

Oregon Water Resources Department

Water Right Services Division

Water Right Application R-88231 in the)
name of FARMERS IRRIGATION) PROPOSED FINAL ORDER
DISTRICT)

Summary: The Department proposes to issue an order approving Application R-88231 and a permit consistent with the attached draft permit.

The submission of engineering dam plans and specifications is not required before a permit is issued, if one is issued. However, construction of the reservoir may not begin until the Department approves the engineering plans and specifications. ORS 537.248(1)
Please include the application number on any documents submitted.

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, 20, 33, 300, 310, 400, 410, and the Hood Basin Program OAR 690-504. These statutes and rules can be viewed on the Oregon Water Resources Department’s website: <http://www.oregon.gov/owrd/pages/law/index.aspx>

The Department shall presume that a proposed use will not impair or be detrimental to the public interest if:

- a) 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);
- b) Water is available;
- c) The proposed use will not injure other water rights; and
- d) The proposed use complies with the rules of the Commission. ORS 537.153(2); OAR 690-310-0110(1)

All four criteria must be met for a proposed use to be presumed to not impair or be detrimental to the public interest. When the criteria are met and the presumption is established, or if the proposed use can be modified or conditioned to meet the presumption criteria, the Department must further evaluate the proposed use, any comments received, information available in its files or received from other interested agencies and any other available information to determine whether the presumption is overcome. OAR 690-310-0120(3).

If the Department determines that the presumption is established and not overcome, the Department shall issue a proposed final order recommending issuance of the permit subject to any appropriate modifications or conditions.

FINDINGS OF FACT

Application History

1. On May 23, 2016, Farmer's Irrigation District filed a complete application for the following water use:

Source:	Gate Creek, Cabin Creek, and Rainy Creek, tributaries to Hood River
Volume:	650.0 Acre-Feet (AF)
Purpose:	Storage in Upper Green Point Reservoir, an enlargement of a reservoir, constructed under Permit R-698, for irrigation
County:	Hood River County
Location:	Sections 22 & 27, Township 2 North, Range 9 East, W.M.

2. On June 10, 2016, the Department mailed the applicant notice of its Initial Review, determining that **"The diversion of 650.0 AF of water from Gate Creek, Cabin Creek, and Rainy Creek, tributaries of Hood River, for storage in Upper Green Point Reservoir, an enlargement of Permit R-698, for irrigation is allowable November 1 through April 14 of each year."** The applicant did not notify the Department to stop processing the application within 14 days of that date.
3. On June 14, 2016, 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.
4. In this application, Upper Green Point Reservoir is also referred to as Kingsley Reservoir.

Presumption Criteria (a) Consistency with Basin Program

5. The Hood Basin Program allows storage for irrigation. ORS 537.153(2) OAR 690-310-0110(1)(a) OAR 690-504-0000

Presumption Criteria (b) Water Availability

6. An assessment of water availability at 50% exceedance for the proposed use was completed using the Department's Water Availability Reporting System (WARS). A copy of this assessment is in the application file. This review is done consistent with OAR 690-410-0070(2)(c). The assessment established that surface water is available at 50% exceedance from November 1 to through April 30 of each year. ORS 537.153(2); OAR 690-310-0110(1)(b)

Presumption Criteria (c) Injury Determination

7. The Department determined that the proposed use will not injure other water rights. ORS 537.153(2); OAR 690-310-0110(1)(c)

Presumption Criteria (d) Whether the Use Complies with Rules of the Commission

8. Documentation has been submitted from the relevant land-use planning jurisdiction that indicates an approved land-use decision has been obtained, and that either no administrative appeals were received, or all such appeals have concluded. ORS 537.153(2); OAR 690-310-0110(1)(d)

