

**Oregon Water Resources Department
Water Rights Services Division**

Water Rights Application
Number S-87388

Prior to the issuance of a permit, the Department must receive permit recording fees in the amount of \$341.00. Please include your application number on your check made out to the Oregon Water Resources Department.

Proposed Final Order

Summary of Recommendation: The Department recommends that the attached draft permit be issued with conditions.

Application History

On January 30, 2009, R. J. and Susan Claus submitted an application to the Department for the following water use permit:

- Amount of Water: 135.34 ACRE FEET (AF)
- Use of Water: IRRIGATION OF 261.5 ACRES AND SUPPLEMENTAL IRRIGATION OF 6.5 ACRES
- Source of Water: RESERVOIRS 1, 2, 3, 18, 23, 24, 64, 65, 66, 67, 68, 69, 70, 71, 72, 73, 74, 75, 76, 77, 78, 79, 80, 81, 82, AND 83, TRIBUTARIES TO SNIPTION CANYON; RESERVOIRS 8, 9, 10, 12, 13, 15, 16, AND 17, TRIBUTARIES TO CRAZY FORK; RESERVOIRS 25, 27, 28, 29, 32 AND 33, TRIBUTARIES TO WILLOW CANYON AND RESERVOIRS 36, 37, 38, 39, 40, 41, 42, 43, 44, 52, 53 AND 54, TRIBUTARIES TO BUCK HOLLOW
- Area of Proposed Use: GILLIAM COUNTY WITHIN SECTIONS 13, 25, 26, 27, 34, 35, 36, TOWNSHIP 4 SOUTH, RANGE 20 EAST, W.M., AND SECTIONS 18, 19, 30, TOWNSHIP 4 SOUTH, RANGE 21 EAST, W.M., AND SECTION 2, TOWNSHIP 5 SOUTH, RANGE 20 EAST, W.M.

On December 18, 2009, the Department mailed the applicant notice of its Initial Review, determining that "*The use of 135.34 AF from reservoirs 1 and 2, tributary to Prior Canyon; reservoir 3, tributary to an unnamed canyon SW of Prior Canyon; reservoirs 8, 9, 10, 12, 13, 15, 16, and 17, tributary to Crazy Fork Canyon; reservoir 18, tributary to Sunshine Canyon; reservoir 23, tributary to Sandy Canyon; reservoirs 24, 25, 27, 28, 29, 32 and 33, tributary to Willow Canyon; reservoirs 36, 37, 38, 39, 40, 41, 42, 43, and 44, tributary to Buck Hollow; reservoirs 52, 53 and 54, tributary to Squaw Canyon; reservoirs 64, 65, 66, 67, 68, 69, 70, 71, 72, 73, 74, 75, 76, 77, 78, 79, 80, 81 and 82, tributary to Sniption*

Canyon, for irrigation of 261.5 acres and supplemental irrigation of 6.5 acres is allowable during the full period requested, March 1 through October 31, contingent upon approval of Application R-87387. The use of 1.28 AF from reservoir 83 (constructed under Permit R-13956), tributary to Sniption Canyon, for irrigation is allowable, contingent upon approval of Application R-87387, which seeks additional storage for irrigation." The applicant did not notify the Department to stop processing the application within 14 days of that date.

On December 22, 2009, the Department gave public notice of the application in its weekly notice. The public notice included a request for comments, and information for interested persons about obtaining future notices and a copy of the Proposed Final Order.

Within 30 days of the Department's public notice, written comments were received from Water Watch and Native Fish Society. A comment evaluation was completed, and the comments provided were considered by the Department.

On May 19, 2011, the applicant provided the Department with amended maps, and clarification of the volume of water to be diverted.

