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IN THE CIRCUIT COURT FOR THE STATE OF OREGON  
FOR THE COUNTY OF CROOK

UPPER CROOKED RIVER  
CONSERVATIONISTS, an Oregon  
nonprofit corporation; and SHOTGUN  
RANCH, L.L.C., an Oregon limited liability  
company,

Plaintiffs/Petitioners,

v.

WATER RESOURCES DEPARTMENT of  
the State of Oregon and WATER  
RESOURCES COMMISSION of the State of  
Oregon,

Defendants/Respondents,

and

WATERWATCH OF OREGON,

Intervenor-Respondent.

Case No. 23CV46779  
Honorable Judge Annette Hillman

**DECLARATION OF ANDREW R.  
MISSEL IN SUPPORT OF  
WATERWATCH OF OREGON'S  
OPPOSITION TO PETITIONERS'  
MOTION FOR PARTIAL  
SUMMARY JUDGMENT AND  
CROSS-MOTION FOR SUMMARY  
JUDGMENT**

I, Andrew R. Missel, represent Intervenor-Respondent WaterWatch of Oregon  
("WaterWatch") in this matter, and I make this declaration based on my personal knowledge  
and in reliance on records obtained from the Water Rights Information System ("WRIS"), an  
online, searchable database of water rights information maintained by the Oregon Water  
Resources Department ("OWRD"). *See* Water Right Information Search,

1 <https://www.oregon.gov/owrd/programs/waterrights/wris/pages/default.aspx> (last accessed  
2 September 18, 2024).

3 1. Attached as **Exhibit 1** is a copy of an application for a water-rights permit  
4 submitted by the U.S. Department of Agriculture Bureau of Biological Survey in 1923, along  
5 with a copy of the certificate perfecting that water right issued by the State Engineer in 1927.  
6 Also included in this exhibit is a screenshot from the WRIS showing the current status of this  
7 water right. I obtained all these records from the WRIS.

8 2. Attached as **Exhibit 2** is a copy of an application for a water-rights permit  
9 submitted by the Oregon State Highway Commission in 1942, along with a copy of the  
10 certificate perfecting that water right issued by the State Engineer in 1943. I obtained these  
11 copies from the WRIS.

12 3. Attached as **Exhibit 3** is a copy of an application for a water-rights permit  
13 submitted by the State Board of Higher Education in 1957, along with a copy of the  
14 certificate perfecting that water right issued by the State Engineer in 1962. I obtained these  
15 copies from the WRIS.

16 4. Attached as **Exhibit 4** is a copy of an application for a water-rights permit  
17 submitted by the Oregon Department of Fish and Wildlife in 1977, along with a copy of the  
18 certificate perfecting that water right issued by OWRD in 1984. I obtained these copies from  
19 the WRIS.

20 5. Attached as **Exhibit 5** is a copy of a water-rights permit issued to the U.S.  
21 Bureau of Reclamation in 2017, together with a certificate perfecting that water right issued  
22 in 2018. I obtained these copies from the WRIS.

23 6. Attached as **Exhibit 6** is a copy of a final order issued by OWRD in 2020  
24 approving an application to use stored water submitted by Bridge Creek Ranch, LLC, along  
25 with a copy of the resulting water-rights permit. I obtained these copies from the WRIS.  
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7. Attached as **Exhibit 7** is a copy of a final order issued by OWRD in 2021 approving an application to use stored water submitted by Farmers Irrigation District, along with a copy of the resulting water-rights permit. I obtained these copies from the WRIS.

**I hereby declare that the above statement is true to the best of my knowledge and belief, and that I understand it is made for use as evidence in court and is subject to penalty for perjury.**

Dated: September 20, 2024

/s/ Andrew R. Missel  
Andrew R. Missel (# 181793)

\*Permit No. 6798

ABSTRACT MADE

APPLICATION FOR A PERMIT CERTIFICATE NO. 7342

# To Appropriate the Public Waters of the State of Oregon

I, U.S. Department of Agriculture, Biological Survey,  
(Name of Applicant)  
of Washington, County of -,  
(Postoffice)  
State of D.C., do hereby make application for a permit to appropriate the following described public waters of the State of Oregon subject to existing rights:

If the applicant is a corporation, give date and place of incorporation \_\_\_\_\_

- The source of the proposed appropriation is Spring located on Lot 6 (NW<sup>1</sup> SE<sup>1</sup>)  
(Name of stream)  
Section 35 T 26 S. R. 31 E.  
tributary of Donner and Blitzen River
- The amount of water which the applicant intends to apply to beneficial use is the complete  
flow amounting to 25 cubic feet per second.
- The use to which the water is to be applied is Maintenance of Malheur Lake Bird  
Reserve. (Irrigation, power, mining, manufacturing, domestic supplies, etc.)
- The point of diversion is located \_\_\_\_\_  
(Give distance and bearing to section corner)

- being within the Lot 6 (NW<sup>1</sup> SE<sup>1</sup>) of Sec. 35, Tp. 26 S  
(Give smallest legal subdivision) (No. N. or S.)  
31 E, W. M., in the county of Harney  
(No. E. or W.)
- The \_\_\_\_\_ to be \_\_\_\_\_ miles  
(Main ditch, canal or pipe line)
- in length, terminating in the \_\_\_\_\_ of Sec. \_\_\_\_\_, Tp. \_\_\_\_\_  
(Smallest legal subdivision) (No. N. or S.)  
W. M., the proposed location being shown throughout on the accompanying map.  
(No. E. or W.)
- The name of the ditch, canal or other works is \_\_\_\_\_

## DESCRIPTION OF WORKS

### DIVERSION WORKS—

- (a) Height of dam \_\_\_\_\_ feet, length on top \_\_\_\_\_ feet, length at bottom \_\_\_\_\_ feet; material to be used and character of construction \_\_\_\_\_  
(Loose rock, concrete, masonry, rock and brush, timber crib, etc., wasteway over or around dam)
- (b) Description of headgate \_\_\_\_\_  
(Timber, concrete, etc., number and size of openings)

\* A different form of application is provided where storage works are contemplated. These forms can be secured without charge, together with instructions, by addressing the State Engineer, Salem, Oregon.

CANAL SYSTEM—

8. (a) Give dimensions at each point of canal where materially changed in size, stating miles from headgate. At headgate: Width on top (at water line) ..... feet; width on bottom ..... feet; depth of water ..... feet; grade ..... feet fall per one thousand feet.

(b) At ..... miles from headgate. Width on top (at water line) ..... feet; width on bottom ..... feet; depth of water ..... feet; grade ..... feet fall per one thousand feet.

FILL IN THE FOLLOWING INFORMATION WHERE THE WATER IS USED FOR:

IRRIGATION—

9. The land to be irrigated has a total area of ..... acres, located in each smallest legal subdivision, as follows: (Give area of land in each smallest legal subdivision which you intend to irrigate)

(If more space required, attach separate sheet)

POWER, MINING, MANUFACTURING, OR TRANSPORTATION PURPOSES—

10. (a) Total amount of power to be developed ..... theoretical horsepower.

(b) Total fall to be utilized ..... feet. (Head)

(c) The nature of the works by means of which the power is to be developed .....

(d) Such works to be located in ..... of Sec. .... (Legal subdivision)

Tp. ...., R. ...., W. M. (No. N. or S.) (No. E. or W.)

(e) Is water to be returned to any stream? ..... (Yes or No)

(f) If so, name stream and locate point of return .....

....., Sec. ...., Tp. ...., R. ...., W. M. (No. N. or S.) (No. E. or W.)

(g) The use to which power is to be applied is .....

(h) The nature of the mines to be served .....

MUNICIPAL SUPPLY—

11. To supply the city of \_\_\_\_\_  
\_\_\_\_\_ County, having a present population of \_\_\_\_\_  
(Name of)  
and an estimated population of \_\_\_\_\_ in 19\_\_\_\_\_

(Answer questions 12, 13, 14 and 15 in all cases)

- 12. Estimated cost of proposed works, \$ 500
- 13. Construction work will begin on or before \_\_\_\_\_
- 14. Construction work will be completed on or before \_\_\_\_\_
- 15. The water will be completely applied to the proposed use on or before \_\_\_\_\_

Duplicate maps of the proposed ditch or other works, prepared in accordance with the rules of the State Water Board, accompany this application.

