| | | Application No. | 85336 | | Date | FEES PAID Amount | Receipt No. |
|------------------|--|---------------------|------------|-------------|-----------------|---------------------|-------------|
| Name _ | FILE#: S 85336 BART MCKEE; SPRINGFIELD UTILITY | | 5 54378 | | 11/8/02 | 3325.00 | 56823 |
| Ву _ | BOARD | | | | 12/405 | 25000 | 78958 |
| | 202 S 18 TH ST SPRINGFIELD, OR 97477 | Certificate No. | | - | | | |
| / | | - Stream Index. Pag | ge No | | | | |
| - | | - | | | | Cert. Fee | ED |
| Date file | d | | | | Date | Amount | Check No. |
| Priority | | | | | - | 1 | - |
| Action su | uspended untilC 2 7 | - Date | To Whom | ASSIGNMENTS | Address • | Volum | me Page |
| Return to | applicant | | | | | | |
| Date of a | pproval | | | | | | - |
| | CONSTRUCTION | 50 6 11 | E741 G-157 | REMARKS | الاعلام الاعلام | _ | |
| | eginning | T-10407 | V.73p.594 | 45, 67-100 | 110000 | | |
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| Date for any | olication of water 1-2-2027 | | | • | | | |
| | to | | | | | | |
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| | PROSECUTION OF WORK | - | | | | | |
| Form "A" filed | 1 | - | | | | | |
| Form "B" filed | | | 2 | | | | |
| orm "C" filed | | | | | | | |
| | WILLY PROOF | | | | | | |
| | FINAL PROOF | | | | | | |
| | | | | | | | |
| | e issued | | | | | | |
| Date Certificate | 135404 | - 11 | 3 | | | | |



WATER SERVICE CENTER 202 SOUTH 18TH STREET SPRINGFIELD, OREGON 97477

Mr. Cory C. Engel Water Right Processing Technician Water Resources Department Commerce Building 158 12th Street, NE Salem, OR 97301-4172

STATE OF OREGON WATER RESOURCES DEPARTMENT

RECEIPT # 56823

158 12TH ST. N.E.

SALEM, OR 97310-0210 378-8455 / 378-8130 (FAX) INVOICE #____

| E | CEIVED FRO | OM: Springfield L | Ltility | APPLICATION | 158533 |
|----|------------|-----------------------------------|------------|-------------|-------------|
| f: | | | Board | PERMIT | |
| | | | | TRANSFER | |
| SI | н: сн] | HECK: OTHER: (IDENTIF) | | TOTAL REC'D | 153325.0 |
| | 0417 | WRD MISC CASH ACCT | - V | | |
| | 0111 | ADJUDICATIONS | 40 | | s |
| | | PUBLICATIONS / MAPS | 7 | | S |
| | | _ OTHER: (IDENTIFY) | | | \$ |
| | | OTHER: (IDENTIFY) | | | \$ |
| | REDUC | CTION OF EXPENSE | | | |
| | | | CASH AC | 200 | S |
| - | 0427 | WRD OPERATING ACC | VOUCHE | R# | |
| | 0421 | TIGO STAN GOT STAN | | | |
| | 0407 | MISCELLANEOUS COPY & TAPE FEES | | | s |
| | 0410 | RESEARCH FEES | | | s |
| | 0408 | MISC REVENUE: (IDENTIFY) | | | s |
| | TC162 | DEPOSIT LIAB. (IDENTIFY) | | | \$ |
| | | WATER RIGHTS: | EXAM FEE | | RECORD FEE |
| | 0201 | SURFACE WATER | \$3,325.00 | 0202 | S |
| | 0203 | GROUND WATER | S | 0204 | S |
| | 0205 | TRANSFER | S | 0206 | S |
| | | WELL CONSTRUCTION | EXAM FEE | | LICENSE FEE |
| | 0218 | WELL DRILL CONSTRUCTOR | S | 0219 | S |
| | | LANDOWNER'S PERMIT | | 0220 | s |
| | _ | OTHER (IDENTIFY) | | - | |
| | 0437 | WELL CONST. START F | EE | | |
| | 0211 | WELL CONST START FEE | S | CARD # | |
| | 0210 | MONITORING WELLS | \$ | CARD # | |
| | | OTHER (IDENTIFY) | | | |
| | 0539 | LOTTERY PROCEEDS | | | |
| | 1302 | LOTTERY PROCEEDS | | | \$ |
| | 0467 | HYDRO ACTIVITY | LIC NUMBER | | |
| | 0233 | POWER LICENSE FEE (FW/WRD) | | | \$ |
| | 0231 | HYDRO LICENSE FEE (FW/WRD) | | | s |
| | | _ HRDRO APPLICATION | | | S |
| | | | | | |

Final Order Incorporating Settlement Agreement

Hearing and Appeal Rights

Under the provisions of ORS 537.170 and ORS 537.622, the applicant may request a contested case hearing by submitting the information required for a protest under ORS 537.153(6) or ORS 537.621(7) to the Department within 14 days after the date of mailing of this order as shown below. If a contested case hearing is requested, the Department must schedule one. In the contested case hearing, however, only those issues based on the above modifications to the proposed final order may be addressed.