In reviewing applications, the Department may consider any relevant sources of information, including the following:

- recommendations by other state agencies
- any applicable basin program
- any applicable comprehensive plan or zoning ordinance
- the amount of water available
- the rate and duty for the proposed use
- pending senior applications and existing water rights of record
- the Scenic Waterway requirements of ORS 390.835
- applicable statutes, administrative rules, and case law
- any comments received

Findings of Fact

The John Day Basin Program allows irrigation.

Senior water rights exist on reservoirs 1, 2, 3, 18, 23, 24, 64, 65, 66, 67, 68, 69, 70, 71, 72, 73, 74, 75, 76, 77, 78, 79, 80, 81, 82, and 83, tributaries to Sniption Canyon; 8, 9, 10, 12, 13, 15, 16, and 17, tributaries to Crazy Fork; 25, 27, 28, 29, 32 and 33, tributaries to Willow Canyon, and 36, 37, 38, 39, 40, 41, 42, 43, 44, 52, 53 and 54, tributaries to Buck Hollow, or on downstream waters.

Reservoirs 1, 2, 3, 18, 23, 24, 64, 65, 66, 67, 68, 69, 70, 71, 72, 73, 74, 75, 76, 77, 78, 79, 80, 81, 82, and 83, tributaries to Sniption Canyon; 8, 9, 10, 12, 13, 15, 16, and 17, tributaries to Crazy Fork; 25, 27, 28, 29, 32 and 33, tributaries to Willow Canyon and 36, 37, 38, 39, 40, 41, 42, 43, 44, 52, 53 and 54, tributaries to Buck Hollow are above

the John Day River State Scenic Waterway.

Stored water is available for further appropriation from water legally stored under Application R-87387, subject to approval of Application R-87387.

The Department finds that no more than 131.1 AF would be necessary for the proposed use. The amount of water allowed shall be restricted to 131.1 AF.

In accordance with OAR 690-033-0330, an interagency team reviewed this proposed use for potential adverse impacts on sensitive, threatened and endangered fish populations. This team consisted of representatives from the Oregon Departments of Water Resources (WRD), Environmental Quality (DEQ), Fish and Wildlife (ODFW), and Agriculture. WRD and ODFW representatives included both technical and field staff. The interagency team recommended that additional limitations or conditions of use be imposed on this application as follows:

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 appropriation. 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 an annual report which includes the recorded water use measurements to the Department by December 1 of each year. 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 or measuring device; provided however, where the meter or measuring device 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.

The use may be restricted if the quality of the source stream or downstream waters decreases to the point that those waters no longer meet state or federal water quality standards due to reduced flows.

Conclusions of Law

Under the provisions of ORS 537.153, the Department must presume that a proposed use will not impair or be detrimental to the public interest if

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), if water is available, if the proposed use will not injure other water rights and if the proposed use complies with rules of the Water Resources Commission.

The proposed use requested in this application is allowed in the John Day Basin Program, or a preference for this use is granted under the provisions of ORS 536.310(12).

Water is available for the proposed use.

The proposed use will not injure other water rights.

The proposed use complies with other rules of the Water Resources Commission not otherwise described above.

The application is in compliance with the State Agency Coordination Program regarding land use.

For these reasons, the required presumption has been established.

Once the required presumption has been established, under the provisions of ORS 537.153(2) it may be overcome by a preponderance of evidence that either:

- (a) One or more of the criteria for establishing the presumption are not satisfied; or
- (b) The proposed use will impair or be detrimental to the public interest as demonstrated in comments, in a protest . . . or in a finding of the department that shows:
 - (A) The specific public interest under ORS 537.170(8) that would be impaired or detrimentally affected; and
 - (B) Specifically how the identified public interest would be impaired or detrimentally affected.

In this application, all criteria for establishing the presumption have been satisfied, as noted above. The presumption has not been overcome by a preponderance of evidence that the proposed use will impair or be detrimental to the public interest.

The Department therefore concludes that the proposed use will not impair or be detrimental to the public interest as provided in ORS 537.170.

