

Oregon Water Resources Department
Water Rights Division

Water Rights Application
Number S-87104

Final Order

Appeal Rights

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.

Application History

On March 3, 2008, Olsen Agriculture submitted an application to the Department for a water use permit. The Department issued a Proposed Final Order on December 22, 2009. The protest period closed February 5, 2010, and no protest was filed.

The proposed use would not impair or be detrimental to the public interest.

Order

Application S-87104 is therefore approved, contingent upon approval of Application R-87103, as proposed by the Proposed Final Order. Upon payment of outstanding fees in the amount of \$400 and approval of Application R-87103, a permit shall be issued authorizing the proposed water use.

Failure to submit payment of outstanding recording fees within 60 days from the date of this Final Order may result in the proposed rejection of the application.

If you need to request additional time, your written request should be received in the Salem office of the Department within 60 days of this Final Order. The Department will evaluate the request and determine whether or not the request may be approved.

DATED April 9, 2010

E. Timothy Wall

for Phillip C. Ward, Director
Water Resources Department

This document was prepared by Brook Geffen. 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 503-986-0808.

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.

DRAFT

This is not a permit.

DRAFT

STATE OF OREGON

COUNTY OF POLK

DRAFT PERMIT TO APPROPRIATE THE PUBLIC WATERS

THIS DRAFT PERMIT IS HEREBY ISSUED TO

OLSEN AGRICULTURE
14115 DEARMOND RD
MONMOUTH, OR 97361-9746

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

APPLICATION FILE NUMBER: S-87104

SOURCES OF WATER: TWO UNNAMED INTERMITTENT STREAMS, VIRIDIAN RESERVOIR (CONSTRUCTED UNDER PERMIT R-14683), AND WOODSON RESERVOIR (CONSTRUCTED UNDER PERMIT R-XXXXX, APPLICATION R-87103), TRIBUTARIES TO BERRY CREEK

PURPOSE OR USE: COMMERCIAL, FISH CULTURE, POND MAINTENANCE, AND IRRIGATION USE ON 275.0 ACRES

MAXIMUM VOLUME: 159.19 ACRE FEET (AF), NOT TO EXCEED 9.19 AF FROM VIRIDIAN RESERVOIR AND 150.0 AF FROM WOODSON RESERVOIR

MAXIMUM RATE: 2.0 CUBIC FEET PER SECOND (CFS), NOT TO EXCEED 0.09 CFS FOR VIRIDIAN RESERVOIR AND 1.5 CFS FOR WOODSON RESERVOIR FOR POND MAINTENANCE

PERIOD OF USE:

Use	Source	Period of Use
COMMERCIAL AND FISH CULTURE	VIRIDIAN RESERVOIR AND WOODSON RESERVOIR	YEAR-ROUND
COMMERCIAL USE	TWO UNNAMED INTERMITTENT STREAMS, TRIBUTARIES TO BERRY CREEK	NOVEMBER 1 THROUGH APRIL 30
POND MAINTENANCE	TWO UNNAMED INTERMITTENT STREAMS, TRIBUTARIES TO BERRY CREEK	OCTOBER 1 THROUGH JUNE 30

Use	Source	Period of Use
IRRIGATION	VIRIDIAN RESERVOIR AND WOODSON RESERVOIR	MARCH 1 THROUGH OCTOBER 31
IRRIGATION	TWO UNNAMED INTERMITTENT STREAMS, TRIBUTARIES TO BERRY CREEK	MARCH 1 THROUGH APRIL 30

DATE OF PRIORITY: MARCH 3, 2008

POINTS OF DIVERSION:

UNNAMED INTERMITTENT STREAM AND VIRIDIAN RESERVOIR: NESE,
SECTION 26, T9S, R5W, W.M.; 400 FEET SOUTH AND 990 FEET EAST
FROM NW CORNER, SMITH COLLINS DLC 64

UNNAMED INTERMITTENT STREAM AND WOODSON RESERVOIR: NWSW,
SECTION 36, T9S, R5W, W.M.; 5000 FEET SOUTH AND 1650 FEET EAST
FROM NW CORNER, SMITH COLLINS DLC 64

The amount of water used for irrigation under this right, together with the amount secured under any other right existing for the same lands, is limited to a diversion of ONE-EIGHTIETH of one cubic foot per second and 2.5 acre-feet for each acre irrigated during the irrigation season of each year.

