

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

Water Right Application R-89251 in the)
name of DANIEL DEKEIZER)
)

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

Authority

The application is being processed in accordance with Oregon Revised Statute (ORS) 537.409, which establishes the process by which an application to store waters of the public may be submitted. This statute can be accessed here:

<https://www.oregon.gov/OWRD/programs/policylawandrules/Pages/default.aspx>

The Water Resources Department's website can be accessed here:

<https://www.oregon.gov/OWRD>

In accordance with ORS 537.409, the Department shall conduct a public interest review of an application submitted to store water in a reservoir that has a storage capacity of less than 9.2 acre-feet or a dam or impoundment structure less than 10 feet in height.

The review shall be limited to issues pertaining to:

- (a) Water availability;
- (b) Potential detrimental impact to existing fishery resources; and
- (c) Potential injury to existing water rights.

In addition, the Department will review ORS Chapter 538 to determine if the source of water has been withdrawn from further appropriation and will conduct a review consistent with ORS Chapter 390.835 – Oregon's Scenic Waterway laws – to determine whether the use is prohibited.

Following this review, the Department shall issue a final order granting or denying the permit or granting the permit with conditions.

NOTICE OF RIGHT TO PETITION FOR RECONSIDERATION OR JUDICIAL REVIEW

This is a final order in other than contested case. This final order is subject to judicial review under ORS 536.075 and ORS 183.484. Any petition for judicial review of the final order must be filed within the 60-day time period specified by ORS 183.484(2). Pursuant to ORS 536.075, ORS 183.484, and 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.

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

FINDINGS OF FACT

1. On July 13, 2022, Daniel Dekeizer submitted an application for a permit to store water pursuant to ORS 537.409.

Storage Volume: 2.0 ACRE-FEET

Dam Height: 3 FEET

Source: RUNOFF, TRIBUTARY TO SOAP CREEK

County: BENTON COUNTY

Reservoir Location: SECTION 34, TOWNSHIP 10 SOUTH, RANGE 5 WEST, W.M.

2. The required examination fees were paid, and minimum application requirements were met.
3. On August 2, 2022, the Department provided public notice of the application in the Department's weekly public notice. A 60-day comment period followed.
4. The Department did not receive public comment related to the possible issuance of the attached permit.
5. An assessment of water availability at 50% exceedance for the proposed use was completed using the Department's Water Availability Reporting System. A copy of this assessment is in the application file. This review is done consistent with OAR 690-410-0070(2)(a). The assessment established that water is available September 1 through July 31 of each year for the proposed use.
6. The Department relies on the Oregon Department of Fish and Wildlife's review and recommendations in determining whether a proposed use would pose a significant detrimental impact to existing fishery resources. The Department has determined that, if limited to December 1 through March 31, and as conditioned, the proposed use will not pose a significant detrimental impact to existing fishery resources.
7. The Department has determined that the proposed use, as conditioned, will not injure other water rights.
8. The Department has determined that the proposed source has not been withdrawn from further appropriation under ORS Chapter 538.
9. The proposed reservoir is not prohibited under ORS 390.835.

CONCLUSIONS OF LAW

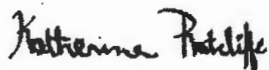
1. Application R-89251 contains the information required by ORS 537.409(1)-(3).
2. The proposed use would not impair or be detrimental to the public interest as described in ORS 537.409.

2. 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.
3. 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.

DEVELOPMENT AND COMPLETION TIMELINE REQUIREMENTS

1. 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.
2. The permitted volume of water shall be stored within five 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.
3. Within one year after storage of water, the permittee shall submit a claim of beneficial use to the Oregon Water Resources Department.
4. The claim of beneficial use shall be prepared by a Certified Water Right Examiner in conformance with the requirements of OAR 690-014 if an associated secondary permit exists for the use of stored water under this permit, or if the reservoir capacity is equal to or greater than 9.2 acre-feet.
5. If no secondary permit exists and the reservoir capacity is less than 9.2 acre-feet of water, the claim of beneficial use need not be prepared by a Certified Water Right Examiner. The information submitted to the Oregon Water Resources Department shall include:
 - a. the dimensions of the reservoir;
 - b. the maximum capacity of the reservoir in acre-feet; and
 - c. a map identifying the location of the reservoir prepared in compliance with Water Resource Department standards.

Issued **FEB 17 2023**



Katherine Ratcliffe
Water Rights Section Manager, for
Douglas E. Woodcock, Acting Director
Oregon Water Resources Department