

Application for a Permit to Use Surface Water



Oregon Water Resources Department
725 Summer Street NE, Suite A
Salem Oregon 97301-1266
(503) 986-0900
www.wrd.state.or.us

SECTION 1: APPLICANT INFORMATION AND SIGNATURE

Applicant Information

NAME <i>Garth + Susan Mulkey</i>		PHONE (HM) <i>503 939 6056</i>	
PHONE (WK) <i>503 932 4415</i>	CELL	FAX <i>1855 723 4742</i>	
ADDRESS <i>13535 DeArmond Rd.</i>			
CITY <i>Monmouth</i>	STATE <i>OR</i>	ZIP <i>97361</i>	E-MAIL <i>mulkeyfarm@yahoo.com</i>

Organization Information

NAME		PHONE	FAX
ADDRESS			CELL
CITY	STATE	ZIP	E-MAIL

Agent Information – The agent is authorized to represent the applicant in all matters relating to this application.

AGENT / BUSINESS NAME		PHONE	FAX
ADDRESS			CELL
CITY	STATE	ZIP	E-MAIL

Note: Attach multiple copies as needed

By my signature below I confirm that I understand:

- I am asking to use water specifically as described in this application.
- Evaluation of this application will be based on information provided in the application.
- I cannot use water legally until the Water Resources Department issues a permit.
- Acceptance of this application does not guarantee a permit will be issued.
- If I begin construction prior to the issuance of a permit, I assume all risks associated with my actions.
- If I get a permit, I must not waste water.
- If development of the water use is not according to the terms of the permit, the permit can be cancelled.
- The water use must be compatible with local comprehensive land-use plans.
- Even if the Department issues a permit, I may have to stop using water to allow senior water-right holders to get water to which they are entitled.

 I (we) affirm that the information contained in this application is true and accurate.

Susan Mulkey
Applicant Signature
Garth Mulkey
Applicant Signature

Susan Mulkey
Print Name and title if applicable
Garth A. Mulkey
Print Name and title if applicable

2-13-11
Date
2-15-11
Date

For Department Use		
App. No. _____	Permit No. _____	Date _____

SECTION 2: PROPERTY OWNERSHIP

Please indicate if you own all the lands associated with the project from which the water is to be diverted, conveyed, and used.

Yes

There are no encumbrances.

This land is encumbered by easements, rights of way, roads or other encumbrances.

No

I have a recorded easement or written authorization permitting access.

I do not currently have written authorization or easement permitting access.

Written authorization or an easement is not necessary, because the only affected lands I do not own are state-owned submersible lands, and this application is for irrigation and/or domestic use only (ORS 274.040).

Water is to be diverted, conveyed, and/or used only on federal lands.

List the names and mailing addresses of all affected landowners (*attach additional sheets if necessary*).

SECTION 3: SOURCE OF WATER

A. Proposed Source of Water

Provide the commonly used name of the water body from which water will be diverted, and the name of the stream or lake it flows into. If unnamed, say so:

Source 1: Valley View Reservoir Tributary to: Berry Creek

Source 2: _____ Tributary to: _____

Source 3: _____ Tributary to: _____

Source 4: _____ Tributary to: _____

If any source listed above is stored water that is authorized under a water right permit, certificate, or decree, attach a copy of the document or list the document number (for decrees, list the volume, page and/or decree name).

B. Applications to Use Stored Water

Do you, or will you, own the reservoir(s) described in item 3A above?

Yes.

No. (Please enclose a copy of your written notification to the operator of the reservoir of your intent to file this application, which you should have already mailed or delivered to the operator.)

If *all* sources listed in item 3A are stored water, the Department will review your application using the expedited process provided in ORS 537.147, unless you check the box below. Please see the instruction booklet for more information.

Please expedite
SM

By checking this box, you are requesting that the Department process your application under the standard process outlined in ORS 537.150 and 537.153, rather than the expedited process provided by ORS 537.147. To file an application under the standard process, you must enclose the following:

- A copy of a signed non-expired contract or other agreement with the owner of the reservoir (if not you) to impound the volume of water you propose to use in this application.
- A copy of your written agreement with the party (if any) delivering the water from the reservoir to you.