W. S. Henderson,  
(Name of applicant)  
Acting Chief, Biological Survey.

Signed in the presence of us as witnesses:

- (1) Thos. E. Jacoby Business Address, Biological Survey,  
(Name) Washington, D.C.  
House, Brentwood, Md. (Address of Witness)
- (2) C. Ruth, Biological Survey, Wash., D.C.  
(Name) (Address of Witness)

Remarks: Maintenance of Malheur Lake Bird Reserve by furnishing a regu-  
lar flow of fresh water which is absolutely necessary for the  
feeding and nesting of migratory birds and has served this  
purpose for many years.

STATE OF OREGON, }  
County of Marion, } ss.

This is to certify that I have examined the foregoing application, together with the accompanying maps and data, and return the same for correction or completion, as follows:

Completion, signatures, maps and fees.

Completion.

In order to retain its priority, this application must be returned to the State Engineer, with corrections, on or before April 3, 1925  
October 15th 1923

WITNESS my hand this 3rd day of March, 1925,  
15th September, 1923

RHEA LUPER  
State Engineer.

ER

Application No. 9.17.4

Permit No. 6.7.9.8

PERMIT TO APPROPRIATE THE PUBLIC WATERS OF THE STATE OF OREGON

District No.

This instrument was first received in the office of the State Engineer at

Salem, Oregon, on the 14 day

of September, 1923

at 8:30 o'clock A.M.

Returned to applicant for correction

March 3, 1925.

September 15, 1923

Corrected application received

Oct. 26, 1923

March 9, 1925

Approved:

June 30, 1925.

Recorded in Book No. 23 of

Permits, on Page 6.7.9.8

R. H. E. A. L. U. P. E. R. State Engineer.

2 maps, ER

\$8.00

STATE OF OREGON, ) ss. County of Marion,

This is to certify that I have examined the foregoing application and do hereby grant the same, subject to the following limitations and conditions: If for irrigation, this appropriation shall be limited to one-eightieth of one cubic foot per second, or its equivalent, for each acre irrigated, and shall be subject to such reasonable rotation system as may be ordered by the proper state officer.

The right herein granted is limited to the appropriation of water from a spring in the NW 1/4 SE 1/4 Section 35, Township 26 South, Range 31 East, for maintenance of the Malheur Lake Bird Reserve.

The amount of water appropriated shall be limited to the amount which can be applied to beneficial use and not to exceed 25.0 cubic feet per second, or its equivalent in case of rotation. The priority date of this permit is September 14, 1923.

Actual construction work shall begin on or before June 30, 1926 and shall thereafter be prosecuted with reasonable diligence and be completed on or before June 1, 1927

Complete application of the water to the proposed use shall be made on or before October 1, 1928

WITNESS my hand this 30th day of June, 1925.

Rhea Luper, State Engineer.

Permits for power development are subject to the limitation of franchise as provided in Section 5728, Oregon Laws, and the payment of annual fees as provided in Section 5803, Oregon Laws.

This form approved by the State Water Board, March 11, 1909.

STATE OF OREGON

COUNTY OF HARNEY

CERTIFICATE OF WATER RIGHT

This is to Certify, That U. S. Department of Agriculture of Washington, D. C., State of , has made proof to the satisfaction of the STATE ENGINEER of Oregon, of a right to the use of the waters of a Spring in the NW 1/4 Section 35, Tp. 26 S. Range 51 E., W.M. Reserve under Permit No. 5798 of Donner & Blitzen River for the purpose of Maintenance of Malheur Lake Bird/ has been perfected in accordance with the laws of Oregon; that the priority of the right hereby confirmed dates from September 14, 1923;

that the amount of water to which such right is entitled and hereby confirmed, for the purposes aforesaid, is limited to an amount actually beneficially used for said purposes, and shall not exceed 15.0 cubic feet per second;

The use hereunder for irrigation shall conform to such reasonable rotation system as may be ordered by the proper state officer.

The amount of water used for irrigation, together with the amount secured under any other right existing for the same lands, shall be limited to one-eightieth of one cubic foot per second per acre, or its equivalent in case of rotation.

A description of the lands irrigated under the right hereby confirmed, and to which such right is appurtenant (or, if for other purposes, the place where the water is put to beneficial use), is as follows:

Lot 6 (NW 1/4) of Section Thirty-five (35), Township Twenty-six South, Range Thirty-one East of the Willamette Meridian, in Harney County, Oregon.

The right to the use of the water for irrigation purposes is restricted to the lands or place of use herein described.

Rights to the use of water for power purposes are limited to a period of forty years from the date of priority of the right, as herein set forth, subject to a preference right of renewal under the laws existing at the date of the expiration of the right for power purposes, as hereby confirmed and limited.

WITNESS the signature of the State Engineer,

affixed this 26th day of September, 1927.

RHEA LUFER, State Engineer.

Recorded in State Record of Water Right Certificates, Volume 7, page 7343.





**Contact Information** (Click to Collapse...)

▼ **Contact information**

OWNER:  
▶ U.S. FISH AND WILDLIFE SERVICE MALHEUR RE  
MALHEUR LAKE, OR 97736

**Water Right Information** (Click to Collapse...)

**Status:** Non-Cancelled  
**County:** Harney  
**Basin:** Malheur Lake  
**File Folder Location:** Salem  
[Watermaster District:](#) 10

**Scanned Documents** (Click to Expand...)

**Point(s) of Diversion** (Click to Expand...)

**Place(s) of Use** (Click to Expand...)

**Water Right Genealogy** (Click to Expand...)

**Processing History** (Click to Collapse...)



- ▶ **Application: S 9174**
- ▶ **Permit: S 6798 [document](#) , [paper map](#)**
- ▶ **Certificate: 7343 [document](#) , [paper map](#)**
- ▶ [View right with Web Mapping](#)
- ▶ [View Places of Use from Water Rights in the Same Area](#)
- ▶ [View Reported Water Use](#)

[View Water Rights in same Family](#)      [Report Errors with Water Right Data](#)

\* APPLICATION FOR A PERMIT CERTIFICATE I.O. 14547

To appropriate the Public Waters of the State of Oregon

I, Oregon State Highway Commission of Salem, Oregon, do hereby make application for a permit to appropriate the following described public waters of the State of Oregon, SUBJECT TO EXISTING RIGHTS:

If the applicant is a corporation, give date and place of incorporation

1. The source of the proposed appropriation is Second Periwinkle Creek and its tributaries, a tributary of Willamette River

2. The amount of water which the applicant intends to apply to beneficial use is one cubic feet per second.

\*\*3. The use to which the water is to be applied is to insure ample supply for an artificial lake for roadside beautification and recreational purposes for the benefit of the general public.

4. The point of diversion is located 455 ft. South and 15 ft. West from the corner of common to Sections 4 and 5,

the dam and lake lie in the NW 1/4 of the SW 1/4 of Section 4 and the NE 1/4 of the SE 1/4 of Section 5

being within the of Sec. 11 S. R. 3 W., W. M., in the county of Linn

5. The lake covers approximately 10 acres in length, terminating in the NE 1/4 of the SE 1/4 of Sec. 5, R. 3 W., W. M., the proposed location being shown throughout on the accompanying map.

DESCRIPTION OF WORKS

Diversion Works—

6. (a) Height of dam 13 feet, length on top 43 feet, length at bottom 43 feet; material to be used and character of construction concrete with wasteway over top of the dam. The dam is built with and is a part of a reinforced concrete bridge. It also has a 4' x 4' Calco rectangular discharge gate.

(b) Description of headgate

(c) If water is to be pumped give general description

\* A different form of application is provided where storage works are contemplated. \*\* Applications for permits to appropriate water for the generation of electricity, with the exception of municipalities, must be made to the Hydro-electric Commission.

Canal System or Pipe Line—

7. (a) Give dimensions at each point of canal where materially changed in size, stating miles from headgate. At headgate: width on top (at water line) ..... feet; width on bottom ..... feet; depth of water ..... feet; grade ..... feet fall per one thousand feet.

(b) At ..... miles from headgate: width on top (at water line) ..... feet; width on bottom ..... feet; depth of water ..... feet; grade ..... feet fall per one thousand feet.