9. The proposed use is located in the Hood Basin. Therefore, this application is subject to the Division 33 Upper Columbia rules. These rules establish definitions, additional procedures, and standards to aid the Department in determining whether a proposed use will impair or be detrimental to the public interest with regard to sensitive, threatened, or endangered fish species. OAR 690-033-0115
 - A. The application is in compliance with the following standards:
 - a. The proposed use does not involve appropriation of direct streamflow during the time period of April 15 to September 30. OAR 690-033-0120(2)(a)
 - b. The proposed use complies with existing state and federal water quality standards. OAR 690-033-120(2)(d)
 - c. The proposed use, as conditioned, complies with water use measurement, recording and reporting as required by the Director. OAR 690-033-0120(2)(e)
 - B. The Oregon Department of Fish and Wildlife (ODFW) requires that the proposed use must comply with screen design, installation, operation specifications and passage requirements as listed in ORS 498.301 through 498.346 and 509.580 through 509.910.
 - C. The Oregon Department of Environmental Quality has recommended conditions and best management practices to mitigate for the impact to water quality. These conditions and recommendations are shown in the attached draft permit.
 - D. ODFW recommended limiting the season to November 1 to April 30 to mitigate the impact to habitat loss impacts.
 - E. The proposed use, as conditioned, is consistent with the Fish and Wildlife Program and would not impair or be detrimental to the public interest. OAR 690-033-0120(1)
10. As a grant recipient of the Water Projects Grants and Loans Program, this application meets the criteria listed under OAR 690-093-0130, being:
 - A. The storage period proposed for this application is November 1 through April 14, which is outside of the irrigation season of the Hood River Basin as established by the Hood River Decree; ORS 541.689(1) and OAR 690-093-0130(2)
 - B. The project impounds surface water on a perennial stream;
 - C. The project diverts water from a stream that supports state and federally listed sensitive, threatened or endangered fish species; and
 - D. The project diverts more than 500.0 AF of water annually.
11. Therefore, the project meets all the requirements of:
 - A. ORS 541.681 and OAR 690-093-0110(2), Water Dedicated Instream for Certain Above-Ground Storage Facilities, informally referred to herein as Required 25 Percent Instream Flow Protection (RIFP), which requires the recipient of a grant for the development of a new

or expanded above-ground storage facility to annually dedicate 25 percent of the newly developed water to instream use; and

B. ORS 541.689(1) and OAR 690-093-0130(2), which requires the establishment of a Seasonally Varying Flow (SVF).

12. Because the applicant meets all the standards outlined in ORS 541.689(1) and OAR 690-093-0110(2), the applicant must dedicate up to 162.5 AF of water for instream use, being 25 percent of the newly developed water stored, up to 650 AF annually. The water dedicated instream may come from any combination of newly developed water and other sources, and may be released or transferred instream at other locations in the tributaries, being Green Point Creek and Ditch Creek and their upstream tributaries. OAR 690-093-0110(3)
13. The RIFP requirements under OAR 690-093-0110(2) and (3) may be met, in part, by transferring instream 117.5 AF of water through Conserved Water Transfer Application CW-92, approved by Final Order Volume 103 Page 866 and Amended Final Order Volume 107 Page 118, which legally protects water instream at an alternate location, being North Fork Green Point Creek, a tributary of Green Point Creek. This water transferred instream may be used to satisfy the initial requirements of up to 470 AF of newly developed water stored in the reservoir under the permit issued under Application R-88231. This water shall be legally protected instream from North Fork Green Point Creek, into Green Point Creek, and to the confluence of Green Point Creek and West Fork Hood River. The Department has determined that this alternate location does not injure existing water rights.
14. The Department consulted with ODFW and determined that the alternate location described in Finding #13 would provide greater than or equal environmental benefit to releases from the reservoir. Documentation from the consultation is included in the application file. OAR 690-093-0110(2) and (3)
15. If more than 470 AF of water is stored in the reservoir, the remaining RIFP requirements under OAR 690-093-0110(2) and (3) may also be met by the release of up to 45.0 AF of water at a maximum release rate of 1.0 cubic foot per second (CFS) from the reservoir via the schedule outlined below in Table 1: Release Schedule. The Department consulted with ODFW to determine the timing of the flows to maximize instream benefits in a manner consistent with public health and safety. OAR 690-093-0110(2) and 690-093-0110(3)

Table 1: Release Schedule – 25% Instream Flow Protection

Month	Release of Stored Volume [%]	Maximum Release [AF]
July	15.0	7.0
August	42.5	19.0
September	42.5	19.0

16. The release shall be protected under a secondary water right with a priority date equal to the water source (i.e., the reservoir). OAR 690-093-0110(3)(d), OAR 690-093-0110 (4)(a)
17. In the Water Project Grants and Loans Application, the intent of the project is to provide flow augmentation from the reservoir with releases protected instream in Ditch Creek to the confluence with the Hood River Mainstem.