ORS 536.075 allows for additional appeal rights for other than contested case. This is a final order in other than contested case. This order is subject to judicial review under ORS 183.484. Any petition for judicial review must be filed within the 60 day time period specified by ORS 183.484(2). Pursuant to ORS 536.075 and OAR 137-004-0080 you may either 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.

This statement of judicial review rights does not create a right to judicial review of this order, if judicial review is otherwise precluded by law. Where no changes have been made to a Proposed Final Order on a water right application and no protests have been filed during the protest period, the final order is not subject to judicial review.

Application History

On November 8, 2002, SPRINGFIELD UTILITY BOARD submitted an application to the Department for a water use permit. The Department issued a Proposed Final Order on November 8, 2005. The protest period closed December 23, 2005. A timely protest was filed by the applicant on December 19, 2005.

A "Settlement Agreement" was entered into between the applicant and the Department on February 24, 2006. An "Amendment" to the Settlement Agreement was entered into between the applicant and the Department as of March 23, 2006. The Settlement Agreement and the Amendment are incorporated herein by reference.

Order

Application S-85336 therefore is approved consistently with the terms of the aforementioned Settlement Agreement and Amendment, and Permit S-54378 is issued.

DATED January 2, 2007

Dwight French, Administrator

Water Rights and Adjudications,

for

Phillip C. Ward, Director

Oregon Water Resources Department

BEFORE THE OREGON WATER RESOURCES DEPARTMENT

| In the Matter of Water Right Applications G-15241,) | |
|---|------------|
| G-15243, G-15244, and S-85336 in the name of) | |
| Springfield Utility Board) | SETTLEMENT |
| Applicants and Protestants) | AGREEMENT |
| | |

The Oregon Water Resources Department ("OWRD") and Springfield Utility Board ("Applicant"), referred to collectively as "the Parties" and each individually a "Party," do hereby stipulate and agree in this "Settlement Agreement" as follows:

Stipulations

- I. On December 11, 2000, Applicant submitted Applications G-15241, G-15243, and G-15244. These applications proposed to use water from various wells in the vicinity of Cedar Creek for municipal use. On February 9, 2001, OWRD determined that the applications would have the potential for substantial interference with Cedar Creek which, if not mitigated, would result in denial of the applications. On November 8, 2002, Applicant submitted application S-85336. In addition to proposing to use water from the McKenzie River for municipal use, Applicant proposed in S-85336 to mitigate the impacts to Cedar Creek by the use of water from the wells, by diverting water from the McKenzie River into Cedar Creek.
- II. On November 8, 2005, OWRD issued Proposed Final Orders ("PFOs") for Applications G-15241, G-15243, G-15244, and S-85336, recommending approval of all four applications.
- III. On December 19, 2005, Applicant protested all four PFOs. All four protests were timely filed.
- IV. OWRD and Applicant agree that all issues raised in Applicant's protests against the PFOs for Applications G-15241, G-15243, G-15244, and S-85336 are resolved solely on the following terms.

Terms of Agreement

- In signing this Settlement Agreement, and contingent on OWRD performing in accordance with this Settlement Agreement, Applicant withdraws its protests to the PFOs for Applications G-15241, G-15243, G-15244, and S-85336 with prejudice.
- Regarding Applications G-15241, G-15243, G-15244, and S-85336, upon full
 performance under this Settlement Agreement, Applicant expressly waives all right and
 opportunity to file a protest or request for contested case hearing, request for
 reconsideration, exceptions, or to seek judicial review of the Final Orders or Permits, in
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FEB 2 7 2006

addition to waiving any right and opportunity to challenge this Settlement Agreement.

- After Applicant signs this Settlement Agreement, it will mail the signed original back to Oregon Water Resources Department, ATTN: Mike Reynolds, 725 Summer St. NE Suite A, Salem OR 97301-1266.
- Within 30 days after OWRD receives the original Settlement Agreement signed by OWRD and Applicant, OWRD will issue Final Orders and Permits that are consistent with the Draft Final Orders and Draft Permits attached to this Settlement Agreement. The Final Orders will incorporate this Settlement Agreement by reference and as an attachment.
- 5. Each Party to this Settlement Agreement represents, warrants, and agrees that the person who executed this Settlement Agreement on its behalf has the full right and authority to enter into this Settlement Agreement on behalf of that Party and bind that Party to the terms of this Settlement Agreement.
- 6. Each Party to this Settlement Agreement certifies that they have had a reasonable opportunity to review and request changes to the Settlement Agreement, and that they have signed this Settlement Agreement of their own free will and accord. Each Party to this Settlement Agreement also certifies that it has read the entire Settlement Agreement, Draft Final Orders, and Draft Permits, and understands and fully agrees with the contents thereof.
- This Settlement Agreement may be signed in counterparts.

