or denied. OAR 690-033-0330(1)(a)
- C. The interagency review team has been notified that an application has been received in an area that may affect the habitat of sensitive, threatened or endangered fish species. OAR 690-033-0330(1)(b)
- D. The interagency review team was convened to review the application and recommend conditions as necessary to achieve the standards listed in 690-033-0330(2)(a) and (b). As a result of this review, Permit Specific Conditions #3 through #6 have been included in the draft permit.

Determination of Presumption that a Proposed Surface Water Use will not Impair or be Detrimental to the Public Interest

Based on the review of the presumption criteria (a)-(d) above, the presumption has been established. ORS 537.153(2); OAR 690-310-0110(1)(a)-(d)

Further Evaluation of the Proposed Use

10. A comment was received from Muddy Creeks Irrigation District by the close of the comment period. OAR 690-310-0120(3)
11. In summary, the commenter expressed concern that the Initial Review did not account for senior water rights, that they are unsure if the reservoir is on or off channel, and if the diversions can be controlled. The Department considered the comments made by Muddy Creeks Irrigation Project and have determined that conditions and regulation imposed on this application will protect the senior water rights, provide adequate measuring and reporting conditions and allow enforcement to occur.
12. Information available in Department files, received from other interested agencies, and other available information does not provide a preponderance of evidence that the proposed use would impair or be detrimental to the public interest under ORS 537.153. OAR 690-310-0120(3)

Other Criteria and Requirements

13. The proposed use is not located within or above a state scenic waterway, as designated under ORS 390.826.
14. The amount requested, 109.4 AF, is necessary for the proposed use. ORS 537.153(3)(c); OAR 690-310-0150(2)(d)
15. The applicant proposed methods to measure the amount of water diverted, prevent damage to aquatic life and riparian habitat, prevent discharge of contaminated water to a surface stream and prevent damage to public uses of any affected surface waters. These measures are adequate at this time. OAR 690-310-0150(2)(j)
16. The proposed use complies with rules of the Water Resources Commission not otherwise described above.

CONCLUSION OF LAW

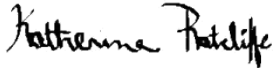
1. The proposed use would not impair or be detrimental to the public interest as described in ORS 537.153(2).

NOTE: When issuing permits, ORS 537.170(6) authorizes the Department to include provisions or restrictions concerning the use, control and management of water to be appropriated for the project.

PROPOSED ORDER

The Department recommends approval of Application R-88393, and issuance of a permit consistent with the attached draft permit.

DATED May 9, 2023

A handwritten signature in black ink, reading "Katherine Ratcliffe". The signature is written in a cursive style with a horizontal line underneath it.

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

Protests

Under the provisions of ORS 537.153(7) (for surface water) or ORS 537.621(8) (for groundwater), you can protest this Proposed Final Order. If you wish to submit a protest by U.S. mail, please consider mailing early to ensure the Department receives the protest by the deadline specified. Protests must be received by the Water Resources Department no later than **June 23, 2023**.

Protests must be in writing and include the following:

- Your name, address, and telephone number;
- A description of your interest in the Proposed Final Order, and, if you claim to represent the public interest, a precise statement of the public interest represented;
- A detailed description of how the action proposed in the Proposed Final Order would impair or be detrimental to your interest;
- A detailed description of how the Proposed Final Order is in error or deficient, and how to correct the alleged error or deficiency;
- Any citation of legal authority to support your protest, if known;
- To affect the Department's determination that the proposed use in this application will, or will not, impair or be detrimental to the public interest, ORS 537.153(6) requires that a protest demonstrate, by a preponderance of evidence any of the following: (a) One or more of the criteria for establishing the presumption are, or are not, satisfied; or (b) The specific aspect of the public welfare, safety and health under ORS 537.170(8) that would be impaired or detrimentally affected, and specifically how the identified aspect of the public welfare, safety and health under ORS 537.170 (8) would be impaired or be adversely affected;
- If you are the applicant, a protest fee of \$480 required by ORS 536.050; and
- If you are not the applicant, a protest fee of \$950 required by ORS 536.050 and proof of service of the protest upon the applicant.
- If you are the applicant, a statement of whether or not you are requesting a contested case hearing.

Requests for Standing

Under the provisions of ORS 537.153(7) (for surface water) or ORS 537.621(8) (for groundwater), persons other than the applicant who support a Proposed Final Order can request standing for purposes of participating in any contested case proceeding on the Proposed Final Order or for judicial review of a Final Order.