When issuing permits, ORS 537.211(1) authorizes the Department to include limitations and conditions which have been determined necessary to protect the public interest. The attached draft permit is conditioned

accordingly.

Recommendation

The Department recommends that the attached draft permit be issued with conditions, contingent upon the approval of Applications G-17171 and R-87387.

E. Timothy Wall. DATED July 19, 2011

*If you have any questions,
please check the information
box on the last page for the
appropriate names and
phone numbers.*

for Phillip C. Ward, Director
Water Resources Department

Protests

Under the provisions of ORS 537.153(7) (for surface water) or ORS 537.621(8) (for ground water), you can protest this Proposed Final Order. Protests must be received in the Water Resources Department no later than **September 2, 2011**. Protests must be in writing, and must 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 this 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(2)(b) 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 public interest in ORS 537.170(8) that would be impaired or detrimentally affected, and specifically how the identified public interest in ORS 537.170(8) would be impaired or be detrimentally affected;

- If you are the applicant, the protest fee of \$300 required by ORS 536.050; and
- If you are not the applicant, the protest fee of \$600 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. If you do not request a hearing, the Department will presume that you do not wish to contest the findings of the Proposed Final Order.
- *If you do not protest this Proposed Final Order and if no substantive changes are made in the Final Order, you will not have an opportunity for judicial review, protest or appeal of the Final Order when it is issued.*

Requests for Standing

Under the provisions of ORS 537.153(7) (for surface water) or ORS 537.621(8) (for ground water), 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 **September 2, 2011**. 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 \$150. If a hearing is scheduled, an additional fee of \$350 must be submitted along with a request

for intervention.

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.

This document was prepared by Michele McAleer. 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 503-986-0853.

If you have questions about how to file a protest or a request for standing, please refer to the respective sections in this Proposed Final Order entitled "Protests" and "Requests for Standing". 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 GILLIAM

DRAFT PERMIT TO APPROPRIATE THE PUBLIC WATERS

THIS DRAFT PERMIT IS HEREBY ISSUED TO

R. J. AND SUSAN CLAUS
22211 SW PACIFIC HWY
SHERWOOD, OR 97140

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

APPLICATION FILE NUMBER: S-87388

SOURCE OF WATER: RESERVOIRS 1, 2, 3, 18, 23, 24, 64, 65, 66, 67, 68, 69, 70, 71, 72, 73, 74, 75, 76, 77, 78, 79, 80, 81, AND 82, TRIBUTARIES TO SNIPTION CANYON; 8, 9, 10, 12, 13, 15, 16, AND 17, TRIBUTARIES TO CRAZY FORK; 25, 27, 28, 29, 32 AND 33, TRIBUTARIES TO WILLOW CANYON AND 36, 37, 38, 39, 40, 41, 42, 43, 44, 52, 53 AND 54, TRIBUTARIES TO BUCK HOLLOW

PURPOSE OR USE: IRRIGATION OF 257.8 ACRES AND SUPPLEMENTAL IRRIGATION OF 6.5 ACRES

MAXIMUM VOLUME: 131.1 ACRE FEET (AF) EACH YEAR, BEING:

0.5 AF EACH FROM RESERVOIRS 8, 9, 10, 12, 13, 15 AND 16, TRIBUTARY TO CRAZY FORK CANYON, RESERVOIRS 36, 37, 38 AND 39, TRIBUTARY TO BUCK HOLLOW, AND RESERVOIR 52, TRIBUTARY TO SQUAW CANYON;

0.8 AF EACH FROM RESERVOIR 18, TRIBUTARY TO SUNSHINE CANYON, RESERVOIRS 24, 25, 27, 28 AND 29, TRIBUTARY TO WILLOW CANYON, AND RESERVOIR 53, TRIBUTARY TO SQUAW CANYON;