(c) Length of pipe, ..... ft.; size at intake, ..... in.; size at ..... ft. from intake ..... in.; size at place of use ..... in.; difference in elevation between intake and place of use, ..... ft. Is grade uniform? ..... Estimated capacity, ..... sec. ft.

8. Location of area to be irrigated, or place of use ..... None.....

Township	Range	Section	Forty-acre Tract	Number Acres To Be Irrigated
11 South	3 West	4	NW $\frac{1}{4}$ SW $\frac{1}{4}$	Artificial Lake
		5	NE $\frac{1}{4}$ SE $\frac{1}{4}$	Artificial Lake

(If more space required, attach separate sheet)

(a) Character of soil .....  
(b) Kind of crops raised .....

Power or Mining Purposes—

9. (a) Total amount of power to be developed ..... theoretical horsepower.  
(b) Quantity of water to be used for power ..... sec. ft.  
(c) Total fall to be utilized ..... feet.  
(d) The nature of the works by means of which the power is to be developed .....

(e) Such works to be located in ..... of Sec. ....  
Tp. ...., R. ...., W. M. ....  
(No. N. or S.) (No. E. or W.)

(f) Is water to be returned to any stream? .....  
(g) If so, name stream and locate point of return .....

....., Sec. ...., Tp. ...., R. ...., W. M. ....  
(No. N. or S.) (No. E. or W.)

(h) The use to which power is to be applied is .....  
(i) The nature of the mines to be served .....

Municipal or Domestic Supply—

10. (a) To supply the city of .....  
..... County, having a present population of .....  
(Name of)  
and an estimated population of ..... in 19.....

(b) If for domestic use state number of families to be supplied .....

(Answer questions 11, 12, 13, and 14 in all cases)

- 11. Estimated cost of proposed works, \$..15,000.....
- 12. Construction work will begin on or before ..was started..September..4th, 1940.....
- 13. Construction work will be completed on or before ..was completed..December 17th, 1940.....
- 14. The water will be completely applied to the proposed use on or before ..January 1st, 1942.....

Oregon State Highway Commission  
(Signature of applicant)

H. B. Glaisyer, Secretary

Signed in the presence of us as witnesses:

(1) W. C. Crews, Salem, Oregon  
(Name) (Address of witness)

(2) .....  
(Name) (Address of witness)

Remarks: .....

STATE OF OREGON, }  
County of Marion, } ss

This is to certify that I have examined the foregoing application, together with the accompanying maps and data, and return the same for .....

In order to retain its priority, this application must be returned to the State Engineer, with corrections on or before ....., 194.....

WITNESS my hand this ..... day of ....., 194.....

STATE ENGINEER

Application No. 19626

Permit No. 15201

PERMIT TO APPROPRIATE THE PUBLIC WATERS OF THE STATE OF OREGON

Division No. District No.

This instrument was first received in the office of the State Engineer at Salem, Oregon on the 9th day of February, 1942, at 4:00 o'clock P.M.

Returned to applicant:

Corrected application received:

Approved:

April 15, 1942

Recorded in book No. 37 of

Permits on page 15201

CHAS. E. STRICKLIN

STATE ENGINEER

Drainage Basin No. 2 Page 76K

Fees Paid \$10.00

STATE OF OREGON

County of Marion,

} ss

PERMIT

This is to certify that I have examined the foregoing application and do hereby grant the same, SUBJECT TO EXISTING RIGHTS and the following limitations and conditions:

The right herein granted is limited to the amount of water which can be applied to beneficial use and shall not exceed 1.0 cubic feet per second measured at the point of diversion from the stream, or its equivalent in case of rotation with other water users, from

Second Periwinkle Creek

The use to which this water is to be applied is to form an artificial lake for recreational purposes.

If for irrigation, this appropriation shall be limited to of one cubic foot per second

and shall be subject to such reasonable rotation system as may be ordered by the proper state officer.

The priority date of this permit is February 9, 1942

Actual construction work shall begin on or before April 15, 1943 and shall thereafter be prosecuted with reasonable diligence and be completed on or before October 1, 1944

Complete application of the water to the proposed use shall be made on or before October 1, 1945

WITNESS my hand this 15th day of April, 1942

CHAS. E. STRICKLIN

STATE ENGINEER

Permits for power development are subject to the payment of annual fees as provided in sections 1 and 2, chapter 74, Oregon Laws 1933.

STATE OF OREGON  
COUNTY OF LINN  
CERTIFICATE OF WATER RIGHT

This Is to Certify, That OREGON STATE HIGHWAY COMMISSION  
of Salem, State of Oregon, has made proof  
to the satisfaction of the STATE ENGINEER of Oregon, of a right to the use of the waters of  
Second Periwinkle Creek  
a tributary of Willamette River for the purpose of  
forming an artificial lake for recreational purposes  
under Permit No. 15201 of the State Engineer, and that said right to the use of said waters  
has been perfected in accordance with the laws of Oregon; that the priority of the right hereby  
confirmed dates from February 9, 1942

that the amount of water to which such right is entitled and hereby confirmed, for the purposes  
aforesaid, is limited to an amount actually beneficially used for said purposes, and shall not exceed  
1.0 cubic foot per second,

or its equivalent in case of rotation, measured at the point of diversion from the stream.  
The point of diversion is located in the NW 1/4 SW 1/4, Section 4, and NE 1/4 SE 1/4, Section 5, Town-  
ship 11 South, Range 3 West, W. M., being within Anderson Cox D. L. C. 49.

The amount of water used for irrigation, together with the amount secured under any other  
right existing for the same lands, shall be limited to of one cubic foot per second  
per acre,

and shall conform to such reasonable rotation system as may be ordered by the proper state officer.

A description of the place of use under the right hereby confirmed, and to which such right is  
appurtenant, is as follows:

NW 1/4 SW 1/4, Section 4,  
NE 1/4 SE 1/4, Section 5,  
T. 11 S., R. 3 W., W. M.,  
being within Anderson Cox D. L. C. 49.

The right to the use of the water for the purposes aforesaid is restricted to the lands or place of  
use herein described.

WITNESS the signature of the State Engineer, affixed

this 15th day of July, 1943

CHAS. E. STRICKLIN  
State Engineer

Recorded in State Record of Water Right Certificates, Volume 12, page 14547.

RECEIVED  
 SEP 16 1957  
 STATE ENGINEER  
 SALEM, OREGON

Permit No. ....

**\*APPLICATION FOR PERMIT**

**To Appropriate the Public Waters of the State of Oregon**

I, State Board of Higher Education  
(Name of applicant)  
 of Eugene  
(Mailing address)  
 State of Oregon, do hereby make application for a permit to appropriate the following described public waters of the State of Oregon, **SUBJECT TO EXISTING RIGHTS:**

If the applicant is a corporation, give date and place of incorporation .....

1. The source of the proposed appropriation is Willamette River  
(Name of stream)  
 a tributary of Columbia River

2. The amount of water which the applicant intends to apply to beneficial use is 50  
 cubic feet per second.  
(If water is to be used from more than one source, give quantity from each)

\*\*3. The use to which the water is to be applied is Recreation: Swimming, boating and scenic value.  
(Irrigation, power, mining, manufacturing, domestic supplies, etc.)

4. The point of diversion is located ..... ft. and ..... ft. from the  
(N. or S.) (E. or W.)  
 corner of 930 feet S 20° E from the center of Section 33  
(Section or subdivision)

(If preferable, give distance and bearing to section corner)

(If there is more than one point of diversion, each must be described. Use separate sheet if necessary)  
 being within the NW 1/4, SE 1/4 of Sec. 33, Tp. 17 S  
(Give smallest legal subdivision) (N. or S.)  
 R. 3 W, W. M., in the county of Lane  
(E. or W.)

5. The Canal and Pipe Line to be 10,700 feet  
(Main ditch, canal or pipe line) (Miles or feet)  
 in length, terminating in the SW 1/4, SW 1/4 of Sec. 29, Tp. 17 S  
(Smallest legal subdivision) (N. or S.)  
 R. 3 W, W. M., the proposed location being shown throughout on the accompanying map.  
(E. or W.)