Dwight Feren, Administrator,

Water Rights and Adjudications Division

for

Phillip C. Ward, Director

Oregon Water Resources Department

725 Summer St. NE, Suite A

Salem, OR 97301

2-14-0

Date

Springfield Utility Board, Applicant

2/24/06 Date

REVIEWED & APPROVED
AS TO FORM

DATE: 2 24 06

LEGAL COUNSEL SPRINGFIELD UTILITY BOARD

Oregon Water Resources Department Water Rights Division

Water Rights Application Number G-15241

DRAFT Final Order Incorporating Settlement Agreement

Application History
On DECEMBER 11, 2000, SPRINGFIELD UTILITY BOARD submitted an application to the Department for a water use permit. The Department issued a Proposed Final Order on November 8, 2005. The protest period closed December 23, 2005. A timely protest was filed by the applicant on December 19, 2005.

Through a Settlement Agreement between the applicant and the Department, the protest was withdrawn on ______. The terms of the Settlement Agreement are incorporated herein by reference.

DRAFT Order

Application G-15241 therefore is approved consistently with the terms of the aforementioned Settlement Agreement, and Permit G-DRAFT is issued as limited by the conditions set forth therein.

DATED February , 2006

---- DRAFT ----

Phillip C. Ward, Director Water Resources Department

Hearing and Appeal Rights

Under the provisions of ORS 537.170 and ORS 537.622, the applicant may request a contested case hearing by submitting the information required for a protest under ORS 537.153(6) or ORS 537.621(7) to the Department within 14 days after the date of mailing of this order as shown below. If a contested case hearing is requested, the Department must schedule one. In the contested case hearing, however, only those issues based on the above modifications to the proposed final order may be addressed.

ORS 536.075 allows for additional appeal rights for other than contested case. This is a final order in other than contested case. This order is subject to judicial review under ORS 183.484. Any petition for judicial review must be filed within the 60 day time period specified by ORS 183.484(2). Pursuant to ORS 536.075 and OAR 137-004-0080 you may either 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.

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WATER RESOURCES DEPT

This statement of judicial review rights does not create a right to judicial review of this order, if judicial review is otherwise precluded by law. Where no changes have been made to a Proposed Final Order on a water right application and no protests have been filed during the protest period, the final order is not subject to judicial review.

This document was prepared by Cory Engel. If you have any questions about any of the statements contained in this document I am most likely the best person to answer your questions. You can reach me at 503-986-0813.

If you have questions about how to file a protest or a request for standing, please refer to section in this Final Order entitled "Hearing and Appeal Rights". If you have previously filed a protest and want to know its status, please contact Mike Reynolds at 503-986-0820.

If you have other questions about the Department or any of its programs please contact our Customer Service Group at 503-986-0801.

Address all other correspondence to: Water Rights Section, Oregon Water Resources Department, 725 Summer St NE Ste A, Salem OR 97301-1266, Fax: 503-986-0901.

FFB 2 7 2006

WATER RESOURCES DEPT SALEM, OREGON

COUNTY OF LANE

DRAFT PERMIT TO APPROPRIATE THE PUBLIC WATERS

THIS DRAFT PERMIT IS HEREBY ISSUED TO

SPRINGFIELD UTILITY BOARD 202 S 18TH ST SPRINGFIELD, OREGON 97477

541-726-2396

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

APPLICATION FILE NUMBER: G-15241

SOURCE OF WATER: TWO WELLS IN CEDAR CREEK BASIN

PURPOSE OR USE: MUNICIPAL USE

MAXIMUM RATE: 1.78 CUBIC FEET PER SECOND (CFS), BEING 0.89 CFS FROM EACH

WELL

PERIOD OF USE: YEAR ROUND

DATE OF PRIORITY: DECEMBER 11, 2000

WELL LOCATIONS:

WELL #1: NW % NE %, SECTION 34, T17S, R2W, W.M.; 43 FEET SOUTH & 280 FEET EAST FROM THE NORTH 1/4 CORNER OF SECTION 34

WELL #2: SE % SW %, SECTION 27, T17S, R2W, W.M.; 1002 FEET NORTH

& 118 FEET WEST FROM THE SOUTH 1/4 CORNER OF SECTION 27

THE PLACE OF USE IS THE SERVICE AREA OF CITY OF SPRINGFIELD.

Measurement, recording and reporting conditions:

- Before water use may begin under this permit, the permittee shall install a meter or other suitable measuring device as approved by the Director. The permittee shall maintain the meter or measuring device in good working order, shall keep a complete record of the amount of water used each month and shall submit a report which includes the recorded 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.
- The permittee shall allow the watermaster access to the meter В. or measuring device; provided however, where the meter or

measuring device is located within a private structure, the watermaster shall request access upon reasonable notice.