18. The proposed use may also meet the requirement under OAR 690-093-0110(2) and (3), in part, by the transfer of water, provided that this alternate location does not injure existing water rights and that transfers at this alternate location would provide greater or equal environmental benefit as determined by ODFW. OAR 690-093-0110(2) and 690-093-0110(3)
19. An SVF did not exist for the stream or basin from which the project will divert water; therefore, the Department established an SVF. ORS 541.689(3) and OAR 690-093-0130(3)
20. To establish the SVF, the Department consulted with ODFW and affected Indian tribes. The Confederated Tribes of the Warm Springs and the Confederated Tribes of the Umatilla Indian Reservation were identified as affected Indian tribes and were consulted in the establishment of the SVF. ORS 541.689 (3) and OAR 690-093-0130(6)
21. The Department determined the methods for developing an SVF using the SVF matrix and scientific methods described in the OAR 690-093-0130 Appendix. The scientific analysis and processes used to determine the SVF are described in the following documents and can be found in the application file:
 - A. Kingsley Reservoir Expansion Project: Final SVF Study Plan, dated 2/7/19
 - B. Kingsley Reservoir Expansion Project: SVF Technical Findings for the Green Point Creek System, Hood River Basin, dated January 2019
 - C. Kingsley Reservoir Expansion Project: SVF Balancing Report, dated 1/30/19
22. The permit shall be conditioned to protect the SVF. (OAR 690-093-0130(5))
23. The SVF permit conditions shall be based upon the SVF, which were established in the SVF Balancing Report. The SVF, as described in the report, is as follows:
 - A. The permittee shall demonstrate compliance with the SVF-related conditions to obtain a water right certificate for the storage permit. Compliance with the measurement and reporting requirements will be determined by the Department, as identified in the *Monitoring and Measurement Plan for Application R-88231*.
 - B. Streamflow and in-pipe measurements will be conducted according to standard Department protocols for measuring flow and operation of gaging stations and other measurement devices. The Department will work with the permittee to establish an appropriate measurement network. The *Monitoring and Measurement Plan for Application R-88231* shall be made part of the application file and shall be used as the basis for determining standards for streamflow monitoring and measurement. The Department may determine that equal or more appropriate measurement locations and devices may be required.
 - C. The permittee can divert water from all three points of diversion (POD), being Gate Creek, Cabin Creek, and Rainy Creek, at a combined rate of up to 14.0 CFS.
 - D. Limitations on the use of the permit issued under Application R-88231 are as follows:
 - a. If the permittee chooses to store water under Water Right Certificate 48819 from November 1 through January 1, the permit issued under Application R-88231 cannot be exercised during the storage season of November 1 through April 14.

- b. After January 1 of each year, the permittee can continue to fill Upper Green Point Reservoir under the water use permit issued under Application R-88231 until it is satisfied or switch to filling under Water Right Certificate 48819.
 - c. If the permittee chooses to switch to Water Right Certificate 48819 after January 1, the permittee can switch back to the water use permit issued under Application R-88231, once Water Right Certificate 48819 is satisfied for that season.
 - d. The permittee shall notify the Watermaster within 15 days of when the storage of water begins or resumes under any permit issued under Application R-88231.
- E. An ecological baseflow of 90.0 CFS (daily average) shall be met in Green Point Creek and shall be measured at a point to be determined by the Department between the confluence of Green Point Creek and West Fork Hood River and the confluence of North Fork Green Point Creek and Green Point Creek. If the ecological baseflow is not met, water shall not be diverted under the water use permit issued under Application R-88231.
- F. An ecological baseflow (daily average) shall be met in Gate Creek and shall be measured at a point determined by the Department between the confluence of Gate Creek and North Fork Green Point Creek upstream to the Gate Creek POD. If the ecological baseflow is not met, water shall not be diverted under the water use permit issued under Application R-88231. The ecological baseflows vary by month and are shown in Table 2: Ecological Baseflows by Month in Gate Creek.