**DESCRIPTION OF WORKS**

**Diversion Works—**

6. (a) Height of dam None feet, length on top ..... feet, length at bottom ..... feet; material to be used and character of construction .....  
(Loose rock, concrete, masonry, rock and brush, timber crib, etc., wasteway over or around dam)

(b) Description of headgate None  
(Timber, concrete, etc., number and size of openings)

(c) If water is to be pumped give general description It is planned to install two 11,250 gpm propeller type pumps with 50 hp motors, operating against a total head of 12.5 feet, in an outdoor type pump station, discharging into the existing mill race.  
(Size and type of pump) (Size and type of engine or motor to be used, total head water is to be lifted, etc.)

\*A different form of application is provided where storage works are contemplated.

\*\*Application for permits to appropriate water for the generation of electricity, with the exception of municipalities, must be made to the Hydroelectric Commission. Either of the above forms may be secured, without cost, together with instructions by addressing the State Engineer, Salem, Oregon.

Canal System or Pipe Line—

7. (a) Give dimensions at each point of canal where materially changed in size, stating miles from headgate. At headgate: width on top (at water line) 25 feet; width on bottom 15 feet; depth of water 5 feet; grade 1 feet fall per one thousand feet.

(b) At 1.2 miles from headgate: width on top (at water line) 34 feet; width on bottom 34 feet; depth of water 4 feet; grade 1 feet fall per one thousand feet.

(c) Length of pipe, 2200 ft.; size at intake, 30" in.; size at 30 in.; size at place of use in.; difference in elevation between intake and place of use, 7.0 ft. Is grade uniform? Yes Estimated capacity,

PLEASE BE SURE THAT THE LEGAL DESCRIPTION OF THE PROPERTY FIGURING IN YOUR PROPOSED APPROPRIATION IS INSERTED UNDER ITEM 8 IN ADDITION TO THE 40 ACRE TRACT DESCRIPTION.

THIS DESCRIPTION MAY BE COPIED FROM YOUR DEED, ABSTRACT OR CONTRACT OR FROM THE COUNTY RECORDS.

Table with 5 columns and 10 rows for legal description.

(If more space required, attach separate sheet)

(a) Character of soil

(b) Kind of crops raised

Power or Mining Purposes—

9. (a) Total amount of power to be developed None theoretical horsepower.

(b) Quantity of water to be used for power sec. ft.

(c) Total fall to be utilized feet.

(d) The nature of the works by means of which the power is to be developed

(e) Such works to be located in of Sec.

Legal subdivision, Tp. (No. N. or S.), R. (No. E. or W.), W. M.

(f) Is water to be returned to any stream? Yes

(g) If so, name stream and locate point of return Willamette River (see remarks below)

Sec. Tp. R. W. M.

(h) The use to which power is to be applied is

(i) The nature of the mines to be served



Municipal or Domestic Supply—

10. (a) To supply the city of None  
.....  
(Name of) County, having a present population of .....

and an estimated population of ..... in 19.....

(b) If for domestic use state number of families to be supplied .....

(Answer questions 11, 12, 13, and 14 in all cases)

11. Estimated cost of proposed works, \$ 40,000 .....

12. Construction work will begin on or before One year from date of approval. .....

13. Construction work will be completed on or before Two years from date of approval. .....

14. The water will be completely applied to the proposed use on or before Three years from date of approval. .....

State Board of Higher Education

(Signature of applicant)

By-

[Signature]  
Business Manager, University of Oregon .....

Remarks: No consumptive use of water is contemplated. It is the desire and intention to keep this old mill race full of flowing water for the recreational benefit of students of the University and the general public.

Water is to be returned to the Willamette River at two points. The first point is located 760 feet N 20° W from the center of Section 32, T 17 S, R 3 W, W.M., at which point approximately 30 cfs is returned. The second point is located 740 feet N 83° E from the SW corner of Section 29, T 17 S, R 3 W, W.M., at which point approximately 20 cfs is returned.

STATE OF OREGON, }  
County of Marion, } ss.

*This is to certify that I have examined the foregoing application, together with the accompanying maps and data, and return the same for .....*

*In order to retain its priority, this application must be returned to the State Engineer, with corrections on or before ....., 19 .....*

WITNESS my hand this ..... day of ....., 19 .....

STATE ENGINEER

PERMIT

STATE OF OREGON, }  
County of Marion, } ss.

This is to certify that I have examined the foregoing application and do hereby grant the same, SUBJECT TO EXISTING RIGHTS and the following limitations and conditions:

The right herein granted is limited to the amount of water which can be applied to beneficial use and shall not exceed ..... cubic feet per second measured at the point of diversion from the stream, or its equivalent in case of rotation with other water users, from .....

The use to which this water is to be applied is Recreational, including swimming, boating and scenic enhancement.

If for irrigation, this appropriation shall be limited to ..... of one cubic foot per second

This use of water hereby authorized is permissive only and shall be subordinate to all future appropriations for domestic, municipal, irrigation, and industrial uses and to appropriations for storage for such uses.

and shall be subject to such reasonable rotation system as may be ordered by the proper state officer.

The priority date of this permit is .....

Actual construction work shall begin on or before ..... and shall thereafter be prosecuted with reasonable diligence and be completed on or before .....

Complete application of the water to the proposed use shall be made on or before .....

WITNESS my hand this ..... day of ....., 19 .....

STATE ENGINEER

Permits for power development are subject to the payment of annual fees as provided in sections 1 and 2, chapter 74, Oregon Laws 1933.

Application No. ....  
 Permit No. ....

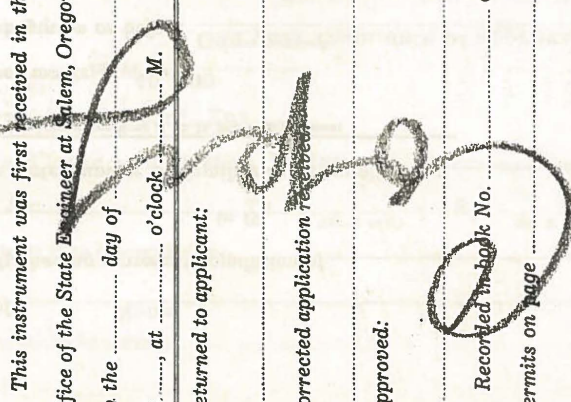
**PERMIT**  
 TO APPROPRIATE THE PUBLIC  
 WATERS OF THE STATE  
 OF OREGON

Division No. .... District No. ....

This instrument was first received in the  
 office of the State Engineer at Salem, Oregon,  
 on the ..... day of .....,  
 19....., at ..... o'clock ..... M.

Returned to applicant: .....

Corrected application received: .....

Approved: 

Recorded in book No. .... of  
 Permits on page .....

STATE ENGINEER

Drainage Basin No. .... Page .....

Fees Paid .....

STATE OF OREGON
COUNTY OF IANE
CERTIFICATE OF WATER RIGHT

This Is to Certify, That STATE BOARD OF HIGHER EDUCATION

of Eugene, State of Oregon, has made proof to the satisfaction of the STATE ENGINEER of Oregon, of a right to the use of the waters of Willamette River

a tributary of Columbia River for the purpose of recreational, including swimming, boating and scenic enhancement under Permit No. 25234 of the State Engineer, and that said right to the use of said waters has been perfected in accordance with the laws of Oregon; that the priority of the right hereby confirmed dates from September 30, 1957

that the amount of water to which such right is entitled and hereby confirmed, for the purposes aforesaid, is limited to an amount actually beneficially used for said purposes, and shall not exceed 36.8 cubic feet per second

or its equivalent in case of rotation, measured at the point of diversion from the stream. The point of diversion is located in the Lot 4 (NW 1/4 SE 1/4) Section 33, T. 17 S., R. 3 W., W.M.

The amount of water used for irrigation, together with the amount secured under any other right existing for the same lands, shall be limited to ... of one cubic foot per second per acre,

and shall conform to such reasonable rotation system as may be ordered by the proper state officer.

A description of the place of use under the right hereby confirmed, and to which such right is appurtenant, is as follows:

3 1/2 NE 1/4
SE 1/4 NW 1/4
N 1/2 SE 1/4
Section 32
N 1/2 S 1/2
Section 33
T. 17 S., R. 3 W., W.M.