The water user shall develop a plan to monitor and report the impact of water use under this permit on water levels within the aquifer that provides water to the permitted well(s). The plan shall be submitted to the Department within one year of the date the permit is issued and shall be subject to the approval of the Department. At a minimum, the plan shall include a program to periodically measure static water levels within the permitted well(s) or an adequate substitute such as water levels in nearby wells. The plan shall also stipulate a reference water level against which any water-level declines will be compared. If a well listed on this permit (or replacement well) displays a total static water-level decline of 25 or more feet over any period of years, as compared to the reference level, then the water user shall discontinue use of, or reduce the rate or volume of withdrawal from, the well(s). Such action shall be taken until the water level recovers to above the 25-foot decline level or until the Department determines, based on the water user's and/or the Department's data and analysis, that no action is necessary because the aquifer in question can sustain the observed declines without adversely impacting the resource or senior water rights. The water user shall in no instance allow excessive decline, as defined in Commission rules, to occur within the aquifer as a result of use under this permit.

Willamette Basin basalt ground water condition:

- (1) Use of water from either well, as allowed herein, shall be controlled or shut off if the well displays:
 - (a) An average water level decline of three or more feet per year for five consecutive years; or
 - (b) A total water level decline of fifteen or more feet; or
 - (c) A hydraulic interference decline of fifteen or more feet in any neighboring well providing water for senior exempt uses or wells covered by prior rights.
- (2) The water user shall install a meter or other measuring device suitable to the Director, and shall submit an annual report of water used to the Department by December 1 of each year.
- The permittee/appropriator shall be responsible for complying (3) with each of the following requirements for measuring water levels in the wells.
 - (a) Use of water from a new well shall not begin until an initial static water level in the well has been measured and submitted to the Department.

- (b) In addition to the measurement required in subsection (a). of this section, a water level measurement shall be made each month between the 1st and 5th day of the month.
- (c) All water level measurements shall be made by a qualified individual. Qualified individuals are certified water rights examiners, registered geologists, registered professional engineers, licensed land surveyors, licensed water well constructors, licensed pump installers, or the permittee / appropriator.
- (d) Any qualified individual measuring a well shall use standard methods of procedure and equipment designed for the purpose of well measurement. The equipment used shall be well suited to the conditions of construction at the well. A list of standard methods of procedure and suitable equipment shall be available from the Department.
- (e) The permittee/appropriator shall submit a record of the measurements to the Department on a form available from the Department. The record of measurements shall include both measurements and calculations, shall include a certification as to their accuracy signed by the individual making the measurements. The permittee/appropriator shall submit to the Department one year of monthly measurements (December through November) by December 1. The Department shall determine when any of the declines cited in section (1) are evidenced by the well measurement required in section (3).

The use allowed herein may be made only at times when 1.78 cubic feet per second of water is diverted from the McKenzie River into Cedar Creek under permit [approving S-85336]. This water may not be used to provide mitigation for permit [approving G-15243] or [approving G-15244].

The use may be restricted if the quality of the McKenzie River, Cedar Creek, or downstream waters decrease to the point that those waters no longer meet existing state or federal water quality standards as a result of the use.

STANDARD CONDITIONS

If the number, location, source, or construction of any well deviates from that proposed in the permit application or required by permit conditions, this permit may not be valid, unless the Department authorizes the change in writing.

If substantial interference with a senior water right occurs due to withdrawal of water from any well listed on this permit, then use of water from the well(s) shall be discontinued or RECEVED/or the

Application G-15241 Water Resources Department

PERMIT G-DRAFT FFB 2 7 2006

WATER RESOURCES DEP

schedule of withdrawal shall be regulated until or unless the Department approves or implements an alternative administrative action to mitigate the interference. The Department encourages junior and senior appropriators to jointly develop plans to mitigate interferences.

The wells shall be constructed in accordance with the General Standards for the Construction and Maintenance of Water Wells in Oregon. The works shall be equipped with a usable access port, and may also include an air line and pressure gauge adequate to determine water level elevation in the well at all times.

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.

Prior to receiving a certificate of water right, the permit holder shall submit the results of a pump test meeting the department's standards, to the Water Resources Department. The Director may require water level or pump test results every ten years thereafter.

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

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

By law, the land use associated with this water use must be in compliance with statewide land-use goals and any local acknowledged land-use plan.

The use of water shall be limited when it interferes with any prior surface or ground water rights.

Completion of construction and complete application of the water to the use shall be made within 20 years of the date of this permit. If the water is not completely applied within 20 years, and the permittee wishes to continue development under the permit, the permittee must submit an application for extension of time, which may be approved based upon the merit of the application.

Within one year after complete application of water to the proposed use, the permittee shall submit a claim of beneficial use, which includes a map and report, prepared by a Certified Water Rights Examiner (CWRE).