Table 2: Ecological Baseflows by Month in Gate Creek

Ecological Baseflows by Month, Daily Average Streamflow (CFS)					
NOV	DEC	JAN	FEB	MAR	APR
4.7	4.7	4.7	4.7	13.0	18.0

- G. The permittee shall reduce their diversion rate to 3.0 CFS for storage under the permit issued under Application R-88231, when daily average streamflow is below 19.0 CFS at the Gate Creek POD during March and April of each year. This reduction will protect high-pulse flows. Streamflow for this condition shall be measured at a point determined by the Department between the confluence of Gate Creek and North Fork Green Point Creek upstream to the Gate Creek POD.
24. As conditioned with an SVF, the proposed use is presumed to protect and maintain the biological, ecological, and physical functions of the stream. OAR 690-093-0130(5)(a)

Determination of Presumption that a Proposed Surface Water Use will not Impair or be Detrimental to the Public Interest

25. Based on the review of the presumption criteria, the presumption has been established. ORS 537.153(2) and OAR 690-310-0110(1)(a)-(d)

Further Evaluation of the Proposed Use

26. No comments were received by the close of the comment period. OAR 690-310-0120(3)

27. Information available in the Department's files, received from other interested agencies, and other available information does not provide a preponderance of evidence that the proposed use, as conditioned, would impair or be detrimental to the public interest under ORS 537.153 and OAR 690-310-0120(3).

Other Criteria and Requirements

28. The proposed use is not located within or above a scenic waterway, as designated under ORS 390.826.

29. The amount requested, 650.0 AF, is necessary for the proposed use. ORS 537.153(3)(c), OAR 690-310-0150(2)(d)

CONCLUSION OF LAW

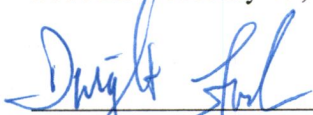
1. The proposed use, as conditioned, would not impair or be detrimental to the public interest.

NOTE: When issuing permits, ORS 537.170(6) authorizes the Department to include provisions or restrictions concerning the use, control and management of water to be appropriated for the project, including, but not limited to, a specification of reservoir operation and minimum releases to protect the public interest. The attached draft permit is conditioned accordingly.

PROPOSED ORDER

The Department recommends approval of Application R-88231 and issuance of a permit consistent with the attached draft permit.

DATED February 19, 2019



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

Protests

Under the provisions of ORS 537.153(7) (for surface water) or ORS 537.621(8) (for groundwater), you can protest this Proposed Final Order. Protests must be received in the Water Resources Department no later than **Friday, April 5, 2019**. 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 the 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(6) 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 aspect of the public welfare, safety and health under ORS 537.170(8) that would be impaired or detrimentally affected, and specifically how the identified aspect of the public welfare, safety and health under ORS 537.170 (8) would be impaired or be adversely affected;
- If you are the applicant, the protest fee of \$410 required by ORS 536.050; and
- If you are not the applicant, the protest fee of \$810 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.

Requests for Standing

Under the provisions of ORS 537.153(7) (for surface water) or ORS 537.621(8) (for groundwater), 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 **Friday, April 5, 2019**. 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 \$230. If a hearing is scheduled, an additional fee of \$580 must be submitted along with a petition for party status.

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.

You may be represented by an attorney at the hearing. Legal aid organizations may be able to assist a party with limited financial resources. Generally, partnerships, corporations, associations, governmental subdivisions or public or private organizations are represented by an attorney. However, consistent with OAR 690-002-0020 and OAR 137-003-0555, an agency representative may represent a partnership, corporation, association, governmental subdivision or public or private organization if the Department determines that appearance of a person by an authorized representative will not hinder the orderly and timely development of the record in this case.