SECTION 4: WATER USE

Provide the amount of water you propose to use from each source, for each use, in cubic feet-per-second (cfs) or gallons-per-minute (gpm). If the proposed use is from storage, provide the amount in acre-feet (af):
(1 cfs equals 448.8 gpm. 1 acre-foot equals 325,851 gallons or 43,560 cubic feet)

SOURCE	USE	PERIOD OF USE	AMOUNT
Valley View Reservoir	Irrigation / agricultural	3-1 thru 10-31	103 <input type="checkbox"/> cfs <input type="checkbox"/> gpm <input checked="" type="checkbox"/> af
			<input type="checkbox"/> cfs <input type="checkbox"/> gpm <input type="checkbox"/> af
			<input type="checkbox"/> cfs <input type="checkbox"/> gpm <input type="checkbox"/> af
			<input type="checkbox"/> cfs <input type="checkbox"/> gpm <input type="checkbox"/> af

For irrigation use only:
 Please indicate the number of primary and supplemental acres to be irrigated.
 Primary: 221 Acres Supplemental: _____ Acres
 List the Permit or Certificate number of the underlying primary water right(s): _____
 Indicate the maximum total number of acre-feet you expect to use in an irrigation season: 103

- If the use is **municipal or quasi-municipal**, attach **Form M**
- If the use is **domestic**, indicate the number of households: _____
- If the use is **mining**, describe what is being mined and the method(s) of extraction:

SECTION 5: WATER MANAGEMENT

A. Diversion and Conveyance

What equipment will you use to pump water from your source?

Pump (give horsepower and type): 30 hp turbine

Other means (describe): _____

Provide a description of the proposed means of diversion, construction, and operation of the diversion works and conveyance of water.

_____ There will be 4500' of buried 8" pvc mainline that will deliver water to hydrants for the linear system.

B. Application Method

What equipment and method of application will be used? (e.g., drip, wheel line, high-pressure sprinkler)

_____ Linear irrigation system - low pressure. _____ 195 acres

_____ Hard hose traveler system. High pressure _____ 76 acres

C. Conservation

Please describe why the amount of water requested is needed and measures you propose to: prevent waste; measure the amount of water diverted; prevent adverse impact to public uses of affected surface waters.

_____ To maximize crop quality and yield. The majority of water will be applied with a low pressure system. we will install a totalizing flow meter at the pump. No public uses.

SECTION 6: RESOURCE PROTECTION

In granting permission to use water from a stream or lake, the state encourages, and in some instances requires, careful control of activities that may affect the waterway or streamside area. See instruction guide for a list of possible permit requirements from other agencies. Please indicate any of the practices you plan to undertake to protect water resources.

Diversion will be screened to prevent uptake of fish and other aquatic life.
Describe planned actions: Intake Screen

Excavation or clearing of banks will be kept to a minimum to protect riparian or streamside areas.
Describe planned actions: _____

Operating equipment in a water body will be managed and timed to prevent damage to aquatic life.
Describe: _____

Water quality will be protected by preventing erosion and run-off of waste or chemical products.
Describe: _____ we will be monitoring our soil moisture levels and irrigating appropriately.
we will be utilizing a low pressure system for the majority of our acres.

SECTION 7: PROJECT SCHEDULE

Date construction will begin: 10-1-2010

Date construction will be completed: 4-1-2011

Date beneficial water use will begin: 4-15-2011

SECTION 8: REMARKS

Use this space to clarify any information you have provided in the application (*attach additional sheets if necessary*).

115 18 11



Oregon Water Resources Department Land Use Information Form

THIS FORM IS NOT REQUIRED IF: 1) water is to be diverted, conveyed, and/or used only on federal lands; or 2) the application is for a water-right transfer, allocation of conserved water, exchange, permit amendment, or ground water registration modification, and all of the following apply: a) only the place of use is proposed for change, b) there are no structural changes, c) the use of water is for irrigation, and d) the use is located in an irrigation district or exclusive farm-use zone.

Applicant Name: Garth and Susan Mulkey
Mailing Address: 13535 DeArmond Road
City: Monmouth State: OR Zip: 97361 Day Phone: 503 932 4979

A. Land and Location

Please include the following information for all tax lots where water will be diverted (taken from its source), conveyed (transported), or used. Applicants for municipal use, or irrigation uses within irrigation districts may substitute existing and proposed service-area boundaries for the tax-lot information requested below.

