



Oregon

Tina Kotek, Governor

Water Resources Department

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www.oregon.gov/owrd

Water Right Application Initial Review

May 19, 2023

CITY OF EUGENE
SHELLY MILLER
1820 ROOSEVELT BLVD
EUGENE OR 97402

Reference: Application R-89247

This document is to inform you of the preliminary analysis of the water-use permit application and to describe your options. In determining whether an application may be approved, the Water Resources Department (Department) must consider the factors listed below, all of which must be favorable to the proposed use if it is to be allowed. Based on the information supplied, the Department has made the following preliminary determinations:

Preliminary Determinations (Oregon Administrative Rule (OAR) 690-310-0080)

1. The application proposes the diversion of 55.0 acre-feet (AF) of water from runoff, tributary to Amazon Creek, for year-round storage in 32 reservoirs for wetland enhancement.

#	Reservoir Name	Surface Area	Dam Height (FT)	Volume (AF)
1	A1	0.61	2.0	0.41
2	A2	0.3	2.0	0.45
3	A3	0.3	2.0	0.45
4	A4	1.26	2.0	1.05
5	A5	1.16	2.0	1.16
6	A6	0.47	2.0	0.63
7	A7	2.2	2.0	2.2
8	A8	1.94	2.0	3.07
9	A9	1.39	2.0	2.2
10	A10	2.88	2.0	3.84
11	A11	0.93	2.0	1.24
12	A12	1.48	2.0	2.71
13	A13	2.72	2.0	3.63
14	A14	0.8	2.0	1.47
15	A15	0.58	2.0	0.73
16	A16	1.46	2.0	2.68

17	A17	0.63	2.0	1.05
18	A18	0.45	2.0	0.68
19	A19	1.64	2.0	2.46
20	B20	1.79	2.0	1.79
21	B21	1.57	2.0	1.57
22	B22	0.89	2.0	1.63
23	B23	1.75	2.0	2.04
24	B24	1.01	2.0	1.77
25	B25	0.5	2.0	0.67
26	B26	1.51	2.0	2.52
27	B27	3.85	2.0	3.85
28	B28	0.68	2.0	0.96
29	B29	1.09	2.0	2.00
30	B30	0.6	2.0	0.70
31	B31	1.36	2.0	2.49
32	B32	0.65	2.0	0.92
			Total	55.0

2. The proposed use is not prohibited by law or rule except where otherwise noted below.
3. Wetland enhancement is allowable under the Willamette Basin Program (OAR 690-502-0090(1)(b)). Storage is limited to November 1 through June 30 of each year (OAR 690-502-0040(4)(a)).
4. 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)(c). The assessment established surface water is available for the proposed use.
5. The proposed use is not located within or above any state scenic waterway.
6. Documentation has been submitted from the relevant land-use planning jurisdiction that indicates the proposed use is allowed outright or an approved land-use decision has been obtained, and that either no administrative appeals were received, or all such appeals have concluded.

Summary of Preliminary Determinations
The diversion of 55.0 AF of water from runoff, tributary to Amazon Creek, for storage in 32 reservoirs, for wetland enhancement is allowable November 1 through June 30 of each year.

Public Comment & Further Review:

Public interest issues and/or public comments will be addressed as the Department prepares a Proposed Final Order. If significant public interest issues are identified, they could have an impact on the eventual outcome of the application.

Division 33 Review – The Department’s Division 33 administrative rules (OAR 690-033) establish 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

(STE) fish species. This Initial Review does not address the potential impact that your proposed use may have on these species.

Your application will now undergo an additional review from numerous federal, state, local, and tribal governmental entities. This review may cause your application to be limited, conditioned, or denied. Depending on the proposed use, you may be required to mitigate for potential impacts identified in the review.

Mitigation for impacts to STE Species – Mitigation is often complicated, time consuming, and expensive, and may include, but is not limited to, actions such as replacing the proposed amount of water within the impacted reach through purchasing or transferring an existing water right. Following the Initial Review, you will be notified if mitigation is required, due to impacts to STE fish species.