Notice Regarding Service Members: Active duty service members have a right to stay proceedings under the federal Service Members Civil Relief Act. 50 U.S.C. App. §§501-597b. You may contact the Oregon State Bar or the Oregon Military Department for more information. The toll-free telephone number for the Oregon State Bar is: 1 (800) 452-8260. The toll-free telephone number of the Oregon Military Department is: 1 (800) 452-7500. The Internet address for the United States Armed Forces Legal Assistance Legal Services Locator website is: <http://legalassistance.law.af.mil>

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- If you have any questions about statements contained in this document, please contact Kim French at 503-986-0809 or Kim.R.French@oregon.gov.
 - If you have questions about how to file a protest or if you have previously filed a protest and you want to know the status, please contact Patricia McCarty at 503-986-0820.
 - If you have any questions about the Department or any of its programs, please contact our Water Resources Customer Service Group at 503-986-0801.
 - Address any correspondence to : Water Right Services Division
725 Summer St NE, Suite A
Fax: 503-986-0901 Salem, OR 97301-1266
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DRAFT This is not a permit. DRAFT

STATE OF OREGON

COUNTY OF HOOD RIVER

DRAFT PERMIT TO APPROPRIATE THE PUBLIC WATERS

THIS DRAFT PERMIT IS HEREBY ISSUED TO

FARMERS IRRIGATION DISTRICT
1985 COUNTRY CLUB RD
HOOD RIVER OR 97031

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

APPLICATION FILE NUMBER: R-88231

SOURCE OF WATER: GATE CREEK, CABIN CREEK, AND RAINY CREEK, TRIBUTARIES TO HOOD RIVER

STORAGE FACILITY: UPPER GREEN POINT RESERVOIR (ENLARGEMENT OF A RESERVOIR, CONSTRUCTED UNDER PERMIT R-698)

PURPOSE OR USE OF THE STORED WATER: IRRIGATION AND FLOW AUGMENTATION

MAXIMUM VOLUME: 650.0 ACRE-FEET (AF)

MAXIMUM COMBINED DIVERSION RATE FROM GATE CREEK, CABIN CREEK, AND RAINY CREEK PODS SHALL BE NO MORE THAN 14.0 CFS

WATER MAY BE APPROPRIATED FOR STORAGE DURING THE PERIOD: NOVEMBER 1 THROUGH APRIL 14

DATE OF PRIORITY: MAY 23, 2016

MAXIMUM DAM HEIGHT: 41.0 FEET

POINTS OF DIVERSION (POD):

POD Name	Twp	Rng	Mer	Sec	Q-Q	Measured Distances
GATE CREEK	2 N	9 E	WM	30	NE SW	1726 FEET NORTH AND 2493 FEET EAST FROM SW CORNER, SECTION 30
CABIN CREEK	2 N	9 E	WM	32	NW NE	66 FEET SOUTH AND 1951 FEET WEST FROM NE CORNER, SECTION 32
RAINY CREEK	2 N	9 E	WM	25	NE SE	1614 FEET NORTH AND 1070 FEET WEST FROM SE CORNER, SECTION 25

DAM LOCATION:

Name	Twp	Rng	Mer	Sec	Q-Q	Measured Distances
UPPER GREEN POINT RESERVOIR	2 N	9 E	WM	22	NW SE	NORTH 32 DEGREES 47 MINUTES 1 SECOND WEST, 2746 FEET FROM SE CORNER, SECTION 22