Township	Range	Section	¼ ¼	Tax Lot #	Plan Designation (e.g. Rural Residential/RR-5)	Water to be:	Proposed Land Use:
<u>10S</u>	<u>5W</u>	<u>2</u>		<u>200</u>		<input checked="" type="checkbox"/> Diverted <input checked="" type="checkbox"/> Conveyed <input checked="" type="checkbox"/> Used	
<u>10S</u>	<u>5W</u>	<u>2</u>		<u>301</u>		<input checked="" type="checkbox"/> Diverted <input checked="" type="checkbox"/> Conveyed <input checked="" type="checkbox"/> Used	
						<input type="checkbox"/> Diverted <input type="checkbox"/> Conveyed <input type="checkbox"/> Used	
						<input type="checkbox"/> Diverted <input type="checkbox"/> Conveyed <input type="checkbox"/> Used	

List all counties and cities where water is proposed to be diverted, conveyed, or used. Polk County

B. Description of Proposed Use

Type of application to be filed with the Water Resources Department:

- Permit to Use or Store Water Water-Right Transfer Exchange of Water
 Allocation of Conserved Water Limited Water Use License
 Permit Amendment or Ground Water Registration Modification

Source of water: Reservoir/Pond Ground Water Surface Water (name) Berry Creek

Estimated quantity of water needed: _____ cubic feet per second gallons per minute acre-feet

Intended use of water: Irrigation Commercial Industrial Domestic for _____ household(s)
 Municipal Quasi-municipal Instream Other fish + wildlife

Briefly describe: The water will be used for irrigation of our crops and the reservoir will provide habitat for fish and wildlife.

Note to applicant: If the Land Use Information Form cannot be completed while you wait, please have a local government representative sign the receipt below and include it with the application filed with the Water Resources Department.

Receipt for Request for Land Use Information

State of Oregon Water
Resources Department
725 Summer Street NE, Suite A
Salem, OR 97301-1266

RECEIVED

DEC 06 2010

WATER RESOURCES DEPT
SALEM, OREGON

R-8759D

For Local Government Use Only

The following section must be completed by a planning official from each county and city listed unless the project will be located entirely within the city limits. In that case, only the city planning agency must complete this form. This deals only with the local land-use plan. Do not include approval for activities such as building or grading permits.

Please check the appropriate box below and provide the requested information

Land uses to be served by proposed water uses (including proposed construction) are allowed outright or are not regulated by your comprehensive plan. Cite applicable ordinance section(s): _____.

Land uses to be served by proposed water uses (including proposed construction) involve discretionary land-use approvals as listed in the table below. (Please attach documentation of applicable land-use approvals which have already been obtained. Record of Action/land-use decision and accompanying findings are sufficient.)

If approvals have been obtained but all appeal periods have not ended, check "Being pursued".

Type of Land-Use Approval Needed (e.g. plan amendments, rezones, conditional-use permits, etc.)	Cite Most Significant, Applicable Plan Policies & Ordinance Section References	Land-Use Approval:	
Wetland Management Plan*	PC20 152.040(E), 152.070(I)	<input type="checkbox"/> Obtained <input type="checkbox"/> Denied	<input type="checkbox"/> Being pursued <input checked="" type="checkbox"/> Not being pursued
		<input type="checkbox"/> Obtained <input type="checkbox"/> Denied	<input type="checkbox"/> Being pursued <input type="checkbox"/> Not being pursued
		<input type="checkbox"/> Obtained <input type="checkbox"/> Denied	<input type="checkbox"/> Being pursued <input type="checkbox"/> Not being pursued
		<input type="checkbox"/> Obtained <input type="checkbox"/> Denied	<input type="checkbox"/> Being pursued <input type="checkbox"/> Not being pursued
		<input type="checkbox"/> Obtained <input type="checkbox"/> Denied	<input type="checkbox"/> Being pursued <input type="checkbox"/> Not being pursued

Local governments are invited to express special land-use concerns or make recommendations to the Water Resources Department regarding this proposed use of water below, or on a separate sheet.

"Farm Use" is outright permitted use in EFCU Zone: PC20 136.020(A)
Exempt from Floodplain Overlay Zone Requirements per PC20 178.030(C)

* If proposal includes vegetation removal within the riparian setback area a Management Plan would be required by Polk County Comm. Development.