If you choose to pursue mitigation, you will likely need to place your application on administrative hold in order to explore options. There will be an additional fee of \$790 required with any mitigation proposal submitted.

At this time, you must decide whether to proceed or to withdraw the application.

- To Proceed - If you choose to proceed with the application you do not have to notify the Department. The application will be placed on the Department's Public Notice to allow others the opportunity to comment. After the comment period the Department will complete a public interest review and issue a Proposed Final Order.
- To Withdraw - You may withdraw the application and receive a refund (minus a \$310 processing fee per application). You must notify the Department **in writing** by **June 2, 2023**. For your convenience you may use the enclosed "STOP PROCESSING" form.

If a permit is issued, it will likely include the following conditions:

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. A permit is subject to cancellation proceedings if the begin construction deadline is missed.
2. **Water Use Measurement, Recording, and Reporting:**
 - A. Before water use may begin under this permit, a staff gage that measures the entire range and stage between full reservoir level and dead-pool storage shall be installed in the reservoir. If no dead-pool, the gage must measure the full depth of the reservoir. The watermaster may determine an alternate measuring device is suitable. 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 Director may require the permittee to keep and maintain a record of the volume of water stored, and may require the permittee to report water-storage on a periodic schedule as established by the Director. In addition, the Director may require the permittee to report general water-use information, the periods of water use and the place and nature of use of water under the permit.
- D. The Director may provide an opportunity for the permittee to submit alternative measuring and reporting procedures for review and approval.

RESERVOIR CONDITIONS

1. The storage of water allowed herein is subject to the installation and maintenance of an outlet pipe (with a minimum diameter of 8" for any in-channel reservoir). This requirement may be waived if the Department determines other means have been provided to evacuate water when necessary.
2. The permittee shall pass all live flow outside the storage season described above.
3. 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 by the Oregon Fish and Wildlife Commission. The permittee is hereby directed to contact an Oregon Department of Fish and Wildlife Fish Passage Coordinator, before beginning construction of any in-channel obstruction.
4. The permittee may be required in the future to install, maintain, and operate fish screening and by-pass devices to prevent fish from entering the proposed diversion and to provide adequate upstream and downstream passage for fish.
5. This permit allows an annual appropriation (not to exceed the specified volume). This permit does not provide for the appropriation of water for out-of-reservoir uses, the maintenance of the water level or maintaining a suitable freshwater condition. If any water is to be used for out-of-reservoir purposes, a secondary water right is required. If any additional live flow is to be appropriated to maintain either the water level or a suitable freshwater condition, an additional water right is required.

The water source identified in the application may be affected by an Agricultural Water Quality Management Area Plan. These plans are developed by the Oregon Department of Agriculture (ODA) with the cooperation of local landowners and other interested stakeholders, and help to ensure that current and new appropriations of water are done in a way that does not adversely harm the environment. You are encouraged to explore ODA's Water Quality Program web site at <http://www.oregon.gov/ODA> to learn more about the plans and how they may affect the proposed water use.

For Further Information:

Feel free to contact me at Elisabeth.A.Graham@water.oregon.gov or 503-979-3130 if you have any questions regarding the contents of this letter or the application. Please include the application number in all correspondence. General questions about water rights and water use permits should be directed to our customer service staff at 503-986-0900. When corresponding by mail, please use this address: Lisa Graham, Oregon Water Resources Department, 725 Summer St NE Ste A, Salem OR 97301-1266. Our fax number is 503-986-0901.