Requests for standing must be received in the Water Resources Department no later than **June 23, 2023**. Requests for standing must be in writing, and must include the following:

- The requester's name, mailing address and telephone number;
- If the requester is representing a group, association or other organization, the name, address and telephone number of the represented group;
- A statement that the requester supports the Proposed Final Order as issued;

- A detailed statement of how the requester would be harmed if the Proposed Final Order is modified; and
- A standing fee of \$270. If a hearing is scheduled, an additional fee of \$680 must be submitted along with a petition for party status.

After the protest period has ended, the Director will either issue a Final Order or schedule a contested case hearing. The contested case hearing will be scheduled only if a protest has been submitted and either:

- upon review of the issues, the director finds that there are significant disputes related to the proposed use of water, or
- the applicant requests a contested case hearing within 30 days after the close of the protest period.

If you do not request a hearing within 30 days after the close of the protest period, or if you withdraw a request for a hearing, notify the Department or the administrative law judge that you will not appear or fail to appear at a scheduled hearing, the Director may issue a Final Order by default. If the Director issues a Final Order by default, the Department designates the relevant portions of its files on this matter, including all materials that you have submitted relating to this matter, as the record for purpose of proving a prima facie case upon default.

You may be represented by an attorney at the hearing. Legal aid organizations may be able to assist a party with limited financial resources. Generally, partnerships, corporations, associations, governmental subdivisions or public or private organizations are represented by an attorney. However, consistent with OAR 690-002-0020 and OAR 137-003-0555, an agency representative may represent a partnership, corporation, association, governmental subdivision or public or private organization if the Department determines that appearance of a person by an authorized representative will not hinder the orderly and timely development of the record in this case.

Notice Regarding Servicemembers: Active duty servicemembers have a right to stay proceedings under the federal Servicemembers Civil Relief Act. For more information contact the Oregon State Bar at 800-452-8260, the Oregon Military Department at 503-584-3571, or the nearest United States Armed Forces Legal Assistance Office through <http://legalassistance.law.af.mil>. The Oregon Military Department does not have a toll free telephone number.

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- If you have any questions about statements contained in this document, please contact Lisa Graham at Elisabeth.A.Graham@oregon.gov or 503-979-3130.
 - If you have questions about how to file a protest or if you have previously filed a protest and you want to know the status, please contact Patricia McCarty at 503-979-9160.
 - If you have any questions about the Department or any of its programs, please contact our Water Resources Customer Service Group at 503-986-0900.
 - Address any correspondence to: Water Right Services Division
725 Summer St NE, Suite A
Salem, OR 97301-1266
Fax: 503-986-0901
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DRAFT

This is not a permit.

DRAFT

STATE OF OREGON

COUNTY OF LINN

DRAFT PERMIT TO APPROPRIATE THE PUBLIC WATERS

THIS DRAFT PERMIT IS HEREBY ISSUED TO

LANGDON FARMS
TONY LANGDON
30600 DIAMOND HILL DR
HARRISBURG OR 97446

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

APPLICATION FILE NUMBER: R-88393

SOURCE OF WATER: RUNOFF AND LITTLE MUDDY CREEK, TRIBUTARIES OF MUDDY CREEK; AND BISHOP CREEK, PUTNAM CREEK AND AN UNNAMED CREEK, TRIBUTARIES OF LITTLE MUDDY CREEK

STORAGE FACILITY: 26 RESERVOIRS

THE MAXIMUM HEIGHT OF EACH DAM SHALL NOT EXCEED 6.0 FEET

PURPOSE OR USE OF THE STORED WATER: IRRIGATION, WILDLIFE, AND RECREATION

MAXIMUM VOLUME: 109.4 ACRE-FEET

Reservoir Name	Volume (AF)	Tributary
Pond 1	6.7	Bishop Creek
Pond 2	7	Bishop Creek
Pond 3	6	Bishop Creek
Pond 4	4.3	Muddy Creek
Pond 5	5.2	Putnam Creek
Pond 6	5.2	Putnam Creek
Pond 7	2.3	Putnam Creek
Pond 8	2.3	Putnam Creek
Pond 9	2.3	Putnam Creek
Pond 10	2.3	Muddy Creek
Pond 11	3.4	Muddy Creek
Pond 12	3.7	Unnamed Creek
Pond 13	4.6	Unnamed Creek

Pond 14	5.5	Unnamed Creek
Pond 15	5.3	Unnamed Creek
Pond 16	5.7	Unnamed Creek
Pond 17	6.9	Unnamed Creek
Pond 18	6.2	Unnamed Creek
Pond 19	5.6	Unnamed Creek
Pond 20	3.2	Unnamed Creek
Pond 21	2.8	Unnamed Creek
Pond 22	3.7	Unnamed Creek
Pond 23	2.5	Unnamed Creek
Pond 24	2.9	Unnamed Creek
Pond 25	1.9	Unnamed Creek
Pond 26	1.9	Unnamed Creek