3.0 AF EACH FROM RESERVOIR 32, TRIBUTARY TO WILLOW CANYON, RESERVOIR 40, TRIBUTARY TO BUCK HOLLOW, AND RESERVOIRS 66, 67, 69, 76, 77, 78, 79, 80 AND 81 TRIBUTARY TO SNIPTION CANYON;

5.0 AF EACH FROM RESERVOIR 17, TRIBUTARY TO CRAZY FORK CANYON, RESERVOIR 23, TRIBUTARY TO SANDY CANYON, RESERVOIR 33, TRIBUTARY TO WILLOW CANYON, RESERVOIRS 41, 42, 43 AND 44, TRIBUTARY TO BUCK HOLLOW, RESERVOIR 54, TRIBUTARY TO SQUAW CANYON, RESERVOIRS 68, 70, 71, 72, 73 74, 75 AND 82, TRIBUTARY TO SNIPTION CANYON;

2.0 AF EACH FROM RESERVOIR 1 AND 2, TRIBUTARY TO PRIOR CANYON, AND RESERVOIR 3, TRIBUTARY TO AN UNNAMED CANYON SW OF PRIOR CANYON;

0.25 AF EACH FROM RESERVOIRS 64 AND 65, TRIBUTARY TO SNIPTION CANYON;

PERIOD OF USE: MARCH 1 THROUGH OCTOBER 31

DATE OF PRIORITY: JANUARY 30, 2009

POINT OF DIVERSION LOCATIONS:

RESERVOIR 1 - SESE, SECTION 18, T4S, R21E, W.M.; 800 FEET NORTH AND 100 FEET WEST FROM SE CORNER, SECTION 18

RESERVOIR 2 - NESE, SECTION 18, T4S, R21E, W.M.; 1700 FEET NORTH AND 400 FEET WEST FROM SE CORNER, SECTION 18

RESERVOIR 3 - SESE, SECTION 18, T4S, R21E, W.M.; 600 FEET NORTH AND 1200 FEET WEST FROM SE CORNER, SECTION 18

RESERVOIR 8 - NESE, SECTION 13, T4S, R20E, W.M.; 100 FEET SOUTH AND 800 FEET WEST FROM E1/4 CORNER, SECTION 13

RESERVOIR 9 - NESE, SECTION 13, T4S, R20E, W.M.; 500 FEET SOUTH AND 500 FEET WEST FROM E1/4 CORNER, SECTION 13

RESERVOIR 10 - NESE, SECTION 13, T4S, R20E, W.M.; 800 FEET SOUTH AND 200 FEET WEST FROM E1/4 CORNER, SECTION 13

RESERVOIR 12 - SWSW, SECTION 18, T4S, R21E, W.M.; 2000 FEET SOUTH AND 1300 FEET EAST FROM W1/4 CORNER, SECTION 18

RESERVOIR 13 - NENW, SECTION 19, T4S, R21E, W.M.; 200 FEET SOUTH AND 1900 FEET EAST FROM NW CORNER, SECTION 19

RESERVOIR 15 - NENW, SECTION 19, T4S, R21E, W.M.; 1100 FEET SOUTH AND 2200 FEET EAST FROM NW CORNER, SECTION 19

RESERVOIR 16 - SENW, SECTION 19, T4S, R21E, W.M.; 600 FEET NORTH AND 2400 FEET EAST FROM W1/4 CORNER, SECTION 19

RESERVOIR 17 - NWSE, SECTION 19, T4S, R21E, W.M.; 700 FEET SOUTH AND 2800 FEET EAST FROM W1/4 CORNER, SECTION 19

RESERVOIR 18 - SESW, SECTION 19, T4S, R21E, W.M.; 300 FEET NORTH AND 1600 FEET EAST FROM SW CORNER, SECTION 19

RESERVOIR 23 - NESE, SECTION 25, T4S, R20E, W.M.; 2800 FEET SOUTH AND 1700 FEET EAST FROM N1/4 CORNER, SECTION 25

RESERVOIR 24 - SENE, SECTION 26, T4S, R20E, W.M.; 1500 FEET SOUTH AND 900 FEET WEST FROM NE CORNER, SECTION 26

RESERVOIR 25 - SENE, SECTION 26, T4S, R20E, W.M.; 2600 FEET SOUTH AND 1300 FEET WEST FROM NE CORNER, SECTION 26

RESERVOIR 27 - NWSE, SECTION 26, T4S, R20E, W.M.; 3200 FEET SOUTH AND 1400 FEET WEST FROM NE CORNER, SECTION 26

RESERVOIR 28 - SESE, SECTION 26, T4S, R20E, W.M.; 4000 FEET SOUTH AND 1100 FEET WEST FROM NE CORNER, SECTION 26

RESERVOIR 29 - NENE, SECTION 35, T4S, R20E, W.M.; 600 FEET SOUTH AND 700 FEET WEST FROM NE CORNER, SECTION 35

RESERVOIR 32 - SENE, SECTION 35, T4S, R20E, W.M.; 2200 FEET SOUTH AND 600 FEET WEST FROM NE CORNER, SECTION 35

RESERVOIR 33 - NESE, SECTION 35, T4S, R20E, W.M.; 3100 FEET SOUTH AND 400 FEET WEST FROM NE CORNER, SECTION 35

RESERVOIR 36 - NWNW, SECTION 26, T4S, R20E, W.M.; 200 FEET SOUTH AND 1000 FEET EAST FROM NW CORNER, SECTION 26

RESERVOIR 37 - NWNW, SECTION 26, T4S, R20E, W.M.; 1100 FEET SOUTH AND 900 FEET EAST FROM NW CORNER, SECTION 26

RESERVOIR 38 - SWNW, SECTION 26, T4S, R20E, W.M.; 2300 FEET SOUTH AND 500 FEET EAST FROM NW CORNER, SECTION 26

RESERVOIR 39 - NESE, SECTION 27, T4S, R20E, W.M.; 3700 FEET SOUTH AND 100 FEET WEST FROM NE CORNER, SECTION 27

RESERVOIR 40 - SESE, SECTION 34, T4S, R20E, W.M.; 100 FEET NORTH AND 1400 FEET EAST FROM S1/4 CORNER, SECTION 34

RESERVOIR 41 - SESE, SECTION 34, T4S, R20E, W.M.; 770 FEET NORTH AND 1400 FEET EAST FROM S1/4 CORNER, SECTION 34

RESERVOIR 42 - NESE, SECTION 34, T4S, R20E, W.M.; 1440 FEET NORTH AND 260 FEET EAST FROM SW CORNER, SESE, SECTION 34