Issued , 2005

---- DRAFT ----

Phillip C. Ward, Director Water Resources Department

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Mailing List for FO Copies

Application #G-15241

Original mailed to applicant with claim of beneficial use form:

SPRINGFIELD UTILITY BOARD; MCKEE, BART 202 S 18TH ST SPRINGFIELD OREGON 97477

Copies sent to:1. WRD - File # G-15241

- 2. WRD Ken Stahr
- 3. WRD Data Center
- 4. WRD John Falk (for reservoir applications only)

Copies Mailed By: (SUPPORT STAFF) On: (DATE)

FO and Map Copies sent to (remember to reduce copy margins):

- 5. WRD Watermaster District #: District 2
- 6. WRD Regional Manager: (Not to SCR)

Copies sent to Other Interested Persons (CWRE, Agent, Commenter, etc.) 7. 8. 9. 10. 11. 12. 13. "\$10 LETTER" sent to Interested Persons who have not protested or paid for copies 1. 2. 3.

CASEWORKER: Cory Engel

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FEB 2 7 2006

Oregon Water Resources Department Water Rights Division

Water Rights Application Number G-15243

DRAFT Final Order Incorporating Settlement Agreement

Application History

On DECEMBER 11, 2000, SPRINGFIELD UTILITY BOARD submitted an application to the Department for a water use permit. The Department issued a Proposed Final Order on November 8, 2005. The protest period closed December 23, 2005. A timely protest was filed by the applicant on December 19, 2005.

Through a Settlement Agreement between the applicant and the Department, the protest was withdrawn on ______. The terms of the Settlement Agreement are incorporated herein by reference.

DRAFT Order

Application G-15243 therefore is approved consistently with the terms of the aforementioned Settlement Agreement, and Permit G-DRAFT is issued as limited by the conditions set forth therein.

DATED February , 2006

---- DRAFT ----

Phillip C. Ward, Director Water Resources Department

Hearing and Appeal Rights

Under the provisions of ORS 537.170 and ORS 537.622, the applicant may request a contested case hearing by submitting the information required for a protest under ORS 537.153(6) or ORS 537.621(7) to the Department within 14 days after the date of mailing of this order as shown below. If a contested case hearing is requested, the Department must schedule one. In the contested case hearing, however, only those issues based on the above modifications to the proposed final order may be addressed.

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FFB 2 7 2006

WATER RESOURCES DEPT

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This document was prepared by Cory Engel. If you have any questions about any of the statements contained in this document I am most likely the best person to answer your questions. You can reach me at 503-986-0813.

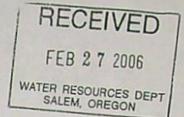
If you have questions about how to file a protest or a request for standing, please refer to section in this Final Order entitled "Hearing and Appeal Rights". If you have previously filed a protest and want to know its status, please contact Mike Reynolds at 503-986-0820.

If you have other questions about the Department or any of its programs please contact our Customer Service Group at 503-986-0801.

Address all other correspondence to: Water Rights Section, Oregon Water Resources Department, 725 Summer St NE Ste A, Salem OR 97301-1266, Fax: 503-986-0901.

STATE OF OREGON

COUNTY OF LANE



DRAFT PERMIT TO APPROPRIATE THE PUBLIC WATERS

THIS DRAFT PERMIT IS HEREBY ISSUED TO

SPRINGFIELD UTILITY BOARD 202 S 18TH ST SPRINGFIELD, OREGON 97477

541-726-2396

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

APPLICATION FILE NUMBER: G-15243

SOURCE OF WATER: FOUR WELLS IN CEDAR CREEK BASIN

PURPOSE OR USE: MUNICIPAL USE

MAXIMUM RATE: 4.91 CUBIC FEET PER SECOND (CFS), BEING 1.34 CFS FROM EACH

OF THREE WELLS (5, 6, AND 10) AND 0.89 CFS FROM WELL 7

PERIOD OF USE: YEAR ROUND

DATE OF PRIORITY: DECEMBER 11, 2000

WELL LOCATIONS:

WELL #5: 154 FEET SOUTH & 239 FEET EAST WELL #6: 241 FEET SOUTH & 240 FEET EAST WELL #7: 333 FEET SOUTH & 707 FEET EAST WELL #10: 518 FEET SOUTH & 21 FEET EAST

ALL FROM THE WEST 1/4 CORNER OF SECTION 26, WITHIN THE NW % SW %, OF SECTION 26, T17S, R2W, W.M.

THE PLACE OF USE IS THE SERVICE AREA OF CITY OF SPRINGFIELD.

Measurement, recording and reporting conditions:

A. Before water use may begin under this permit, the permittee shall install a meter or other suitable measuring device as approved by the Director. The permittee shall maintain the meter or measuring device in good working order, shall keep a complete record of the amount of water used each month and shall submit a report which includes the recorded 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.