This use of water hereby authorized is permissive only and shall be subordinate to all future appropriations for domestic, municipal, irrigation and industrial uses and to appropriations for storage for such uses. The intakes to the pumping plant at the diversion point shall be properly screened to prevent the entry of fish into the pumps and the permittee shall cooperate with fisheries agencies of the State of Oregon in installation of a barrier at the point where the water is returned to the Willamette River if such measure is later determined by said fisheries agencies to be necessary.

The right to the use of the water for the purposes aforesaid is restricted to the lands or place of use herein described.

WITNESS the signature of the State Engineer, affixed

this date. FEBRUARY 16 1962

LEWIS A. STANLEY

State Engineer

Recorded in State Record of Water Right Certificates, Volume 91, page 29375

Application No. 56405

Permit No. 42038

**RECEIVED**

AUG 12 1977

**STATE OF OREGON WATER RESOURCES DEPARTMENT**

**Application for Permit to Appropriate Surface Water**  
**SALEM, OREGON**

I, Department of Fish and Wildlife  
(Name of Applicant)

of 1729 S. W. 5th Avenue, Portland  
(Mailing Address) (City)

State of Oregon, 97201 Phone No. 229-5702 do hereby  
(Zip Code)

make application for a permit to appropriate the following described waters of the State of Oregon:

1. The source of the proposed appropriation is Chickahominy Creek & reservoir  
, a tributary of Silver Creek

2. The point of diversion is to be located 3471.6 ft. S and 726 ft. E  
(N. or S.) (E. or W.)  
 from the NW corner of Sec 28  
(Public Land Survey Corner)

(If there is more than one point of diversion, each must be described)

being within the NW  $\frac{1}{4}$  of the SW  $\frac{1}{4}$  of  
 Sec. 28 Tp. 23S R. 26E, W. M., in the county of Harney  
(N. or S.) (E. or W.)

3. Location of area to be irrigated, or place of use if other than irrigation.

Township	Range	Section	List $\frac{1}{4}$ $\frac{1}{4}$ of Section	List use and/or number of acres to be irrigated
23S	25E	13	N $\frac{1}{2}$ SE $\frac{1}{4}$	
	26E	17	SW $\frac{1}{4}$ SW $\frac{1}{4}$	
		18	SE $\frac{1}{4}$ NW $\frac{1}{4}$ & S $\frac{1}{2}$	
		19	N $\frac{1}{2}$ NE $\frac{1}{4}$ & SE $\frac{1}{4}$ NE $\frac{1}{4}$	
		20	NW $\frac{1}{4}$ , N $\frac{1}{2}$ SW $\frac{1}{4}$ , SE $\frac{1}{4}$ SW $\frac{1}{4}$ , W $\frac{1}{2}$ SE $\frac{1}{4}$ & SE $\frac{1}{4}$ SE $\frac{1}{4}$	
		28	W $\frac{1}{2}$ NW $\frac{1}{4}$ & NW $\frac{1}{4}$ SW $\frac{1}{4}$	
		29	NE $\frac{1}{4}$ , E $\frac{1}{2}$ NW $\frac{1}{4}$ , SW $\frac{1}{4}$ NW $\frac{1}{4}$ , NE $\frac{1}{4}$ SW $\frac{1}{4}$ & N $\frac{1}{2}$ SE $\frac{1}{4}$	

Form 690-1-0-1-77



Remarks:.....

.....  
.....  
.....  
.....  
.....  
.....  
.....  
.....

*Leelan Sumrath*  
Signature of Applicant  
*Asst Director*

*This is to certify that I have examined the foregoing application, together with the accompanying maps and data, and return the same for.....*

*In order to retain its priority, this application must be returned to the Water Resources Director with corrections on or before ....., 19.....*

*WITNESS my hand this ..... day of....., 19.....*

..... *Water Resources Director*

*By* .....

*This instrument was first received in the office of the Water Resources Director at Salem, Oregon, on the*  
..... *12* day of *Aug* ....., 19 *77* ....., at *6:00* o'clock  
..... *P.M.*

*Application No.*..... *56405*.....

*Permit No.*..... *42038*.....

Permit to Appropriate the Public Waters of the State of Oregon

This is to certify that I have examined the foregoing application and do hereby grant the same SUBJECT TO EXISTING RIGHTS INCLUDING THE EXISTING FLOW POLICIES ESTABLISHED BY THE WATER POLICY REVIEW BOARD and the following limitations and conditions:

The right herein granted is limited to the amount of water which can be applied to beneficial use and shall not exceed 2.0 cubic feet per second measured at the point of diversion from the stream, or its equivalent in case of rotation with other water users, from Chickahominy Creek and Chickahominy Reservoir to be constructed under application No. R. 56404, permit No. R 6672

The use to which this water is to be applied is Recreational uses

If for irrigation, this appropriation shall be limited to of one cubic foot per second or its equivalent for each acre irrigated

and shall be subject to such reasonable rotation system as may be ordered by the proper state officer.

The priority date of this permit is August 12, 1977

Actual construction work shall begin on or before November 4, 1978 and shall thereafter be prosecuted with reasonable diligence and be completed on or before October 1, 1979

Complete application of the water to the proposed use shall be made on or before October 1, 1980

WITNESS my hand this 4th day of November, 1977

James C. Nelson Water Resources Director

STATE OF OREGON

COUNTY OF HARNEY

CERTIFICATE OF WATER RIGHT

This Is to Certify, That DEPARTMENT of FISH and WILDLIFE

of P.O. Box 3503, Portland, State of Oregon 97208, has made proof to the satisfaction of the Water Resources Director, of a right to the use of the waters of Chickahominy Creek and Chickahominy Reservoir, constructed under Permit R-6672

a tributary of Silver Creek for the purpose of recreational uses

under Permit No. 42038 and that said right to the use of said waters has been perfected in accordance with the laws of Oregon; that the priority of the right hereby confirmed dates from August 12, 1977 that the amount of water to which such right is entitled and hereby confirmed, for the purposes aforesaid, is limited to an amount actually beneficially used for said purposes, and shall not exceed 2.0 cubic feet per second

or its equivalent in case of rotation, measured at the point of diversion from the stream. The point of diversion is located in the NW 1/4 SW 1/4, Section 28, T23S, R26E, WM; 3,471.6 feet South and 726 feet East from NW Corner Section 28.

The amount of water used for irrigation, together with the amount secured under any other right existing for the same lands, shall be limited to ----- of one cubic foot per second per acre,

and shall conform to such reasonable rotation system as may be ordered by the proper state officer.

A description of the place of use under the right hereby confirmed, and to which such right is appurtenant, is as follows:

N 1/2 SE 1/4
Section 13
Township 23 South, Range 25 East, WM

SW 1/4 SW 1/4
Section 17

SEE NEXT PAGE



SE 1/4 NW 1/4  
S 1/2  
Section 18

N 1/2 NE 1/4  
SE 1/4 NE 1/4  
Section 19

NW 1/4  
N 1/2 SW 1/4  
SE 1/4 SW 1/4  
W 1/2 SE 1/4  
SE 1/4 SE 1/4  
Section 20

W 1/2 NW 1/4  
NW 1/4 SW 1/4  
Section 28

NE 1/4  
E 1/2 NW 1/4  
SW 1/4 NW 1/4  
NE 1/4 SW 1/4  
N 1/2 SE 1/4  
Section 29

Township 23 South, Range 26 East, WM

*The right to the use of the water for the purposes aforesaid is restricted to the lands or place of use herein described. and is subject to minimum flows established by the Water Policy Review Board with an effective date prior to this right.*

*WITNESS the signature of the Water Resources Director, affixed*

*this date. May 29, 1984*

.....William H. Young.....  
*Water Resources Director*

*Recorded in State Record of Water Right Certificates, Volume 47 , page 52034*

1267C

STATE OF OREGON

COUNTIES OF JEFFERSON, CROOK AND DESCHUTES

PERMIT TO APPROPRIATE THE PUBLIC WATERS

THIS PERMIT IS HEREBY ISSUED TO

U.S. BUREAU OF RECLAMATION  
1917 MARSH ROAD  
YAKIMA, WA 98901-2058

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

APPLICATION FILE NUMBER: S-88402

SOURCE OF WATER: PRINEVILLE RESERVOIR, CONSTRUCTED UNDER PERMIT R-2223, A TRIBUTARY OF CROOKED RIVER

PURPOSE OR USE: FLOW AUGMENTATION FOR WILDLIFE AND FISH LIFE; AND TO ESTABLISH MITIGATION CREDITS UNDER THE DESCHUTES GROUND WATER MITIGATION PROGRAM FOR THE CITY OF PRINEVILLE