RESERVOIR 43 - NESE, SECTION 34, T4S, R20E, W.M.; 2140 FEET NORTH AND 1630 FEET EAST FROM S1/4 CORNER, SECTION 34

RESERVOIR 44 - SENE, SECTION 34, T4S, R20E, W.M.; 2760 FEET NORTH AND 1690 FEET EAST FROM S1/4 CORNER, SECTION 34

RESERVOIR 52 - NENE, SECTION 27, T4S, R20E, W.M.; 200 FEET SOUTH AND 1200 FEET WEST FROM NE CORNER, SECTION 27

RESERVOIR 53 - SENE, SECTION 27, T4S, R20E, W.M.; 1800 FEET SOUTH AND 1300 FEET WEST FROM NE CORNER, SECTION 27

RESERVOIR 54 - SESE, SECTION 27, T4S, R20E, W.M.; 4500 FEET SOUTH AND 700 FEET WEST FROM NE CORNER, SECTION 27

RESERVOIR 64 - SWNE, SECTION 19, T4S, R21E, W.M.; 3200 FEET NORTH AND 1100 FEET EAST FROM S1/4 SECTION 19

RESERVOIR 65 - NWSE, SECTION 19, T4S, R21E, W.M.; 2300 FEET NORTH AND 500 FEET EAST FROM S1/4 SECTION 19

RESERVOIR 66 - SESW, SECTION 19, T4S, R21E, W.M.; 500 FEET NORTH AND 500 FEET WEST FROM S1/4 CORNER, SECTION 19

RESERVOIR 67 - SESW, SECTION 19, T4S, R21E, W.M.; 200 FEET NORTH AND 800 FEET WEST FROM S1/4 CORNER, SECTION 19

RESERVOIR 68 - NENW, SECTION 30, T4S, R21E, W.M.; 500 FEET SOUTH AND 1500 FEET EAST FROM NW CORNER, SECTION 30

RESERVOIR 69 - NWNW, SECTION 30, T4S, R21E, W.M.; 1100 FEET SOUTH AND 600 FEET EAST FROM NW CORNER, SECTION 30

RESERVOIR 70 - SWNW, SECTION 30, T4S, R21E, W.M.; 1800 FEET SOUTH AND 300 FEET EAST FROM NW CORNER, SECTION 30

RESERVOIR 71 - SENE, SECTION 25, T4S, R20E, W.M.; 2300 FEET SOUTH AND 100 FEET WEST FROM NE CORNER, SECTION 25

RESERVOIR 72 - NESE, SECTION 25, T4S, R20E, W.M.; 2800 FEET SOUTH AND 500 FEET WEST FROM NE CORNER, SECTION 25

RESERVOIR 73 - NESE, SECTION 25, T4S, R20E, W.M.; 3300 FEET SOUTH AND 800 FEET WEST FROM NE CORNER, SECTION 25

RESERVOIR 74 - SWSE, SECTION 25, T4S, R20E, W.M.; 5200 FEET SOUTH AND 2600 FEET WEST FROM NE CORNER, SECTION 25

RESERVOIR 75 - NENW, SECTION 36, T4S, R20E, W.M.; 4100 FEET NORTH AND 1500 FEET EAST FROM SW CORNER, SECTION 36

RESERVOIR 76 - SWNW, SECTION 36, T4S, R20E, W.M.; 3700 FEET NORTH AND 800 FEET EAST FROM SW CORNER, SECTION 36

RESERVOIR 77 - SWNW, SECTION 36, T4S, R20E, W.M.; 3000 FEET NORTH AND 600 FEET EAST FROM SW CORNER, SECTION 36

RESERVOIR 78 - NWSW, SECTION 36, T4S, R20E, W.M.; 2600 FEET NORTH AND 300 FEET EAST FROM SW CORNER, SECTION 36

RESERVOIR 79 - NESE, SECTION 35, T4S, R20E, W.M.; 1700 FEET NORTH AND 200 FEET WEST FROM SE CORNER, SECTION 35

RESERVOIR 80 - SWSE, SECTION 35, T4S, R20E, W.M.; 1000 FEET NORTH AND 1500 FEET WEST FROM SE CORNER, SECTION 35

RESERVOIR 81 - SESW, SECTION 35, T4S, R20E, W.M.; 100 FEET NORTH AND 3200 FEET WEST FROM SE CORNER, SECTION 35

RESERVOIR 82 - NWNW, SECTION 2, T5S, R20E, W.M.; 200 FEET SOUTH AND 400 FEET EAST FROM NW CORNER, SECTION 2

Place of Use:

		<u>PRIMARY</u>	<u>SUPPLEMENTAL</u>
NE SE	3.8	ACRES	
SECTION 13			
SE NE	5.7	ACRES	
SE SW	0.8	ACRE	
NE SE	7.0	ACRES	
NW SE	1.8	ACRES	
SW SE	11.1	ACRES	
SE SE	0.2	ACRE	
SECTION 25			
SW NE	1.1	ACRES	
SE NE	2.5	ACRES	
NW NW	3.1	ACRES	
SW NW	4.0	ACRES	
NW SW	3.4	ACRES	
NE SE	0.4	ACRE	
NW SE	3.4	ACRES	
SW SE	0.1	ACRE	
SE SE	3.7	ACRES	
SECTION 26			