B. The permittee shall allow the watermaster access to the meter or measuring device; provided however, where the meter or measuring device is located within a private structure, the watermaster shall request access upon reasonable notice.

The water user shall develop a plan to monitor and report the impact of water use under this permit on water levels within the aquifer that provides water to the permitted well(s). The plan shall be submitted to the Department within one year of the date the permit is issued and shall be subject to the approval of the Department. At a minimum, the plan shall include a program to periodically measure static water levels within the permitted well(s) or an adequate substitute such as water levels in nearby wells. The plan shall also stipulate a reference water level against which any water-level declines will be compared. If a well listed on this permit (or replacement well) displays a total static water-level decline of 25 or more feet over any period of years, as compared to the reference level, then the water user shall discontinue use of, or reduce the rate or volume of withdrawal from, the well(s). Such action shall be taken until the water level recovers to above the 25-foot decline level or until the Department determines, based on the water user's and/or the Department's data and analysis, that no action is necessary because the aquifer in question can sustain the observed declines without adversely impacting the resource or senior water rights. The water user shall in no instance allow excessive decline, as defined in Commission rules, to occur within the aquifer as a result of use under this permit.

Willamette Basin basalt ground water condition:

- (1) Use of water from either well, as allowed herein, shall be controlled or shut off if the well displays:
 - (a) An average water level decline of three or more feet per year for five consecutive years; or
 - (b) A total water level decline of fifteen or more feet; or
 - (c) A hydraulic interference decline of fifteen or more feet in any neighboring well providing water for senior exempt uses or wells covered by prior rights.
- (2) The water user shall install a meter or other measuring device suitable to the Director, and shall submit an annual report of water used to the Department by December 1 of each year.
- (3) The permittee/appropriator shall be responsible for complying with each of the following requirements for measuring water levels in the wells.

- (a) Use of water from a new well shall not begin until an initial static water level in the well has been measured and submitted to the Department.
- (b) In addition to the measurement required in subsection (a). of this section, a water level measurement shall be made each month between the 1st and 5th day of the month.
- (c) All water level measurements shall be made by a qualified individual. Qualified individuals are certified water rights examiners, registered geologists, registered professional engineers, licensed land surveyors, licensed water well constructors, licensed pump installers, or the permittee / appropriator.
- (d) Any qualified individual measuring a well shall use standard methods of procedure and equipment designed for the purpose of well measurement. The equipment used shall be well suited to the conditions of construction at the well. A list of standard methods of procedure and suitable equipment shall be available from the Department.
- (e) The permittee/appropriator shall submit a record of the measurements to the Department on a form available from the Department. The record of measurements shall include both measurements and calculations, shall include a certification as to their accuracy signed by the individual making the measurements. The permittee/appropriator shall submit to the Department one year of monthly measurements (December through November) by December 1. The Department shall determine when any of the declines cited in section (1) are evidenced by the well measurement required in section (3).

The use allowed herein may be made only at times when 1.28 cubic feet per second of water is diverted from the McKenzie River into Cedar Creek under permit [approving S-85336]. This water may not be used to provide mitigation for permit [approving G-15241] or [approving G-15244].

The use may be restricted if the quality of the McKenzie River, Cedar Creek, or downstream waters decrease to the point that those waters no longer meet existing state or federal water quality standards as a result of the use.

STANDARD CONDITIONS

If the number, location, source, or construction of any well deviates from that proposed in the permit application or required by permit conditions, this permit may not be valid, unless the Department authorizes the change in writing.

Application G-15243 Water Resources Department

PERMIT G-DRAFT

FEB 2 7 2006

WATER RESOURCES DEPT

If substantial interference with a senior water right occurs due to withdrawal of water from any well listed on this permit, then use of water from the well(s) shall be discontinued or reduced and/or the schedule of withdrawal shall be regulated until or unless the Department approves or implements an alternative administrative action to mitigate the interference. The Department encourages junior and senior appropriators to jointly develop plans to mitigate interferences.

The wells shall be constructed in accordance with the General Standards for the Construction and Maintenance of Water Wells in Oregon. The works shall be equipped with a usable access port, and may also include an air line and pressure gauge adequate to determine water level elevation in the well at all times.

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.

Prior to receiving a certificate of water right, the permit holder shall submit the results of a pump test meeting the department's standards, to the Water Resources Department. The Director may require water level or pump test results every ten years thereafter.

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

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

By law, the land use associated with this water use must be in compliance with statewide land-use goals and any local acknowledged land-use plan.

The use of water shall be limited when it interferes with any prior surface or ground water rights.

Completion of construction and complete application of the water to the use shall be made within 20 years of the date of this permit. If the water is not completely applied within 20 years, and the permittee wishes to continue development under the permit, the permittee must submit an application for extension of time, which may be approved based upon the merit of the application.