MAXIMUM VOLUME: 5100.0 ACRE-FEET EACH YEAR

PERIOD OF USE: YEAR-ROUND

DATE OF PRIORITY: MARCH 10, 2017

POINT OF DIVERSION LOCATION: BOWMAN DAM - SW ¼ NW ¼ SECTION 11, T17S, R16E, W.M.; 2350 FEET SOUTH AND 650 FEET EAST FROM NW CORNER, SECTION 11

THE PLACE OF USE IS LOCATED AS FOLLOWS:

IN THE CROOKED RIVER, FROM BOWMAN DAM DOWNSTREAM TO LAKE BILLY CHINOOK

Measurement Devices, and Recording/Reporting of Annual Water Conditions

- A. Before water use may begin under this permit, the permittee shall install a suitable measuring device at each point of diversion. 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 diverted each month, and shall submit a report which includes 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.
- D. The Director may provide an opportunity for the permittee to submit alternative measuring and reporting procedures for review and approval.

Mitigation Credit Conditions:

1. Preliminary Award of Mitigation Credits: Preliminary award and use of mitigation credits under mitigation-credit project MP-222 shall be consistent with OAR 690-521-0400. If completed as described and conditioned herein, mitigation in the amount of up to 5100.0 credits may be awarded to MP-222 and assigned to the City of Prineville. Mitigation credits awarded may be used to satisfy a mitigation obligation of a groundwater permit or certificate held by the City of Prineville in the General and/or Crooked River Zones of Impact.
2. Mitigation credits awarded under mitigation-credit project MP-222 may be used only by the City of Prineville, and cannot be conveyed to any other person or mitigation bank.
3. By January 1 of each calendar year, BOR must provide notice to OWRD of how much water will be released from storage under this permit during the following year. In the event that an annual volume of less than 5100.0 AF will be released for mitigation use by the City of Prineville under this permit, the number of mitigation credits available that year will be reduced proportionally. The Department and the BOR may jointly agree to an alternate forecasting schedule.
4. The BOR shall, in writing, notify the watermaster of the dates and volumes that water will be released from storage under this water right.

**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.

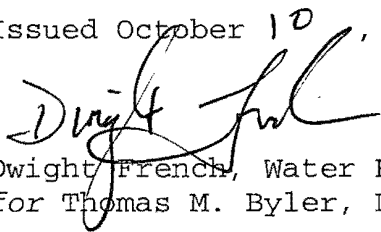
The use of water allowed herein may be made only at times when sufficient water is available to satisfy all prior rights, including prior rights for maintaining instream flows.

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.

Complete 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 October 10, 2017

A handwritten signature in black ink, appearing to read "Dwight French", is written over the typed name below.

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

STATE OF OREGON  
COUNTIES OF CROOK, DESCHUTES, AND JEFFERSON

CERTIFICATE OF WATER RIGHT

THIS CERTIFICATE ISSUED TO

U.S. BUREAU OF RECLAMATION  
1917 MARSH RD  
YAKIMA WA 98901

confirms the right to the use of water perfected under the terms of Permit S-55091. The amount of water used to which this right is entitled is limited to the amount used beneficially, and shall not exceed the amount specified, or its equivalent in the case of rotation, measured at the point of diversion from the source. The specific limits and conditions of the use are listed below.

APPLICATION FILE NUMBER: S-88402

SOURCE OF WATER: PRINEVILLE RESERVOIR, CONSTRUCTED UNDER PERMIT R-2223, A TRIBUTARY OF CROOKED RIVER

PURPOSE OR USE: FLOW AUGMENTATION FOR WILDLIFE AND FISH LIFE; AND TO ESTABLISH MITIGATION CREDITS UNDER THE DESCHUTES GROUND WATER MITIGATION PROGRAM FOR THE CITY OF PRINEVILLE

MAXIMUM VOLUME: 5100.0 ACRE-FEET EACH YEAR

PERIOD OF USE: OCTOBER 1 THROUGH SEPTEMBER 30

DATE OF PRIORITY: MARCH 10, 2017

POINT OF DIVERSION LOCATION:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
17 S	16 E	WM	11	SW NW	BOWMAN DAM - 2350 FEET SOUTH AND 650 FEET EAST FROM NW CORNER, SECTION 11

THE PLACE OF USE IS LOCATED AS FOLLOWS:

IN THE CROOKED RIVER, FROM BOWMAN DAM DOWNSTREAM TO LAKE BILLY CHINOOK

**NOTICE OF RIGHT TO PETITION FOR RECONSIDERATION OR JUDICIAL REVIEW**

This is an order in other than a contested case. This order is subject to judicial review under ORS 183.484 and ORS 536.075. Any petition for judicial review must be filed within the 60-day time period specified by ORS 183.484(2). Pursuant to ORS 183.484, ORS 536.075 and OAR 137-004-0080, you may petition for judicial review and 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. In addition, under ORS 537.260 any person with an application, permit or water right certificate subsequent in priority may jointly or severally contest the issuance of the certificate within three months after issuance of the certificate.

Measurement Devices, and Recording/Reporting of Annual Water Conditions:

- A. The water user shall maintain, in good working order, a suitable measuring device at each point of diversion.
- B. The water user 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 water user shall keep a complete record of the volume of water diverted each month, and shall submit a report which includes water-use measurements to the Department annually, or more frequently as may be required by the Director. Further, the Director may require the water user to report general water-use information, including the place and nature of use of water under the right.
- D. The Director may provide an opportunity for the water user to submit alternative measuring and reporting procedures for review and approval.

Mitigation Credit Conditions:

1. Issuance of this right awards 5100.0 mitigation credits to mitigation-credit project MP-222; the credits are assigned to the City of Prineville. These mitigation credits may be used to satisfy a mitigation obligation of a groundwater permit or certificate held by the City of Prineville in the General and/or Crooked River Zones of Impact.
2. The 5100.0 mitigation credits awarded under MP-222 may be used only by the City of Prineville, and cannot be conveyed to any other person or mitigation bank.
3. By January 1 of each calendar year, the U.S. Bureau of Reclamation (BOR) must provide notice to OWRD of how much water will be released from storage under this right during the following year. In the event that an annual volume of less than 5100.0 AF will be released for mitigation use by the City of Prineville under this right, the number of mitigation credits available that year will be reduced proportionally. The Department and BOR may jointly agree to an alternate forecasting schedule.
4. The BOR shall, in writing, notify the watermaster of the dates and volumes that water will be released from storage under this water right.

Failure to comply with any of the provisions of this right may result in action including, but not limited to, restrictions on the use, civil penalties, or cancellation of the right.

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.

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 existing state or federal water quality standards due to reduced flows.

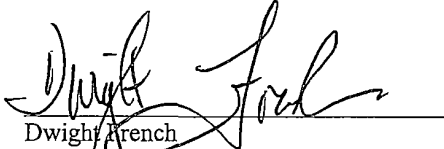
This right is for the beneficial use of water without waste. The water user is advised that new regulations may require the use of best practical technologies or conservation practices to achieve this end.

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.

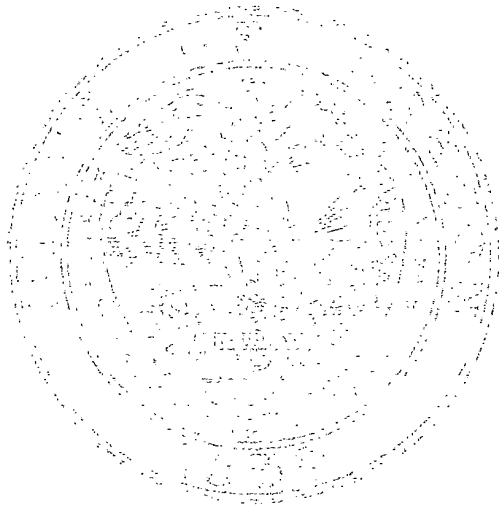
The use of water allowed herein may be made only at times when sufficient water is available to satisfy all prior rights, including prior rights for maintaining instream flows.