WATER MAY BE APPROPRIATED FOR STORAGE DURING THE PERIOD: NOVEMBER 1 THROUGH FEBRUARY 28/29

DATE OF PRIORITY: APRIL 17, 2017

AUTHORIZED POINTS OF DIVERSION:

POD Name	Twp	Rng	Mer	Sec	Measured Distances
1	15 S	3 W	WM	22	5 FEET SOUTH AND 2400 FEET EAST FROM NE CORNER, WILSON DLC 60
2	15 S	3 W	WM	22	5 FEET SOUTH AND 1900 FEET EAST FROM NE CORNER, WILSON DLC 60
3	15 S	3 W	WM	22	5 FEET SOUTH AND 1400 FEET EAST FROM NE CORNER, WILSON DLC 60
4	15 S	3 W	WM	22	1400 FEET SOUTH AND 1100 FEET EAST FROM NE CORNER, WILSON DLC 60
5	15 S	3 W	WM	22	1600 FEET SOUTH AND 1500 FEET EAST FROM NE CORNER, WILSON DLC 60
6	15 S	3 W	WM	22	1600 FEET SOUTH AND 2000 FEET EAST FROM NE CORNER, WILSON DLC 60
7	15 S	3 W	WM	22	1600 FEET SOUTH AND 2450 FEET EAST FROM NE CORNER, WILSON DLC 60
8	15 S	3 W	WM	22	1600 FEET SOUTH AND 2800 FEET EAST FROM NE CORNER, WILSON DLC 60
9	15 S	3 W	WM	22	1600 FEET SOUTH AND 3100 FEET EAST FROM NE CORNER, WILSON DLC 60
10	15 S	3 W	WM	22	2200 FEET SOUTH AND 1250 FEET EAST FROM NE CORNER, WILSON DLC 60
11	15 S	3 W	WM	22	2800 FEET SOUTH AND 1250 FEET EAST FROM NE CORNER, WILSON DLC 60
12	15 S	3 W	WM	22	3300 FEET SOUTH AND 2250 FEET EAST FROM NE CORNER, WILSON DLC 60
13	15 S	3 W	WM	22	3300 FEET SOUTH AND 2600 FEET EAST FROM NE CORNER, WILSON DLC 60
14	15 S	3 W	WM	22	3300 FEET SOUTH AND 3100 FEET EAST FROM NE CORNER, WILSON DLC 60
15	15 S	3 W	WM	22	3400 FEET SOUTH AND 3600 FEET EAST FROM NE CORNER, WILSON DLC 60
16	15 S	3 W	WM	22	3400 FEET SOUTH AND 4000 FEET EAST FROM NE CORNER, WILSON DLC 60
17	15 S	3 W	WM	23	3400 FEET SOUTH AND 4500 FEET EAST FROM NE CORNER, WILSON DLC 60
18	15 S	3 W	WM	23	3200 FEET SOUTH AND 4900 FEET EAST FROM NE CORNER, WILSON DLC 60
19	15 S	3 W	WM	23	3600 FEET SOUTH AND 4450 FEET EAST FROM NE CORNER, WILSON DLC 60
20	15 S	3 W	WM	22	3600 FEET SOUTH AND 3900 FEET EAST FROM NE CORNER, WILSON DLC 60
21	15 S	3 W	WM	22	3600 FEET SOUTH AND 3400 FEET EAST FROM NE CORNER, WILSON DLC 60

POND LOCATIONS:

Pond Name	Twp	Rng	Mer	Sec	Measured Distances
POND 1	15 S	3 W	WM	22	300 FEET SOUTH AND 1200 FEET EAST FROM NE CORNER, WILSON DLC 60
POND 2	15 S	3 W	WM	22	300 FEET SOUTH AND 1700 FEET EAST FROM NE CORNER, WILSON DLC 60
POND 3	15 S	3 W	WM	22	300 FEET SOUTH AND 2200 FEET EAST FROM NE CORNER, WILSON DLC 60
POND 4	15 S	3 W	WM	22	1100 FEET SOUTH AND 1200 FEET EAST FROM NE CORNER, WILSON DLC 60
POND 5	15 S	3 W	WM	22	1000 FEET SOUTH AND 1700 FEET EAST FROM NE CORNER, WILSON DLC 60
POND 6	15 S	3 W	WM	22	1000 FEET SOUTH AND 2200 FEET EAST FROM NE CORNER, WILSON DLC 60
POND 7	15 S	3 W	WM	22	1000 FEET SOUTH AND 2700 FEET EAST FROM NE CORNER, WILSON DLC 60
POND 8	15 S	3 W	WM	22	1000 FEET SOUTH AND 3000 FEET EAST FROM NE CORNER, WILSON DLC 60
POND 9	15 S	3 W	WM	22	1500 FEET SOUTH AND 3000 FEET EAST FROM NE CORNER, WILSON DLC 60
POND 10	15 S	3 W	WM	22	1500 FEET SOUTH AND 2700 FEET EAST FROM NE CORNER, WILSON DLC 60
POND 11	15 S	3 W	WM	22	1500 FEET SOUTH AND 2300 FEET EAST FROM NE CORNER, WILSON DLC 60
POND 12	15 S	3 W	WM	22	1500 FEET SOUTH AND 1800 FEET EAST FROM NE CORNER, WILSON DLC 60
POND 13	15 S	3 W	WM	22	1500 FEET SOUTH AND 1300 FEET EAST FROM NE CORNER, WILSON DLC 60
POND 14	15 S	3 W	WM	22	2000 FEET SOUTH AND 1500 FEET EAST FROM NE CORNER, WILSON DLC 60
POND 15	15 S	3 W	WM	22	2500 FEET SOUTH AND 1500 FEET EAST FROM NE CORNER, WILSON DLC 60
POND 16	15 S	3 W	WM	22	3100 FEET SOUTH AND 1500 FEET EAST FROM NE CORNER, WILSON DLC 60
POND 17	15 S	3 W	WM	22	3000 FEET SOUTH AND 2100 FEET EAST FROM NE CORNER, WILSON DLC 60

Pond Name	Twp	Rng	Mer	Sec	Measured Distances
POND 18	15 S	3 W	WM	22	3000 FEET SOUTH AND 2500 FEET EAST FROM NE CORNER, WILSON DLC 60
POND 19	15 S	3 W	WM	22	3000 FEET SOUTH AND 2800 FEET EAST FROM NE CORNER, WILSON DLC 60
POND 20	15 S	3 W	WM	22	3200 FEET SOUTH AND 3300 FEET EAST FROM NE CORNER, WILSON DLC 60
POND 21	15 S	3 W	WM	22	3200 FEET SOUTH AND 3800 FEET EAST FROM NE CORNER, WILSON DLC 60
POND 22	15 S	3 W	WM	23	3200 FEET SOUTH AND 4300 FEET EAST FROM NE CORNER, WILSON DLC 60
POND 23	15 S	3 W	WM	23	3200 FEET SOUTH AND 4700 FEET EAST FROM NE CORNER, WILSON DLC 60
POND 24	15 S	3 W	WM	23	3600 FEET SOUTH AND 4300 FEET EAST FROM NE CORNER, WILSON DLC 60
POND 25	15 S	3 W	WM	22	3600 FEET SOUTH AND 3700 FEET EAST FROM NE CORNER, WILSON DLC 60
POND 26	15 S	3 W	WM	22	3600 FEET SOUTH AND 3400 FEET EAST FROM NE CORNER, WILSON DLC 60

THE AREA TO BE SUBMERGED BY THE RESERVOIRS:

Twp	Rng	Mer	Sec	Q-Q
15 S	3 W	WM	22	NE NE
15 S	3 W	WM	22	NW NE
15 S	3 W	WM	22	SW NE
15 S	3 W	WM	22	SE NE
15 S	3 W	WM	22	NE NW
15 S	3 W	WM	22	SE NW
15 S	3 W	WM	22	NE SW
15 S	3 W	WM	22	NE SE
15 S	3 W	WM	22	NW SE
15 S	3 W	WM	23	NW SW
15 S	3 W	WM	23	SW SW

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, a staff gage that measures the entire range and stage between full reservoir level and dead-pool storage shall 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 permittee shall keep a complete record of the volume of water stored each month, and shall submit a report which includes water-storage 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. 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.

4. Fish Screen/By-Pass:

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.

5. 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.

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. Fish Egress:

If there is potential for fish entrapment in the ponds, the development of fish egress pathways shall be addressed.

8. 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 directly by the State Engineer to prevent dam failure.

RESERVOIR CONDITIONS

1. 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.
2. The permittee shall pass all live flow outside the storage season described above.
3. 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.
4. 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.
5. 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 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 _____

DRAFT - THIS IS NOT A PERMIT

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