Within one year after complete application of water to the proposed use, the permittee shall submit a claim of beneficial use, which includes a map and report, prepared by a Certified Water Rights Examiner (CWRE).

Issued , 2006

---- DRAFT ----

Phillip C. Ward, Director Water Resources Department

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FEB 2 7 2006

Mailing List for FO Copies

Application #G-15243

Original mailed to applicant with claim of beneficial use form:

SPRINGFIELD UTILITY BOARD; MCKEE, BART 202 S 18TH ST SPRINGFIELD OREGON 97477-5240

Copies sent to:1. WRD - File # G-15243

- 2. WRD Ken Stahr
- 3. WRD Data Center
- 4. WRD John Falk (for reservoir applications only)

| Coj | pies Mailed |
|-----|-----------------|
| By: | |
| | (SUPPORT STAFF) |
| on: | |
| | (DATE) |

FO and Map Copies sent to (remember to reduce copy margins):

- 5. WRD Watermaster District #: District 2
- 6. WRD Regional Manager: (Not to SCR)

| pies sent to Other Interested Persons (CWRE, Agent, Commenter, | etc.) |
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| 10 LETTER" sent to Interested Persons who have not protested of | or paid for copies |
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CASEWORKER: Cory Engel

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FEB 2 7 2006

Oregon Water Resources Department Water Rights Division

Water Rights Application Number G-15244

DRAFT Final Order Incorporating Settlement Agreement

Application History
On DECEMBER 11, 2000, SPRINGFIELD UTILITY BOARD submitted an application to the Department for a water use permit. The Department issued a Proposed Final Order on November 8, 2005. The protest period closed December 23, 2005. A timely protest was filed by the applicant on December 19, 2005.

Through a Settlement Agreement between the applicant and the Department, the protest was withdrawn on ______. The terms of the Settlement Agreement are incorporated herein by reference.

DRAFT Order

Application G-15244 therefore is approved consistently with the terms of the aforementioned Settlement Agreement, and Permit G-DRAFT is issued as limited by the conditions set forth therein.

DATED February , 2006

---- DRAFT ----

Phillip C. Ward, Director Water Resources Department

Hearing and Appeal Rights
Under the provisions of ORS 537.170 and ORS 537.622, the applicant may request a contested case hearing by submitting the information required for a protest under ORS 537.153(6) or ORS 537.621(7) to the Department within 14 days after the date of mailing of this order as shown below. If a contested case hearing is requested, the Department must schedule one. In the contested case hearing, however, only those issues based on the above modifications to the proposed final order may be addressed.

ORS 536.075 allows for additional appeal rights for other than contested case. This is a final order in other than contested case. This order is subject to judicial review under ORS 183.484. Any petition for judicial review must be filed within the 60 day time period specified by ORS 183.484(2). Pursuant to ORS 536.075 and OAR 137-004-0080 you may either 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.

FEB 2 7 2006
WATER RESOURCES DEPT

This statement of judicial review rights does not create a right to judicial review of this order, if judicial review is otherwise precluded by law. Where no changes have been made to a Proposed Final Order on a water right application and no protests have been filed during the protest period, the final order is not subject to judicial review.

This document was prepared by Cory Engel. If you have any questions about any of the statements contained in this document I am most likely the best person to answer your questions. You can reach me at 503-986-0813.

If you have questions about how to file a protest or a request for standing, please refer to section in this Final Order entitled "Hearing and Appeal Rights". If you have previously filed a protest and want to know its status, please contact Mike Reynolds at 503-986-0820.

If you have other questions about the Department or any of its programs please contact our Customer Service Group at 503-986-0801.

Address all other correspondence to: Water Rights Section, Oregon Water Resources Department, 725 Summer St NE Ste A, Salem OR 97301-1266, Fax: 503-986-0901.

SALEM, OREGON

COUNTY OF LANE

DRAFT PERMIT TO APPROPRIATE THE PUBLIC WATERS

THIS DRAFT PERMIT IS HEREBY ISSUED TO

SPRINGFIELD UTILITY BOARD 202 S 18TH ST SPRINGFIELD, OREGON 97477

541-726-2396

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

APPLICATION FILE NUMBER: G-15244

SOURCE OF WATER: THREE WELLS IN CEDAR CREEK BASIN

PURPOSE OR USE: MUNICIPAL USE

MAXIMUM RATE: 4.02 CUBIC FEET PER SECOND (CFS), BEING 1.34 CFS EACH FROM

WELLS 8, 9, AND 11

PERIOD OF USE: YEAR ROUND

DATE OF PRIORITY: DECEMBER 11, 2000

WELL LOCATIONS:

WELL #8: NW % SW % SECTION 26, T17S, R2W, W.M.; 533 FEET SOUTH &

699 FEET EAST

NW % SW % SECTION 26, T17S, R2W, W.M.; 693 FEET SOUTH & WELL #9:

364 FEET EAST

WELL #11: NE % SE % SECTION 27, T17S, R2W, W.M.; 206 FEET SOUTH &

169 FEET WEST

ALL FROM THE WEST 1/4 CORNER OF SECTION 26

THE PLACE OF USE IS THE SERVICE AREA OF CITY OF SPRINGFIELD.

