

**BEFORE THE WATER RESOURCES DEPARTMENT
OF THE STATE OF OREGON**

In the Matter of Water Rights Application)
R-87860, Washington County)

**FINAL ORDER
APPROVING THE STORAGE OF
SURFACE WATER**

Authority

Oregon Revised Statutes (ORS) 537.409 establishes the process by which an application to store waters of the public may be submitted.

Findings of Fact

1. On JANUARY 22, 2013, WILLIAM SEARS submitted an application for a permit to store water pursuant to ORS 537.409:
Storage Capacity: 9.2 ACRE FEET
Dam Height: ZERO FEET
Source: RUNOFF, TRIBUTARY TO EAST FORK MCKAY CREEK
Location: WASHINGTON COUNTY IN SECTION 4, TOWNSHIP 2 NORTH, RANGE 2 WEST, W.M.
2. The required examination fees were paid and minimum application requirements were met.
3. The Department provided public notice of the application in the Department's weekly public notice on February 26, 2013. A 60-day comment period followed.
4. The Department has not received public comment related to the possible issuance of the attached draft permit.
5. The Department has determined that the proposed source has not been withdrawn from further appropriation.

APPEAL RIGHTS

Appeal to a circuit court: This is a final order in other than a contested case. Any party affected by a final order in other than a contested case issued by the Water Resources Commission or Water Resources Department may appeal the order to the appropriate circuit court (ORS 536.075). A petition for judicial review must be filed within the 60-day time period specified by ORS 183.484 (2).

Petition to the Department for Reconsideration of the Final Order: A person entitled to judicial review of this order may also file a petition for the Department's reconsideration of the order. The petition for reconsideration must be filed with the Department within 60 calendar days after the date of the order. A copy of the petition must also be delivered or mailed to all other persons and agencies requiring notification under statute or rule (OAR 137-004-0080). The petition must set forth the specific grounds for reconsideration, and may be supported by a written argument. The petition may include a request for a stay of the order if the petition complies with the requirements of OAR 137-003-0090 (2). The Department may grant or deny the petition by summary order. If the Department takes no action, the petition is deemed denied as provided by ORS 183.484 (2). A final order remains in effect during reconsideration until stayed or changed. Following reconsideration, the agency must enter a new order, which may be an order affirming the existing order (OAR 137-004-0080). Reconsideration cannot be granted after the filing of a petition for judicial review, unless permitted by the court (OAR 137-004-0080 (6)).

ORS 537.409 does not provide an opportunity to request a contested-case hearing. Appeal rights on this final order approving the application are limited to the above procedures.

6. The proposed reservoir is not prohibited under ORS 390.835.
7. Water is available for the proposed use according to the Department's water-availability model and the watermaster's assessment.
8. The Department finds that existing water rights would not be injured by the proposed use.
9. The Department relies on the Oregon Department of Fish and Wildlife's review and recommendations in determining whether a proposed use would pose a significant detrimental impact to existing fishery resources. The Department has determined that, as conditioned, the proposed use will not pose a significant detrimental impact to existing fishery resources.

Conclusions of Law

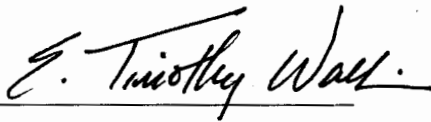
1. Water is available for the proposed use.
2. The proposed use will not injure existing water rights.
3. The proposed use will not pose a significant detrimental impact to existing fishery resources.
4. Application R-87860 is consistent with the requirements of ORS 537.409.

Now Therefore, it is Ordered:

Application R-87860 is approved. Upon payment of the permit recording fee of \$450, a permit shall be issued authorizing the proposed water use. Failure to meet this requirement 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 at Salem, Oregon on MARCH 13 2014.



E. Timothy Wallin, Water Rights Program Manager
for Phillip C. Ward, Director

This order was produced by Kim French-Gorski. If you have any questions about any of the statements contained in this document, I am probably the best person to answer your questions. You may reach me at 503-986-0816 or Kim.R.French-Gorski@ wrd.state.or.us.

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, Suite A, Salem OR 97301-1266, Fax: 503-986-0901.

STATE OF OREGON
COUNTY OF WASHINGTON
DRAFT PERMIT TO STORE PUBLIC WATERS

THIS DRAFT PERMIT IS HEREBY ISSUED TO:

WILLIAM SEARS
71190 NEER CITY RD
RAINIER OR 97048

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

APPLICATION FILE NUMBER: R-87860

SOURCE OF WATER: RUNOFF, TRIBUTARY TO EAST FORK MCKAY CREEK

STORAGE FACILITY: SEARS RUSSELL RESERVOIR

MAXIMUM VOLUME: 9.2 ACRE FEET

DATE OF PRIORITY: JANUARY 22, 2013

WATER MAY BE APPROPRIATED AS FOLLOWS: DECEMBER 1 THROUGH APRIL 30

USE: MULTIPLE PURPOSE

Dam Location/Authorized Point of Diversion:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
2 N	2 W	WM	4	NE NE	625 FEET SOUTH AND 600 FEET WEST FROM NE CORNER, SECTION 4

The Area To Be Submerged:

Twp	Rng	Mer	Sec	Q-Q
2 N	2 W	WM	4	NE NE

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.
- B. The permittee shall maintain all 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 Director may require the permittee to keep and maintain a record of the amount (volume) of water used and may require the permittee to report water use on a periodic schedule as established by the Director. In addition, the Director may require the permittee to report general water use information, the periods of water use and 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.