Place of Use, continued:

	<u>PRIMARY</u>	<u>SUPPLEMENTAL</u>
NE NE	3.0 ACRES	
SE NE	3.9 ACRES	
NE SE	2.4 ACRES	
NW SE	2.4 ACRES	
SW SE	0.6 ACRE	
SE SE	6.9 ACRES	

SECTION 27

NE NE	4.1 ACRES
SE NE	4.1 ACRES
NE SE	3.9 ACRES
SW SE	0.5 ACRE
SE SE	6.2 ACRES

SECTION 34

NE NE	3.9 ACRES
SW SW	0.1 ACRE
SE SW	4.7 ACRES
NE SE	10.5 ACRES
NW SE	0.3 ACRE
SW SE	7.8 ACRES
SE SE	0.3 ACRE

SECTION 35

NW NE	0.2 ACRE
NE NW	14.1 ACRES
NW NW	2.6 ACRES
SW NW	6.7 ACRES
NW SW	2.1 ACRES

SECTION 36

TOWNSHIP 4 SOUTH, RANGE 20 EAST, W.M.

NW SW	1.5 ACRES
SW SW	3.4 ACRES
SE SW	1.7 ACRES
SE SE	2.5 ACRES

SECTION 18

Place of Use, continued:

	<u>PRIMARY</u>	<u>SUPPLEMENTAL</u>
NE NE	7.2 ACRES	
SW NE	6.0 ACRES	
SE NE	3.5 ACRES	
NE NW	3.9 ACRES	
SE NW	3.8 ACRES	
NE SW	4.8 ACRES	1.0 ACRE
SE SW	6.2 ACRES	4.2 ACRES
NW SE	5.5 ACRES	0.1 ACRE

SECTION 19

NE NW	2.7 ACRES	0.7 ACRE
NW NW	8.1 ACRES	0.5 ACRE
SW NW	5.3 ACRES	

SECTION 30**TOWNSHIP 4 SOUTH, RANGE 21 EAST, W.M.**

NE NW	1.8 ACRES
NW NW	6.1 ACRES

SECTION 2

NE NE	4.6 ACRES
NW NE	6.7 ACRES
NE NW	5.9 ACRES
SW NW	17.2 ACRES
SE NW	6.0 ACRES

SECTION 3**TOWNSHIP 5 SOUTH, RANGE 20 EAST, 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 or measuring device in good working order.
- B. The permittee shall keep a complete record of the amount of water diverted each month, and shall submit a report which includes the recorded report 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 or measuring device; provided however, where any meter or measuring device 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.

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 the source stream or downstream waters decreases to the point that those waters no longer

meet 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

Mailing List for PFO Copies

Application #S-87388

PFO Date: July 19, 2011

Original mailed to applicant:

R. J. AND SUSAN CLAUS, 22211 SW PACIFIC HWY, SHERWOOD, OR 97140

Copies sent to:

1. WRD - File # R-87387
2. Water Availability: Ken Stahr

PFO and Map Copies sent to:

3. WRD - Watermaster # 21
4. Regional Manager: NC
5. ODFW District Biologist: Jeff Neal
6. Columbia River Intertribal Fish Commission
7. USFW
8. NW Power Planning Council

Copies Mailed

By: _____
(SUPPORT STAFF)

on: _____
(DATE)

Protest/
Standing Dates
checked

Copies sent to Other Interested Persons (CWRE, Agent, Well Driller, Commenter, etc.)

9. WaterWatch of Oregon and Native Fish Society, 213 SW Ash, Suite #208, Portland, OR 97204.

"\$20 LETTER" sent to Interested Persons who have not protested or paid for copies

CASEWORKER : Michele McAleer