Sincerely,

Lisa Graham

Lisa Graham
Water Right Application Specialist
Oregon Water Resources Department

Enclosures: Application Process Description and Stop Processing Request Form
 R-89247
 WAB: 114
 Proposed to Approve

APPLICATION FACT SHEET

Application File Number: R-89247

Applicant: CITY OF EUGENE

County: LANE

Watermaster: LANAYA BLAKELY, 2, NWR

Priority Date: JULY 11, 2022

Source: RUNOFF, TRIBUTARY TO AMAZON CREEK

Purpose or Use of the stored water: WETLAND ENHANCEMENT

Storage Facility Name: A1 THROUGH A19 AND B20 THROUGH B32

Maximum Dam Height: 2.0 FEET

Volume: 55.0 ACRE-FEET

Period of Use: JANUARY 1 THROUGH DECEMBER 31

Basin Name & Number: WILLAMETTE, # 2

WAB: LONG TOM R > WILLAMETTE R - AB MOUTH

Reservoir Location:

POD Name	Twp	Rng	Mer	Sec	Q-Q	Measured Distances	Dam Height (ft)	Area Acres
A1	17 S	5 W	WM	12	NW NW	SOUTH 83 DEGREES 44 MINUTES 48 SECONDS WEST, 4764 FEET FROM SE CORNER, SECTION 1	2.0	0.61
A2	17 S	5 W	WM	12	NW NW	SOUTH 86 DEGREES 26 MINUTES 13 SECONDS WEST, 4579 FEET FROM SE CORNER, SECTION 1	2.0	0.30
A3	17 S	5 W	WM	12	NW NW	SOUTH 89 DEGREES 55 MINUTES 36 SECONDS WEST, 4630 FEET FROM SE CORNER, SECTION 1	2.0	0.30
A4	17 S	5 W	WM	12	NW NW	SOUTH 88 DEGREES 28 MINUTES 50 SECONDS WEST, 4918 FEET FROM SE CORNER, SECTION 1	2.0	1.26
A5	17 S	5 W	WM	1	SW SW	NORTH 85 DEGREES 49 MINUTES 5 SECONDS WEST, 4536 FEET FROM SE CORNER, SECTION 1	2.0	1.16
A6	17 S	5 W	WM	1	SW SW	NORTH 82 DEGREES 49 MINUTES 1 SECOND WEST, 4590 FEET FROM SE CORNER, SECTION 1	2.0	0.47
A7	17 S	5 W	WM	1	SW SW	NORTH 81 DEGREES 9 MINUTES 2 SECONDS WEST, 4580 FEET FROM SE CORNER, SECTION 1	2.0	2.20
A8	17 S	5 W	WM	1	SW SW	NORTH 79 DEGREES 20 MINUTES 45 SECONDS WEST, 4294 FEET FROM SE CORNER, SECTION 1	2.0	1.94