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

Twp	Rng	Mer	Sec	Q-Q
2 N	9 E	WM	22	SW NE
2 N	9 E	WM	22	NE SW
2 N	9 E	WM	22	SE SW
2 N	9 E	WM	22	NW SE
2 N	9 E	WM	22	SW SE

MEASUREMENT DEVICES, RECORDING, AND REPORTING CONDITIONS

1. Measurement Device Conditions:

- A. Before water use may begin under this permit, the permittee shall install measurement devices as described in the *Monitoring and Measurement Plan for Application R-88231*. The permittee shall maintain the devices in good working order. All measurement devices shall be calibrated annually, if needed, and maintained within the manufacturer’s range of accuracy and comply with their standards of maintenance and operation. The Watermaster may require the installation of additional measurement devices or additional standards for the operation of devices.
- B. The permittee shall allow the Watermaster access to the devices to confirm compliance with the permit conditions; provided, however, where any device is located within a private structure, the Watermaster shall request access upon reasonable notice.
- C. The permittee shall work with the Department to establish appropriate flow measurement and monitoring. The Department shall provide guidance on the operation of the streamgages. The *Monitoring and Measurement Plan for Application R-88231* shall be made part of the application file and shall be used as the basis for determining specific standards for streamflow monitoring and measurement. The Department may determine that equal or more appropriate measurement locations and devices may be required.
- D. Streamgages and water level sensors shall be operated in compliance with Department streamgaging standards.
- E. If Department staff are needed to operate a gage or otherwise monitor the instream flow in the reach for delivery of the released water, a fee may be associated with this delivery per ORS 540.410.

2. Recording and Reporting Conditions for Storage, Seasonally Varying Flow (SVF), and Required 25 Percent Instream Flow Protection (RIFP):

- A. The permittee shall notify the Watermaster when filling begins under this permit.
- B. The permittee shall keep a complete record of the volume of water diverted each month from each POD, and shall submit a report, which includes stored water volume, to the Department annually or more frequently as may be required by the Director and documented in the

Monitoring and Measurement Plan for Application R-88231. 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. Prior to the start of the irrigation season, the permittee shall submit to the Watermaster a measurement of the total volume of water stored under this permit outside the irrigation season in Upper Green Point Reservoir.
 - D. If storage volumes are greater than 470 AF, storage releases are required to meet the RIFP requirement, and the permittee shall demonstrate that the requirement has been met by reporting releases from the Upper Green Point Reservoir. The water-use measurement shall be submitted to the Watermaster bi-weekly or more frequently as requested by the Watermaster. This water shall be protected from out-of-stream diversions down to the confluence of Ditch Creek with Hood River Mainstem and protected through a secondary permit.
 - E. The permittee shall submit an annual written report and supporting electronic data providing:
 - a. Gaged daily, average time series of streamflow from all streamgages operated in compliance with the *Monitoring and Measurement Plan for Application R-88231*;
 - b. Calculations of daily, average diversion rates from Gate/Rainy Creek PODs combined in a Department specified format; and
 - c. Calculations of daily, average diversion rates from Cabin Creek POD in a Department specified format.
 - F. Supporting documentation for the streamgages may include copies of discharge measurements, inspections, level surveys, cross-section surveys, and any other material relevant to development of the rating curve and production of a daily flow record that meets Department standards. Deviation from Department standards must be reviewed by the Department and approved by the Director. Gaging station records shall include rating curve derivation, shift curves, inspection notes, time series, and daily flow records/hydrographs. These notes shall be submitted in an annual report and will be in a format specified by the Department.
 - G. Annual audits of records may be performed on submitted records throughout the life of the project. Operations that are routinely in violation of the permit conditions may be subject to fines and/or cancellation of the storage permit.
3. The Director may provide an opportunity for the permittee to submit alternative measuring and reporting procedures for review and approval.

REQUIRED 25 PERCENT INSTREAM FLOW PROTECTION (RIFP) CONDITIONS

- 1. **Water Dedicated Instream (OAR 690-093-0110; ORS 541.651-541.696):**
 - A. The permittee shall dedicate instream 25 percent of waters stored annually, up to 162.5 AF, pursuant to ORS 541.681.
 - B. The RIFP requirement may be met through Transfer CW-92, which transfers 117.5 AF of water instream. This water transferred instream may be used to satisfy the initial requirements of up to 470 AF of newly developed water stored in the reservoir under the permit issued under Application R-88231.