The right to the use of the water for the above purpose is restricted to beneficial use on the place of use described.

Issued NOV 28 2018



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





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

Water Right Application S-88820 in the )  
name of BRIDGE CREEK RANCH LLC )  
)

FINAL ORDER  
APPROVING THE USE OF  
STORED WATER

***Authority***

Oregon Revised Statute (ORS) 537.147 establishes the process by which an application to use stored water exclusively may be submitted. Oregon Administrative Rule (OAR) Chapter 690, Divisions 310 and 340 implement the statute, and provide the Department's procedures and criteria for evaluating applications to use stored water exclusively. This application is being processed in accordance with ORS 537.147, OAR 690-310, OAR-690-340, and OAR Chapter 690, Division 93, which governs the Department's Water Supply Development Account.

**FINDINGS OF FACT**

1. On May 15, 2020, Bridge Creek Ranch LLC submitted an application for a water-use permit pursuant to ORS 537.147:
  - Volume:** 125.00 ACRE-FEET (AF), BEING 10.0 AF RELEASED INTO BEAR CREEK AND 115.0 AF RELEASED INTO BRIDGE CREEK
  - Use:** FISH LIFE
  - Period of Use:** JUNE 1 THROUGH SEPTEMBER 30
  - Source:** PAINTED HILLS RESERVOIR, CONSTRUCTED UNDER PERMIT R-15180, TRIBUTARY TO BRIDGE CREEK
  - County:** WHEELER COUNTY
  - Place of Use:** SECTION 25, TOWNSHIP 10 SOUTH, RANGE 20 EAST, W.M.
2. The required examination fees were paid and minimum application requirements were met.
3. Pursuant to OAR 690-093-0110(4)(a), this application was submitted to meet the instream dedication requirement with stored water releases that must be protected under a separate secondary water right.
4. Specifically, OAR 690-093-0110(4) provides that, a storage water right that is using stored water releases to meet the instream requirement shall be conditioned to achieve the following:
  - a. Meet the dedication requirement with stored water releases that are protected under a separate secondary water right;

**NOTICE OF RIGHT TO PETITION FOR RECONSIDERATION OR JUDICIAL REVIEW**

This is an order in other than a 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 for judicial review or 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.

- b. Annually report, on a schedule determined by the Department, the maximum volume of newly developed water stored in the funded reservoir, including newly developed water present in the reservoir during the immediate past storage season. Twenty-five percent of this volume equals the dedication requirement;
  - c. If the dedication requirement is not fully met from other sources, the funded reservoir shall release and the Department shall protect the balance of the water necessary to meet the dedication requirement; and
  - d. Demonstrate that the dedication requirement has been met.
- 5. Permit S-55289 has been conditioned to achieve the standards in OAR 690-093-0110(4)(a)-(d).
  - 6. The Department has determined that the proposed use is an authorized use under the water right permit, certificate, or decree that allows the storage of water.
  - 7. On June 2, 2020, the Department provided public notice of the application in the Department's weekly public notice. A 30-day comment period followed.
  - 8. The Department received comments from Oregon Department of Fish and Wildlife related to the possible issuance of the attached permit. The comments addressed conditions developed collaboratively between the applicant and the commenter. Therefore, the Department has determined that no public interest issues as identified in ORS 537.170(8) have been raised.

**CONCLUSIONS OF LAW**

- 1. Application S-88820 is consistent with the requirements of ORS 537.147 and OAR Chapter 690.

**ORDER**

Application S-88820 is approved and Permit S-55289 is issued as limited by the conditions contained therein.

Dated at Salem, Oregon on OCT 28 2020



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

If you have 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.

STATE OF OREGON

COUNTY OF WHEELER

PERMIT TO APPROPRIATE THE PUBLIC WATERS

THIS PERMIT IS HEREBY ISSUED TO:

BRIDGE CREEK RANCH LLC  
PO BOX 10127  
EUGENE OR 90127

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

APPLICATION FILE NUMBER: S-88820

SOURCE OF WATER: PAINTED HILLS RESERVOIR, CONSTRUCTED UNDER PERMIT R-15180, TRIBUTARY TO BRIDGE CREEK

PURPOSE OR USE: FISH LIFE

PERIOD OF USE: JUNE 1 THROUGH SEPTEMBER 15

DATE OF PRIORITY: MAY 21, 2020

VOLUME AND RATE OF RELEASE FOR – BRIDGE CREEK:

<b>Normal Year Release</b>		
<b>Period of Release</b>	<b>June 15 — July 15 (up to 31 days)</b>	<b>July 16 — August 15 (up to 31 days)</b>
<b>Maximum Volume Released in Each Period</b>	93.75 ACRE-FEET	21.25 ACRE-FEET
<b>Rate of Release (CFS) (+/- 20%)</b>	1.52 CFS	0.34 CFS

<b>Dry Year Release</b>		
<b>Period of Release</b>	<b>June 1 — July 15 (up to 45 days)</b>	<b>July 16 — August 5 (up to 21 days)</b>
<b>Maximum Volume Released in Each Period</b>	93.75 ACRE-FEET	21.25 ACRE-FEET
<b>Rate of Release (+/- 20%)</b>	1.05 CFS	0.51 CFS

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Basin #6

Water Resources Department  
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Permit S-55289  
Water District # 21

VOLUME/RATE OF RELEASE – BEAR CREEK:

ALL WATER YEAR TYPES	
Period of Release	June 1-September 15 (101 days)
Maximum Volume Released in Each Period	10.0 ACRE-FEET
Rate of Release (+/- 20%)	0.05 CFS

AUTHORIZED POINT OF RELEASE (POR):

POR Name	Twp	Rng	Mer	Sec	Q-Q	Measured Distances
POR 1 – BRIDGE CREEK	10 S	20 E	WM	25	NE SW	3090 FEET SOUTH AND 2540 FEET EAST FROM NW CORNER, SECTION 25
POR 2 – BEAR CREEK	10 S	20 E	WM	25	NW NW	1310 FEET SOUTH AND 1080 FEET EAST FROM NW CORNER, SECTION 25

AUTHORIZED POINTS OF DIVERSION (POD):

POD Name	Twp	Rng	Mer	Sec	Q-Q	Measured Distances
POD 1	10 S	20 E	WM	25	NE SW	3640 FEET SOUTH AND 2450 FEET EAST FROM NW CORNER, SECTION 25
POD 2	10 S	20 E	WM	25	NE SW	3620 FEET SOUTH AND 2590 FEET EAST FROM NW CORNER, SECTION 25

AUTHORIZED PLACE OF USE/ PROTECTED REACHES: FROM THE POINT OF RELEASE IN BEAR CREEK TO THE CONFLUENCE WITH BRIDGE CREEK AND FROM POINT OF RELEASE IN BRIDGE CREEK TO THE CONFLUENCE WITH THE JOHN DAY RIVER

1. **Water Use Measurement, Recording, and Reporting Condition:**

- A. Before water use may begin under this permit, the permittee shall install a totalizing flow meter at each point of release. The device shall be approved by the Watermaster prior to installation. 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 released each month, and shall submit a report which includes water-use measurements to the Department by **December 31** of each year, or more frequently as may be required by the Director.
- D. The permittee shall notify the Department of the determination of the water year type (Dry/Normal) for the Bridge Creek releases by **June 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.

E. The Director may provide an opportunity for the permittee to submit alternative measuring and reporting procedures for review and approval.

**2. Fish Screen/Passage Condition:**

The water user shall install, maintain, and operate fish screening and fish passage devices consistent with current Oregon Department of Fish and Wildlife (ODFW) standards at each point of diversion from the reservoir. Fish screening is to prevent fish from entering the proposed points of diversion from the reservoir, while passage devices provide adequate upstream and downstream passage for fish. The required screen and passage devices are to be in place and functional, and approved in writing by ODFW prior to diversion of water. The water user may submit evidence in writing that ODFW has determined screens and/or passage devices are not necessary.

**3. Water Temperature Condition:**

The permittee shall collect water temperature data for the first five years of the project operation to determine if and when the temperature of released water is greater than the receiving stream's water temperature. Hourly water temperature data shall be collected from Bridge Creek both upstream and downstream of the discharge point and from the reservoir outflow pipe during the release period.