POD Name	Twp	Rng	Mer	Sec	Q-Q	Measured Distances	Dam Height (ft)	Area Acres
A9	17 S	5 W	WM	1	SW SW	NORTH 72 DEGREES 44 MINUTES 26 SECONDS WEST, 4298 FEET FROM SE CORNER, SECTION 1	2.0	1.39
A10	17 S	5 W	WM	1	SW SW	NORTH 73 DEGREES 42 MINUTES 22 SECONDS WEST, 4650 FEET FROM SE CORNER, SECTION 1	2.0	2.88
A11	17 S	5 W	WM	1	SW SW	NORTH 74 DEGREES 8 MINUTES 18 SECONDS WEST, 5009 FEET FROM SE CORNER, SECTION 1	2.0	0.93
A12	17 S	5 W	WM	1	NE SW	NORTH 64 DEGREES 51 MINUTES 54 SECONDS WEST, 4170 FEET FROM SE CORNER, SECTION 1	2.0	1.48
A13	17 S	5 W	WM	1	NW SW	NORTH 65 DEGREES 35 MINUTES 38 SECONDS WEST, 4856 FEET FROM SE CORNER, SECTION 1	2.0	2.72
A14	17 S	5 W	WM	1	NW SW	NORTH 62 DEGREES 4 MINUTES 3 SECONDS WEST, 4845 FEET FROM SE CORNER, SECTION 1	2.0	0.80
A15	17 S	5 W	WM	1	NW SW	NORTH 59 DEGREES 20 MINUTES 44 SECONDS WEST, 5152 FEET FROM SE CORNER, SECTION 1	2.0	0.58
A16	17 S	5 W	WM	1	NE SW	NORTH 54 DEGREES 35 MINUTES 18 SECONDS WEST, 4166 FEET FROM SE CORNER, SECTION 1	2.0	1.46
A17	17 S	5 W	WM	1	NE SW	NORTH 52 DEGREES 8 MINUTES 14 SECONDS WEST, 3819 FEET FROM SE CORNER, SECTION 1	2.0	0.82
A18	17 S	5 W	WM	1	NW SW	NORTH 59 DEGREES 23 MINUTES 46 SECONDS WEST, 5385 FEET FROM SE CORNER, SECTION 1	2.0	0.45
A19	17 S	5 W	WM	1	NE SW	NORTH 47 DEGREES 19 MINUTES 51 SECONDS WEST, 3758 FEET FROM SE CORNER, SECTION 1	2.0	1.64
B20	17 S	5 W	WM	1	SE SW	NORTH 75 DEGREES 8 MINUTES 20 SECONDS WEST, 3200 FEET FROM SE CORNER, SECTION 1	2.0	1.79
B21	17 S	5 W	WM	1	SE SW	NORTH 73 DEGREES 25 MINUTES 35 SECONDS WEST, 3295 FEET FROM SE CORNER, SECTION 1	2.0	1.57
B22	17 S	5 W	WM	1	SE SW	NORTH 69 DEGREES 55 MINUTES 38 SECONDS WEST, 3037 FEET FROM SE CORNER, SECTION 1	2.0	0.89
B23	17 S	5 W	WM	1	SW SE	NORTH 72 DEGREES 32 MINUTES 40 SECONDS WEST, 2347 FEET FROM SE CORNER, SECTION 1	2.0	1.75
B24	17 S	5 W	WM	1	SW SE	NORTH 64 DEGREES 15 MINUTES 22 SECONDS WEST, 2482 FEET FROM SE CORNER, SECTION 1	2.0	1.01
B25	17 S	5 W	WM	1	SW SE	NORTH 63 DEGREES 34 SECONDS WEST, 2608 FEET FROM SE CORNER, SECTION 1	2.0	0.50
B26	17 S	5 W	WM	1	NW SE	NORTH 43 DEGREES 32 MINUTES 46 SECONDS WEST, 3031 FEET FROM SE CORNER, SECTION 1	2.0	1.51
B27	17 S	5 W	WM	1	NW SE	NORTH 35 DEGREES 39 MINUTES 47 SECONDS WEST, 3490 FEET FROM SE CORNER, SECTION 1	2.0	3.85
B28	17 S	5 W	WM	1	NW SE	NORTH 38 DEGREES 39 MINUTES 22 SECONDS WEST, 2482 FEET FROM SE CORNER, SECTION 1	2.0	0.68
B29	17 S	5 W	WM	1	NW SE	NORTH 42 DEGREES 16 MINUTES 43 SECONDS WEST, 1942 FEET FROM SE CORNER, SECTION 1	2.0	1.09
B30	17 S	5 W	WM	1	SE SE	NORTH 35 DEGREES 54 MINUTES 26 SECONDS WEST, 1426 FEET FROM SE CORNER, SECTION 1	2.0	0.60
B31	17 S	5 W	WM	1	SE SE	NORTH 46 DEGREES 1 MINUTE 26 SECONDS WEST, 1517 FEET FROM SE CORNER, SECTION 1	2.0	1.36
B32	17 S	5 W	WM	1	SE SE	NORTH 69 DEGREES 33 MINUTES 53 SECONDS WEST, 816 FEET FROM SE CORNER, SECTION 1	2.0	0.65