THE PLACE OF USE IS LOCATED AS FOLLOWS:

COMMERCIAL USE

NE $\frac{1}{4}$ SW $\frac{1}{4}$
NW $\frac{1}{4}$ SW $\frac{1}{4}$
SW $\frac{1}{4}$ SW $\frac{1}{4}$
SE $\frac{1}{4}$ SW $\frac{1}{4}$

IRRIGATION

NE $\frac{1}{4}$ SW $\frac{1}{4}$ 1.7 ACRES
NW $\frac{1}{4}$ SW $\frac{1}{4}$ 22.0 ACRES
SW $\frac{1}{4}$ SW $\frac{1}{4}$ 40.0 ACRES
SE $\frac{1}{4}$ SW $\frac{1}{4}$ 3.6 ACRES

SECTION 25

COMMERCIAL USE

NE $\frac{1}{4}$ SE $\frac{1}{4}$
SE $\frac{1}{4}$ SE $\frac{1}{4}$

FISH CULTURE

NE $\frac{1}{4}$ SE $\frac{1}{4}$

IRRIGATION

NE $\frac{1}{4}$ SE $\frac{1}{4}$ 17.3 ACRES

SE $\frac{1}{4}$ SE $\frac{1}{4}$ 29.5 ACRES

POND MAINTENANCE

NE $\frac{1}{4}$ SE $\frac{1}{4}$

SECTION 26

COMMERCIAL USE

NE $\frac{1}{4}$ NE $\frac{1}{4}$

SE $\frac{1}{4}$ NE $\frac{1}{4}$

NE $\frac{1}{4}$ SE $\frac{1}{4}$

IRRIGATION

NE $\frac{1}{4}$ NE $\frac{1}{4}$ 17.4 ACRES

SE $\frac{1}{4}$ NE $\frac{1}{4}$ 29.5 ACRES

NE $\frac{1}{4}$ SE $\frac{1}{4}$ 11.1 ACRES

SECTION 35

COMMERCIAL USE

NE $\frac{1}{4}$ NW $\frac{1}{4}$

NW $\frac{1}{4}$ NW $\frac{1}{4}$

SW $\frac{1}{4}$ NW $\frac{1}{4}$

SE $\frac{1}{4}$ NW $\frac{1}{4}$

NE $\frac{1}{4}$ SW $\frac{1}{4}$

NW $\frac{1}{4}$ SW $\frac{1}{4}$

IRRIGATION

NE $\frac{1}{4}$ NW $\frac{1}{4}$ 3.6 ACRES

NW $\frac{1}{4}$ NW $\frac{1}{4}$ 40.0 ACRES

SW $\frac{1}{4}$ NW $\frac{1}{4}$ 40.0 ACRES

SE $\frac{1}{4}$ NW $\frac{1}{4}$ 3.9 ACRES

NE $\frac{1}{4}$ SW $\frac{1}{4}$ 1.4 ACRES

NW $\frac{1}{4}$ SW $\frac{1}{4}$ 14.0 ACRES

FISH CULTURE

SW $\frac{1}{4}$ NW $\frac{1}{4}$

NW $\frac{1}{4}$ SW $\frac{1}{4}$

POND MAINTENANCE

SW $\frac{1}{4}$ NW $\frac{1}{4}$

NW $\frac{1}{4}$ SW $\frac{1}{4}$

SECTION 36

TOWNSHIP 9 SOUTH, RANGE 5 WEST, W.M.

Measurement, recording and reporting 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 meter in good working order.
- B. The permittee shall keep a complete record of the amount of water used each month, and shall submit a report which includes the recorded 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.
- C. The permittee shall allow the watermaster access to the meter; provided however, where any meter is located within a private structure, the watermaster shall request access upon reasonable notice.
- D. The Director may provide an opportunity for the permittee to submit alternative measuring and reporting procedures for review and approval.

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

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.

At the time of certification, the total rate allowed for pond maintenance may be reduced, in accordance with Departmental standards, so as to be commensurate with the certified volume(s) of the reservoir(s).

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.

Where two or more water users agree among themselves as to the manner of rotation in the use of water and such agreement is placed in writing and filed by such water users with the watermaster, and such rotation system does not infringe upon such prior rights of any water user not a party to such rotation plan, the watermaster shall distribute the water according to such agreement.

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 downstream waters decreases to the point that those waters no longer meet existing 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.

Completion of construction and application of the water shall be made within five years of the date of permit issuance. If beneficial use of permitted water has not been made before this date, 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 making beneficial use 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

for Phillip C. Ward, Director
Water Resources Department