The data shall be submitted by the end of each calendar year to ODFW and Oregon Department of Environmental Quality (DEQ) for analysis. If the 5 years of data indicate that there are repeated instances when the released water is warmer than Bridge Creek water (based on daily maximum and average values), ODFW and DEQ will notify the Department of the findings and work with the Department to determine a revised release strategy for the Required 25 Percent Instream Flow Protection requirement. This revised release strategy shall remain in the permit and subsequent certificate for the life of the project funded under the Water Supply Development Grant and Loan Program.

**4. Water Quality Condition:**

If the use is restricted under Permit R-15180 due to the quality of the source stream or downstream waters decreasing 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 schedule for the Required Instream Flow Protection (RIFP) requirement that best protects instream uses with regards to sensitive, threatened, and endangered species.

**5. Release Condition:**

If the permittee no longer needs to release flows into Bear Creek to support riparian plantings, the permittee is allowed to release the full volume of the RIFP into Bridge Creek.

If the full volume of water is released into Bridge Creek, the permittee shall notify the Watermaster in writing by **June 1** of any given year. The original release timing and rates can be re-instated with written notice to the watermaster.

## STANDARD 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. 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.
3. 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.
4. 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.
5. 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.
6. 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.
7. Complete 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.
8. Within one year after making complete application 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 OCT 28 2020



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

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

Water Right Application S-88806 in the )  
name of FARMERS IRRIGATION )  
DISTRICT )

FINAL ORDER  
APPROVING THE USE OF  
STORED WATER

***Authority***

Oregon Revised Statute (ORS) 537.147 establishes the process by which an application to use stored water exclusively may be submitted. Oregon Administrative Rule (OAR) Chapter 690, Divisions 310 and 340 implement the statute, and provide the Department's procedures and criteria for evaluating applications to use stored water exclusively. This application is being processed in accordance with ORS 537.147, OAR 690-310, OAR-690-340, and OAR Chapter 690, Division 93, which governs the Department's Water Supply Development Program.

**FINDINGS OF FACT**

1. On February 12, 2020, Farmers Irrigation District submitted an application for a water-use permit pursuant to ORS 537.147, as follows:

**Volume:** 45.0 ACRE-FEET (AF)

**Use:** FLOW AUGMENTATION

**Source:** UPPER GREEN POINT RESERVOIR, CONSTRUCTED UNDER PERMIT R-15387, TRIBUTARY TO DITCH CREEK

**County:** HOOD RIVER COUNTY

**Place of Use:** DITCH CREEK – FROM UPPER GREEN POINT RESERVOIR (2 NORTH, 9 EAST, SECTION 22, W.M.) TO THE CONFLUENCE OF DITCH CREEK AND HOOD RIVER MAINSTEM (INSERT TRS OF THIS LOCATION)

2. Pursuant to OAR 690-093-0110(4)(a), this application was submitted to meet the instream dedication requirement with stored water releases that must be protected under a separate secondary water right.
3. Specifically, OAR 690-093-0110(4)(a) provides that, a storage water right that is using stored water releases to meet the instream requirement shall be conditioned to achieve the following:
  - a. Meet the dedication requirement with stored water releases that are protected under a separate secondary water right;

**NOTICE OF RIGHT TO PETITION FOR RECONSIDERATION OR JUDICIAL REVIEW**

This is an order in other than a 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 for judicial review or 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.

- b. Annually report, on a schedule determined by the Department, the maximum volume of newly developed water stored in the funded reservoir, including newly developed water present in the reservoir during the immediate past storage season. Twenty-five percent of this volume equals the dedication requirement;
  - c. If the dedication requirement is not fully met from other sources, the funded reservoir shall release and the Department shall protect the balance of the water necessary to meet the dedication requirement; and
  - d. Demonstrate that the dedication requirement has been met.
4. Application S-88806 has been conditioned to achieve the standards in OAR 690-093-0110(4)(a)-(d). The required examination fees were paid and minimum application requirements were met.
  5. The Department has determined that the proposed use is an authorized use under the water right permit, certificate, or decree that allows the storage of water.
  6. On March 3, 2020, the Department provided public notice of the application in the Department's weekly public notice. A 30-day comment period followed.
  7. The Department has not received public comments related to the possible issuance of the attached permit. Therefore, the Department has determined that no public interest issues as identified in ORS 537.170(8) have been raised.

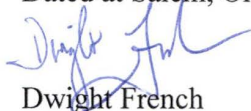
**CONCLUSIONS OF LAW**

1. Application S-88806 is consistent with the requirements of ORS 537.147 and OAR Chapter 690.

**ORDER**

Application S-88806 is approved and Permit S-55271 is issued as limited by the conditions contained therein.

Dated at Salem, Oregon APR 09 2021



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

R 0 9 2021

If you have 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.

R 0 9 2021



STATE OF OREGON

COUNTY OF HOOD RIVER

PERMIT TO APPROPRIATE THE PUBLIC WATERS

THIS 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: S-88806

SOURCE OF WATER: UPPER GREEN POINT RESERVOIR, CONSTRUCTED UNDER PERMIT R-698 AND ENLARGED UNDER PERMIT R-15387, TRIBUTARY TO DITCH CREEK

MAXIMUM VOLUME (ACRE-FEET)	PERIOD OF USE
7.0	JULY 1 THROUGH JULY 31
19.0	AUGUST 1 THROUGH AUGUST 31
19.0	SEPTEMBER 1 THROUGH SEPTEMBER 30

PURPOSE OR USE: FLOW AUGMENTATION

DATE OF PRIORITY: FEBRUARY 12, 2020

AUTHORIZED POINT OF DIVERSION:

POD Name	Twp	Rng	Mer	Sec	Q-Q	Measured Distances
UPPER GREEN POINT RESERVOIR	2 N	9 E	WM	22	NW SE	2600 FEET SOUTH AND 3118 FEET EAST FROM NW CORNER, SECTION 22

AUTHORIZED PLACE OF USE:

DITCH CREEK – FROM UPPER GREEN POINT RESERVOIR (2 NORTH, 9 EAST, SECTION 22, NW SE, W.M.) TO THE CONFLUENCE OF DITCH CREEK AND HOOD RIVER MAINSTEM (2 NORTH, 10 EAST, SECTION 20, SE SW, W.M.,)

**1. Measurement, Recording and Reporting Conditions:**

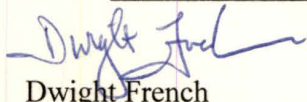
- A. Before use may begin under this permit, the permittee shall install measurement devices as described in the *Monitoring and Measurement Plan for Permit R-15387*.
- B. The permittee shall allow the Watermaster access to the devices to confirm compliance with the permit conditions; provided, however, 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 monitoring and measurement.
- D. The permittee shall notify the Watermaster when water use begins under this permit.
- E. The permittee shall keep a complete record of the volume of water released each month and shall report to the Department annually or more frequently, as may be required by the Director and documented in the *Monitoring and Measurement Plan for Permit R-15387*. 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.
- F. The Director may provide an opportunity for the permittee to submit alternative measuring and reporting procedures for review and approval.

### **STANDARD 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. 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.
3. 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.
4. 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.
5. 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.
6. Construction of the water system shall begin within ten 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.
7. Complete application of the water shall be made within ten 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.
8. Within one year after making complete application 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 APR 09 2021



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



Application S-88806  
Basin #2

Water Resources Department  
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Water District # 22

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**CERTIFICATE OF SERVICE**

I certify that on September 20, 2024, I served the foregoing Declaration of Andrew R. Missel in Support of WaterWatch’s Summary Judgment Motion upon the parties to this case by email. Service was accomplished at the following email addresses:

**Petitioners:**

Sarah R. Liljefelt  
Kevin T. Sasse  
Dunn Carney LLP  
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**Respondents:**

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YoungWoo Joh  
Kate Morrow  
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YoungWoo.Joh@doj.oregon.gov  
Kate.E.Morrow@doj.oregon.gov

Dated: September 20, 2024

*/s/ Andrew R. Missel*  
Andrew R. Missel (# 181793)  
ADVOCATES FOR THE WEST  
3701 SE Milwaukie Ave., Ste. B  
Portland, OR 97202  
(503) 914-6388

*Attorney for WaterWatch of Oregon*