Name: Jason McNeil Title: Planner
Signature: [Signature] Phone: 503-623-9237 Date: 11/12/10
Government Entity: _____

Note to local government representative: Please complete this form or sign the receipt below and return it to the applicant. If you sign the receipt, you will have 30 days from the Water Resources Department's notice date to return the completed Land Use Information Form or WRD may presume the land use associated with the proposed use of water is compatible with local comprehensive plans.

Receipt for Request for Land Use Information

RECEIVED

Applicant name: Garth + Susan Mulbey DEC 9 6 2010

City or County: Polk County Staff contact: Jason McNeil

Signature: _____ Phone: _____ Date: 12.12.10

WATER RESOURCES DEPT
SALEM, OREGON

PERSONS BY THESE PRESENTS, that **GILAN MULKEY**, hereinafter called the grantor, for the consideration hereinafter stated, to grantor paid by **GARTH MULKEY and SUSAN MULKEY, Husband and Wife**, as joint tenants with right of survivorship, hereinafter called the grantee, does hereby grant, bargain, sell and convey unto the grantee and grantee's heirs, successors and assigns, that certain real property, with the tenements, hereditaments and appurtenances thereunto belonging or in any way appertaining, situated in Polk County, State of Oregon, as described below:

TRACT 1: Beginning at an iron pipe 2 inches in diameter in the center of the County Road 26.91 chains North and 2.96 chains East of the Southwest corner of Section 35 in Township 9 South, Range 5 West of the Willamette Meridian, Polk County, Oregon; thence West 10.5 chains; thence South 52.43 chains, more or less, to the South boundary line of the land formerly owned by Emerson Brothers as described in Book 9, at Page 20, Polk County Survey Records; thence South 83°15' East along said Emerson Brothers line 10.573 chains; thence North 53.68 chains, more or less, to the place of beginning, situated in Townships 9 and 10, South, Range 5 West of the Willamette Meridian, Polk County, Oregon.

TRACT 2: Beginning at the Southwest corner of the Northwest quarter (NW 1/4) of Section 2 in Township 10 South, Range 5 West of the Willamette Meridian, in Polk County, Oregon; thence North on the Section line, 13 chains, more or less, to the South line of land deeded to Emerson Bros. As disclosed in Tract 1 above; thence South 83°15' East 2.96 chains to the Southeast corner of the said Emerson Tract; thence North 53.68 chains, more or less, to the center line of the County Road; thence East 29.22 chains; thence South 66.91 chains, more or less, to the South line of said Northwest quarter (NW 1/4) of said Section 2; thence West 32.18 chains to the place of beginning.

SAVE AND EXCEPT that portion of the above described tracts lying within the boundaries of public roads and highways.

SAVE AND EXCEPT all timber rights to any standing timber as of January 1, 2000, present on the above described tracts.

EXCEPT easement, including the terms and provisions thereof, conveyed to Mountain States Power Company, by that certain instrument recorded January 7, 1948 in Volume 132, Page 184, Deed Records for Polk County, Oregon.

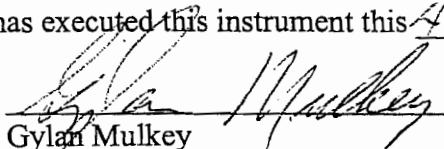
EXCEPT a mortgage against the above described tracts in the approximate amount of ONE-HUNDRED TWENTY-ONE THOUSAND ONE-HUNDRED SIXTY AND 70/100 DOLLARS (\$121,160.70) held by the Federal Land Bank.

TOGETHER WITH all water rights on the above premises for domestic water use through the existing community water system with Ralph Kester and others.

TO HAVE AND TO HOLD the same unto the grantee and grantee's heirs, successors and assigns forever. The Grantor hereby covenants to and with Grantee and Grantee's heirs, successors and assigns, that Grantor is lawfully seized in fee simple of the above granted premises, free from all encumbrances except as set forth above and that Grantor will warrant and forever defend the premises and every part and parcel thereof against the lawful claims and demands of all person whomsoever, except those claiming under the above described encumbrances. THE TRUE AND ACTUAL CONSIDERATION paid for this transaction, stated in terms of dollars is TWO-HUNDRED EIGHTY THOUSAND DOLLARS (\$280,000), which is the WHOLE of the consideration.

