

**Oregon Water Resources Department
Water Right Services Division**

Water Right Application R-71296 in the)	FINAL ORDER INCORPORATING
name of GI RANCH CORP.)	SETTLEMENT AGREEMENT
)	

Summary: Order approving Application R-71296 and issuing a 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 Deschutes Basin Program OAR 690-505. 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 April 27, 1999 are incorporated herein with the following additions:

1. The Department issued a Proposed Final Order on April 27, 1999, recommending the application be approved.
2. On May 3, 1999, a timely protest was filed by the applicant.
3. On September 6, 2001, a Settlement Agreement was signed by all parties. The terms of the Settlement Agreement, including the draft permit, have been incorporated into this Final Order and a copy of the Settlement Agreement is included.
4. The proposed use would not impair or be detrimental to the public interest. The Protestant and the Department have agreed to permit conditions set forth in the draft permit.

CONCLUSIONS OF LAW

1. The conclusions of law in the Proposed Final Order issued April 27, 1999 are incorporated herein.

Hearing and Appeal Rights

The applicant, by the terms of the Settlement Agreement, waives the right to reconsideration and appeal of this final order and the settlement agreement.

ORS 536.075 allows any party affected by a final order in other than contested case to appeal the order in the circuit court of the county in which all or part of the property affected by the order is situated. This is a final order in other than contested case and 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 Oregon Administrative Rule (OAR) 137-004-0080 you may also 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.

NOTE: 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. The draft permit is conditioned accordingly.

ORDER

Application R-71296 is therefore approved with modifications. A permit consistent with the attached draft permit shall be issued upon approval of dam engineering plans and specifications.

The required dam engineering plans and specifications (as-builts) are due no later than 1 year from the date of this Final Order. Failure to submit the dam engineering plans and specification within 1 year from the date of this Final Order may result in the proposed rejection of Application R-71296.

If you need to request additional time to submit the required documentation, 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 September 12th, 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 Kim French at Kim.R.French@oregon.gov or 503-986-0816.
 - 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 CROOK

DRAFT PERMIT TO APPROPRIATE THE PUBLIC WATERS

THIS DRAFT PERMIT IS HEREBY ISSUED TO

GI RANCH CORP.
15 SW COLORADO AVE SUITE A
BEND OR 97702

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

APPLICATION FILE NUMBER: R-71296

SOURCE OF WATER: LONG HOLLOW CREEK, TRIBUTARY TO TWELVE MILE CREEK

STORAGE FACILITY: FREEZEOUT RESERVOIR

PURPOSE OR USE OF THE STORED WATER: LIVESTOCK USE

MAXIMUM VOLUME: 80.0 ACRE-FEET EACH YEAR

PERMIT OF ALLOWED USE: WATER MAY BE APPROPRIATED FOR STORAGE DURING THE PERIOD FEBRUARY 1 THROUGH APRIL 30 OF EACH YEAR

DATE OF PRIORITY: FEBRUARY 27, 1991

The area submerged by the reservoir, when full, will be 18.0 acres and the maximum depth of water will be 23.0 feet. The maximum height of the dam shall not exceed 23.75 feet.

DAM LOCATION:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
20 S	24 E	WM	5	NE SW	740 FEET SOUTH AND 1540 FEET EAST FROM W ¼ CORNER, SECTION 5

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

Twp	Rng	Mer	Sec	Q-Q
20 S	24 E	WM	5	NE SW
20 S	24 E	WM	5	NW SW
20 S	24 E	WM	5	SW SW
20 S	24 E	WM	5	SE SW

Measurement, recording and reporting conditions:

- A. Before water use may begin under this permit, the permittee shall install a meter or other suitable measuring device as approved by the Director. The permittee shall maintain the meter or measuring device in good working order.

- B. 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.
- C. 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. The Director may provide an opportunity for the permittee to submit alternative reporting procedures for review and approval.

If fish are present in the reservoir, the permittee shall install, maintain, and operate fish screening to prevent fish from entering the proposed diversion. The permittee shall also install a fishway at the obstruction that will provide adequate upstream and downstream passage for fish. The permittee may submit evidence that Oregon Department of Fish and Wildlife (ODFW) has determined screens and/or fishways are not necessary. The required screens and fishways are to be in place, functional, and approved by ODFW before diversion of any water.

Water shall be bypassed through the reservoir year-round to maintain the riparian area downstream of the reservoir. Outside of the storage season (May 1 through January 31), outflow from the reservoir will equal the inflow of the reservoir. During the storage season (February 1 through April 30), outflow from the reservoir will be limited to 0.5 cfs when inflows are below 1 cfs, and at least 1 cfs when inflow equals or exceeds 2 cfs.

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.

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 state or federal water quality standards due to reduced flows.

The dam shall be constructed, operated, and maintained according to the plans and specifications approved *****, on file with the Water Resources Department.

The storage of water allowed herein is subject to the installation and maintenance of an outlet pipe, or the provision of other means to evacuate water when determined necessary by the Water Resources Director to satisfy prior downstream rights.

STANDARD CONDITIONS

Use under this permit is limited to the reservoir area. This permit does not provide for the appropriation of water for maintaining the water level or maintaining a suitable fresh water condition.

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.

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.

The Director finds that the proposed use(s) of water described by this permit, as conditions, will not impair or be detrimental to the public interest.

Actual construction work shall begin within one year from issuance of the final order approving use. The reservoir shall be filled and complete application of the stored water to the use shall be made five years from the date of permit issuance. Within one year after complete application of water to the proposed use, the permittee shall submit a claim of beneficial use, which includes a map and report, prepared by a Certified Water Rights Examiner (CWRE).

Issued

DRAFT – THIS IS NOT A PERMIT

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