

Oregon Water Resources Department Water Right Services Division

Water Right Application R-87890 in the)
name of LOW LIVING TRUST)
)

FINAL ORDER

Summary: Order approving Application R-87890, and 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 Willamette Basin Program OAR 690-502. These statutes and rules can be viewed on the Oregon Water Resources website:

<http://www.oregon.gov/owrd/pages/law/index.aspx>

The Department's main page is <http://www.oregon.gov/OWRD/pages/index.aspx>

This Final Order is issued pursuant to ORS 537.170(6) to (9) and OAR 690-310-0170 to 0190

FINDINGS OF FACT

The findings of fact in the Proposed Final Order issued January 9, 2018 are incorporated herein.

1. On April 18, 2013, Low Living Trust submitted an application to the Department for a water use permit.
2. The Department issued a Proposed Final Order on January 9, 2018.
3. The protest period closed Friday, February 23, 2018, and no protest was filed.

CONCLUSIONS OF LAW

The conclusions of law in the Proposed Final Order issued January 9, 2018 are incorporated herein.

Appeal Rights

This is a Final Order in other than contested case. This order is subject to judicial review under ORS 536.075 and 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 OAR 137-004-0080 you may 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.

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

ORDER

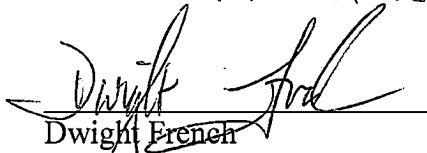
Application R-87890 is approved.

Upon payment of outstanding permit recording fees, a Permit shall be issued as provided on the attached draft permit.

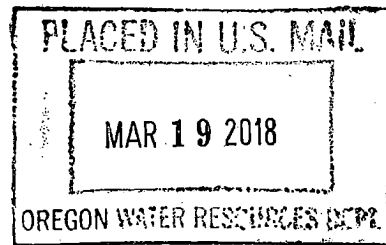
Permit recording fees are required in the amount of \$320.00 and are due no later than 60 days from the date of this Final Order. Failure to pay the required permit recording fees within 60 days from the date of this Final Order may result in the proposed rejection of Application R-87890.

If you need to request additional time to submit the fees, the written request should be received in the Salem Office of the Department by the deadline above. The Department will evaluate the request and determine whether or not the request may be granted.

DATED March 16, 2018



Dwight French
Water Right Services Division Administrator, for
Thomas M. Byler, Director
Oregon Water Resources Department



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- If you have any questions about statements contained in this document, please contact Scott Grew at 503-986-0899.
 - If you have other questions about the Department or any of its programs, please contact our Water Resources Customer Service Group at (503) 986-0900
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STATE OF OREGON

COUNTY OF CLACKAMAS

DRAFT PERMIT TO APPROPRIATE THE PUBLIC WATERS

THIS DRAFT PERMIT IS HEREBY ISSUED TO

LOW LIVING TRUST
 20006 S UNGER RD
 BEAVERCREEK OR 97004

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

APPLICATION FILE NUMBER: R-87890

SOURCE OF WATER: RANDALL CREEK, TRIBUTARY TO NATE CREEK

STORAGE FACILITIES: BIG TREE RESERVOIR, LITTLE TREE RESERVOIR AND SHAUNA POND

PURPOSE OR USE OF THE STORED WATER: RECREATION

MAXIMUM VOLUME: 46.24 ACRE FEET (AF) EACH YEAR, BEING 31.5 AF IN BIG TREE RESERVOIR, 9.24 AF IN LITTLE TREE RESERVOIR, AND 5.5 AF IN SHAUNA POND

WATER MAY BE APPROPRIATED FOR STORAGE DURING THE PERIOD: NOVEMBER 1 THROUGH MAY 31 OF EACH YEAR

DATE OF PRIORITY: APRIL 18, 2013

DAM LOCATIONS:

POD Name	Twp	Rng	Mer	Sec	Q-Q	Measured Distances	Dam Height	Area Acres
BIG TREE RESERVOIR	4 S	3 E	WM	20	NE SE	559 FEET SOUTH AND 355 FEET WEST FROM E1/4 CORNER, SECTION 20	9.6	5.25
LITTLE TREE RESERVOIR	4 S	3 E	WM	20	SE NE	311 FEET NORTH AND 158 FEET WEST FROM E1/4 CORNER, SECTION 20	4	2.31
SHAUNA POND	4 S	3 E	WM	16	NW SW	1123 FEET SOUTH AND 648 FEET EAST FROM W1/4 CORNER, SECTION 16	8	1.1

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

Twp	Rng	Mer	Sec	Q-Q
4 S	3 E	WM	16	NW SW
4 S	3 E	WM	20	SE NE
4 S	3 E	WM	20	NE SE
4 S	3 E	WM	21	SW NW

Measurement Devices and Recording/Reporting of Annual Water Storage 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 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.

If the volume of the completed reservoir is 9.2 acre feet or more and a dam is used to impound the water, the height of the dam shall be less than 10.0 feet.

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.

A fishway to ensure adequate upstream and downstream passage for fish is required for any in-channel obstruction, unless the permittee has requested and been granted a fish passage waiver by the Oregon Fish and Wildlife Commission.

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

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 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.

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.

The permitted volume of water shall be stored within ten 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

Dwight French
Water Right Services Division Administrator, for
Thomas M. Byler, Director
Oregon Water Resources Department