IN CONSTRUING this deed, where the context so requires, the singular includes the plural and all grammatical changes shall be made so that this deed shall apply equally to corporations or individuals.

IN WITNESS WHEREOF, the Grantor has executed this instrument this 4 day of January, 2000;


Gylan Mulkey

RECEIVED
MAR 12 2010
WATER RESOURCES DEPT
SALEM, OREGON

STATE OF OREGON,)
) ss:
County of Benton)

On this _____ day of January, 2000, the foregoing instrument was acknowledged before me by Gylan Mulkey, an individual.

26.00
00001201200000149001
200000149
11:29:18 AM 01/06/2000
1 KELLERL
RECORDING WD 1
E 1A 1A 1A 1A

LINDA DAWSON, COUNTY CLERK

STATE OF OREGON

COUNTY OF POLK

PERMIT TO CONSTRUCT A RESERVOIR AND STORE THE PUBLIC WATERS

THIS PERMIT IS HEREBY ISSUED TO

GARTH AND SUSAN MULKEY
13535 DE ARMOND RD
MONMOUTH, OR 97361

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

APPLICATION FILE NUMBER: R-87590

SOURCE OF WATER: RUNOFF, A TRIBUTARY OF BERRY CREEK, AND BERRY CREEK, A TRIBUTARY OF SOAP CREEK

STORAGE FACILITY: VALLEY VIEW RESERVOIR

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

MAXIMUM VOLUME: 103.0 ACRE FEET EACH YEAR

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

DATE OF PRIORITY: MARCH 12, 2010

The area submerged by the reservoir, when full, will be 11.27 acres and the maximum depth of water will be 19.0 feet. The maximum height of the dam shall not exceed 22.0 feet.

DAM LOCATION: SE $\frac{1}{4}$ SW $\frac{1}{4}$, SECTION 35, T9S, R5W, W.M.; 900 FEET NORTH AND 1325 FEET EAST FROM SW CORNER, SECTION 35

POINT OF DIVERSION LOCATION, BERRY CREEK: NE $\frac{1}{4}$ SW $\frac{1}{4}$, SECTION 2, T10S, R5W, W.M.; 70 FEET SOUTH AND 800 FEET WEST FROM CENTER SECTION 2

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

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 $\frac{1}{4}$

SECTION 35

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

Measurement, recording and reporting conditions:

- 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 must be installed in the reservoir. The staff gage shall be United States Geological Survey style porcelain enamel iron staff gage style A, C, E or I.
- B. Before water use may begin under this permit, the permittee shall install a totalizing flow meter at the point of diversion from Berry Creek. The permittee shall maintain the meter and all other required devices in good working order.
- C. 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.
- D. 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.
- E. The Director may provide an opportunity for the permittee to submit alternative measuring and reporting procedures for review and approval.

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.

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.

The permittee shall not release stored water from the reservoir July 1 through October 31, unless determined necessary by the Water Resources Department to satisfy prior downstream rights.

DAM CONDITIONS

All construction shall be performed under the supervision of a registered professional engineer licensed in Oregon.

No embankment fill shall be placed until preparation of the foundation and the excavation of the core trench has been completed and examined in entirety by the engineer of record, or by the Water Resources Dam Safety Engineer, or both.

The constructed works shall conform to the approved plans and specifications on file with the Water Resources Dam Safety program. The engineer of record shall notify the Water Resources Dam Safety program before making any significant change to the approved design prior to or during construction.

No water shall be stored until the Water Resources Department receives written certification from the engineer of record that construction has been completed in accordance with the approved plans and specifications. If final construction deviates from the approved design a set reproducible as constructed drawings, including a revised reservoir capacity graph or table, must accompany the engineer's letter of completion.

Routine maintenance or repair of the dam, its spillway and all appurtenant structures shall be performed to include, but not limited to, the removal of woody vegetation or debris, prompt restoration of areas of erosion or to replace defective equipment necessary for the continued safe operation of the project works.

Except for routine repair and maintenance, design plans and specifications must be prepared by an Oregon licensed professional engineer and approved by the Water Resources Dam Safety program prior to any enlargement, modification, or alteration of the dam, its spillway or any appurtenant structure.

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 decrease 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.

~~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 February 14, 2011

E. Timothy Wall

for Phillip C. Ward, Director
Water Resources Department