- C. If more than 470 AF of water is stored in the reservoir, the permittee shall meet the remaining RIFP requirements by releasing water from the Upper Green Point Reservoir using the following release schedule, to protect up to 45.0 AF instream with a maximum release rate of 1.0 CFS:

Month	Release of Stored Volume [%]	Maximum Release [AF]
July	15.0	7.0
August	42.5	19.0
September	42.5	19.0

- D. The Oregon Department of Fish and Wildlife (ODFW) may request that the permittee release water via an alternate schedule. If the permittee agrees, ODFW is required to contact the Watermaster for written authorization 60 days prior to the irrigation season to formalize the agreement, which includes the agreed upon release schedule and the signature of both the permittee and ODFW.
- E. In order to meet the RIFP requirement with stored water releases, this permit or a satisfactory replacement, must be non-cancelled.
- F. In order to meet the RIFP requirement with stored water releases, a secondary Flow Augmentation water right must be in place with the source of water identified as the reservoir, with protected releases from the reservoir down to the confluence of Ditch Creek and the Hood River Mainstem.
- G. If the Department of Environmental Quality (DEQ) notifies the Department that 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, the Department will consult with ODFW and DEQ to determine a revised release scheduled for the RIFP requirement that best protects instream uses with regards to sensitive, threatened, and endangered species.
- H. The permittee may propose to satisfy the requirements of this section through additional time limited or permanent transfers of water instream within the tributary if the Department finds that there is no injury associated with the transfer and if, in consultation with ODFW, the Department finds that the transfer provides equal or greater environmental benefit to the release of water from the reservoir.

SEASONALLY VARYING FLOW (SVF) CONDITIONS

1. Ecological Baseflow Diversion Restrictions:

Water may only be diverted when the following ecological baseflows are met, measured as daily average streamflow as follows:

Reach 1 – Gate Creek POD

BASEFLOW REQUIREMENTS FOR GATE CREEK POD	
<i>Month</i>	<i>Minimum Flow (CFS)</i>
November 1 – February 28/29	4.7
March 1 – 31	13.0
April 1 – 14	18.0

Reach 3 - Green Point Creek Stream Gage

BASEFLOW REQUIREMENTS FOR GREEN POINT CREEK STREAMGAGE	
<i>Month</i>	<i>Minimum Flow (CFS)</i>
November 1 – April 14	90.0

2. Diversion Rate Restrictions:

During March and April, if daily average streamflow at the Gate Creek POD drops below 19.0 CFS, total storage diversions under this permit shall be limited to 3.0 CFS.

3. Limitations of Use:

- A. If the permittee chooses to store water under Water Right Certificate 48819 from November 1 through January 1, the permit issued under Application R-88231 cannot be exercised during the storage season from November 1 to April 14.
- B. After January 1 of each year, the permittee can continue to fill Upper Green Point Reservoir under the water use permit issued under Application R-88231 until it is satisfied or switch to filling under Water Right Certificate 48819.
- C. If the permittee chooses to switch to Water Right Certificate 48819 after January 1, the permittee can switch back to the water use permit issued under Application R-88231, once Water Right Certificate 48819 is satisfied for that season.
- D. The permittee shall notify the Watermaster within 15 days of when the storage of water begins or resumes under any permit issued under Application R-88231.

WATER QUALITY CONDITIONS AND RECOMMENDATIONS

- 1. Permittee shall not cause pollution of any waters of the state, or place or cause to be placed any wastes in a location where such wastes are likely to escape or be carried into the waters of the state by any means, per ORS 468B.025(1). If the Department of Environmental Quality (DEQ) determines that pollution of waters of the state is occurring, the permittee is not in compliance with ORS 468B.025(1), and DEQ shall notify the Watermaster of the violation through written, signed notice. DEQ shall work with the Watermaster on options to eliminate the violation.

2. 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.
3. DEQ recommends the following best management practices to protect water quality:
 - A. Minimize impacts to aquatic life in the North Fork Green Point watershed by setting maximum withdrawal rates or minimum instream flows for each tributary below the POD to ensure that no tributary is completely dewatered by the diversions.
 - B. Develop a monitoring plan to assess the impacts of the diversions on the North Fork Green Point watershed. Collect baseline data and post-project data on peak flows at these locations to show that the flows needed for hyporheic recharge, sediment flushing, floodplain connection, and biological triggering are still occurring. Visually monitor the extent of wetland inundation and side channel connection in mid-March to gage the impact of the diversion on the hydrology of the wetland. Collect baseline and post project pH and temperature data at locations of maximum impact of the diversions on these parameters.
 - C. Develop a monitoring plan to assess the quality of the water stored in Upper Green Point Reservoir throughout the irrigation season.
 - D. Test for algal toxins when algal blooms occur.
 - E. Develop a nutrient, bacteria, and sediment plan to minimize upland sources of pollutants if reservoir monitoring reveals exceedances of water quality standards.