The Area to be submerged by the Reservoir:

Twp	Rng	Mer	Sec	Q-Q
17 S	5 W	WM	1	NE SW
17 S	5 W	WM	1	NW SW
17 S	5 W	WM	1	SW SW
17 S	5 W	WM	1	SE SW
17 S	5 W	WM	1	NW SE
17 S	5 W	WM	1	SW SE
17 S	5 W	WM	1	SE SE
17 S	5 W	WM	12	NW NW

PUBLIC NOTICE DATE: May 23, 2023

14 DAY STOP PROCESSING DEADLINE DATE: June 2, 2023

30 DAY COMMENT DEADLINE DATE: June 22, 2023

**APPLICATION PROCESS DESCRIPTION FOR
GROUNDWATER, SURFACE WATER AND REGULAR RESERVOIR APPLICATIONS**

In order to use the waters of Oregon, an application must be submitted and a permit obtained from the Water Resources Department. The water must be used for beneficial purpose without waste. For more information about water right topics, weekly public notice, forms and fees please visit our web site at: www.oregon.gov/owrd

1. Pre-application considerations

- Follow instructions in the application packet.
- If you have questions about completing an application or would like to arrange a pre-application conference contact the Department's Water Rights Customer Service Group at (503) 986-0900.

2. Application filing

- Application with fee is received by the Department.
- Department determines completeness of application.
- If use is not allowed by statute (ORS 538), the application and fees are returned to the applicant.
- An incomplete application and fees are returned to the applicant.
- Only a complete application receives a tentative priority date, is assigned a caseworker, and moves forward for processing.

3. Initial Review (IR)

- Caseworker reviews application by considering basin plans, water availability, statutory restrictions, and all other appropriate factors.
- Caseworker sends IR report to Applicant.
- Four days after date of the IR, it is included in Department's weekly Public Notice.
- Public comments must be submitted within 30 days after the Public Notice.

4. Proposed Final Order (PFO)

- Caseworker evaluates application against required criteria and develops draft permit, if appropriate.
- PFO includes instructions for filing of protests.
- Caseworker considers public comments and mails PFO to Applicant.
- The PFO is included in Department's weekly Public Notice.
- Public protests to the PFO must be submitted within 45 days after the Public Notice.

5. Final Order (FO)

- If no protest is filed, Final Order is issued.

The protest process

If one or more protests are filed, the process consists of:

- settlement discussion;
- contested case hearing;
- proposed Order;
- period of time to file exceptions; or
- Possible hearing by Water Resources Commission.
- Final Order is issued.

Permit holder responsibilities

- Comply with all water use conditions of the permit.
- Advise Department of address change or assignment to new permit holder.
- If need arises, request extension of time or authorize cancellation of permit.
- Submit timely claim of beneficial use (COBU) to the Department.
- Most permits require COBU to be prepared by a Certified Water Right Examiner.
- Permits may be canceled by the permit holder or by the Department for failure to comply with or one or more permit conditions.

STOP PROCESSING REQUEST FORM

FOR GROUNDWATER, SURFACE WATER AND REGULAR RESERVOIR APPLICATIONS

- Stop processing deadline is within 14 days of Initial Review.

Applicant notification to withdraw Water Right Application **R-89247**.

After reviewing the Initial Review for my application, I request that processing be stopped and the fees be refunded (minus a \$310 examination fee.) I understand that without a valid permit I may not legally use the water as requested in my application.

Signature _____ Date _____

Signature _____ Date _____

Under ORS 537.150 (5) and 537.620 (5) timely submission of this request authorizes that the water right application process be stopped and all filing fees (except \$310 processing fee) be returned.

- This notice must be received at Water Resources Department by:

June 2, 2023

- Return the notice to:

OWRD, Water Right Services Division
STOP PROCESSING
725 Summer Street, NE - Suite A
Salem OR, 97301-1266