DAM CONDITIONS

1. All construction shall be performed under the supervision of the engineer of record. If the engineer of record cannot supervise construction, the Department's Dam Safety Engineer must be notified in writing, prior to construction activity, with the name of the engineer supervising construction.
2. The State Engineer must be notified at least 5 days prior to the start of construction.
3. The constructed works shall conform to the approved plans and specifications on file with the Department's Dam Safety Program. The engineer of record shall notify the Department's Dam Safety Program before making any significant change to the approved design prior to or during construction.
4. No new water (associated with the dam raise) shall be stored until the Department receives written confirmation from the engineer of record that construction has been completed in accordance with the approved plans and specifications with all changes accurately noted on the as-built drawings.
5. Routine maintenance of the dam, its spillway, and all appurtenant structures shall be performed including, but not limited to, removal of woody or high vegetation from the embankment, abutments and spillway, removal of debris from the reservoir, and annual or more frequent cycling of the valve or gate for the low level conduit.
6. Repair or replacement of defective or worn out equipment (including but not limited to gates, valves, and conduits) shall be completed as needed to keep the dam safe.

7. If the dam is enlarged, modified or otherwise altered, this work shall be based on design plans and specifications prepared by a Registered Professional Engineer licensed in Oregon. These plans shall be approved by the Department's Dam Safety Program prior to such alterations of the dam, its spillway, or any appurtenant structure(s).
8. There shall be an approved operations manual for the dam that describes pressurized operation, inspection procedures, and a schedule for pressurized conduits for the dam.
9. If used, flashboards shall be maintained in good condition, replaced as needed and, removed as necessary prior to potential winter storms, unusual rainfall, or snowmelt events at any time of the year.

OTHER CONDITIONS

1. 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.
2. 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.
3. The permittee shall install, maintain, and operate fish screening and by-pass devices consistent with current 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 prior to diversion of water under this permit. The permittee may submit evidence in writing that ODFW has determined screens and/or by-pass devices are not necessary.
4. 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 or exemption through ODFW. The permittee is hereby directed to contact an ODFW Passage Coordinator before beginning construction of any in-channel obstruction.
5. 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.
6. By law, the land use associated with this water use shall be in compliance with statewide land-use goals and any local acknowledged land-use plan.
7. 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.
8. Construction of the water system shall begin within ten years of the date of permit issuance.
9. 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.

10. Within one year of storage of water and compliance with all permit conditions, 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

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

Mailing List for PFO Copies

Application R-88231

PFO Date February 19, 2019

Original mailed via CERTIFIED MAIL to applicant:

LES PERKINS
FARMERS IRRIGATION DISTRICT
1985 COUNTRY CLUB RD
HOOD RIVER OR 97031

SENT VIA AUTO EMAIL:

1. WRD - Robert Wood - # 3

Copies sent via email to:

3. WRD – Dam Safety, Keith Mills
4. WRD – Water Resources Development Program, Kim Ogren & Rachel LovellFord
5. WRD – Instream Flow Hydrologist, Ryan Andrews
6. ODFW – Instream Flow Program, Kenton Doughty
7. CTUIR – David Haire & Anton Chiono
8. CTWS – Chris Brun

Copies sent to:

9. WRD – SW Section
10. ALO – Hood River County, 601 State St, Hood River, OR 97031
11. ALO – USA, 16400 Champion Way, Sandy, OR 97055

PFO and Map sheet Copies to:

12. WRD – File # R-88231

APPLICATION SPECIALIST: Kim French

Copies Mailed By: _____ (SUPPORT STAFF) on: _____ (DATE)
Protest: 4/5/2019 Standing Dates checked _____