Measurement, recording and reporting conditions:

A. Before water use may begin under this permit, the permittee shall install a meter or other suitable measuring device as approved by the Director. The permittee shall maintain the meter or measuring device in good working order, shall keep a complete record of the amount of water used each month and shall submit a report which includes the recorded 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.

B. The permittee shall allow the watermaster access to the meter or measuring device; provided however, where the meter or measuring device is located within a private structure, the watermaster shall request access upon reasonable notice.

The water user shall develop a plan to monitor and report the impact of water use under this permit on water levels within the aquifer that provides water to the permitted well(s). The plan shall be submitted to the Department within one year of the date the permit is issued and shall be subject to the approval of the Department. At a minimum, the plan shall include a program to periodically measure static water levels within the permitted well(s) or an adequate substitute such as water levels in nearby wells. The plan shall also stipulate a reference water level against which any water-level declines will be compared. If a well listed on this permit (or replacement well) displays a total static water-level decline of 25 or more feet over any period of years, as compared to the reference level, then the water user shall discontinue use of, or reduce the rate or volume of withdrawal from, the well(s). Such action shall be taken until the water level recovers to above the 25-foot decline level or until the Department determines, based on the water user's and/or the Department's data and analysis, that no action is necessary because the aquifer in question can sustain the observed declines without adversely impacting the resource or senior water rights. The water user shall in no instance allow excessive decline, as defined in Commission rules, to occur within the aquifer as a result of use under this permit.

Willamette Basin basalt ground water condition:

- (1) Use of water from either well, as allowed herein, shall be controlled or shut off if the well displays:
 - (a) An average water level decline of three or more feet per year for five consecutive years; or
 - (b) A total water level decline of fifteen or more feet; or
 - (c) A hydraulic interference decline of fifteen or more feet in any neighboring well providing water for senior exempt uses or wells covered by prior rights.
- (2) The water user shall install a meter or other measuring device suitable to the Director, and shall submit an annual report of water used to the Department by December 1 of each year.
- (3) The permittee/appropriator shall be responsible for complying with each of the following requirements for measuring water levels in the wells.

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WATER RESOURCES DEPT

PAGE 3

(a) Use of water from a new well shall not begin until an initial static water level in the well has been measured and submitted to the Department.

- In addition to the measurement required in subsection (a). of this section, a water level measurement shall be made each month between the 1st and 5th day of the month.
- (c) All water level measurements shall be made by a qualified individual. Qualified individuals are certified water rights examiners, registered geologists, registered professional engineers, licensed land surveyors, licensed water well constructors, licensed pump installers, or the permittee / appropriator.
- Any qualified individual measuring a well shall use standard methods of procedure and equipment designed for the purpose of well measurement. The equipment used shall be well suited to the conditions of construction at the well. A list of standard methods of procedure and suitable equipment shall be available from Department.
- (e) The permittee/appropriator shall submit a record of the measurements to the Department on a form available from the Department. The record of measurements shall include both measurements and calculations, shall include a certification as to their accuracy signed by the individual making measurements. the permittee/appropriator shall submit to the Department one year of monthly measurements (December through November) by December 1. The Department shall determine when any of the declines cited in section (1) are evidenced by the well measurement required in section (3).

The use allowed herein may be made only at times when 1.04 cubic feet per second of water is diverted from the McKenzie River into Cedar Creek under permit [approving S-85336]. This water may not be used to provide mitigation for permit [approving G-15241] or [approving G-15243].

The use may be restricted if the quality of the McKenzie River, Cedar Creek, or downstream waters decrease to the point that those waters no longer meet existing state or federal water quality standards as a result of the use.

STANDARD CONDITIONS

If the number, location, source, or construction of any well deviates from that proposed in the permit application or required by permit conditions, this permit may not be valid, unless the Department authorizes the change in writing.

If substantial interference with a senior water right occurs due to withdrawal of water from any well listed on this permit, then use of water from the well(s) shall be discontinued or reduced and/or the schedule of withdrawal shall be regulated until or unless the Department approves or implements an alternative administrative action to mitigate the interference. The Department encourages junior and senior appropriators to jointly develop plans to mitigate interferences.

The wells shall be constructed in accordance with the General Standards for the Construction and Maintenance of Water Wells in Oregon. The works shall be equipped with a usable access port, and may also include an air line and pressure gauge adequate to determine water level elevation in the well at all times.

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.

Prior to receiving a certificate of water right, the permit holder shall submit the results of a pump test meeting the department's standards, to the Water Resources Department. The Director may require water level or pump test results every ten years thereafter.

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

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

By law, the land use associated with this water use must be in compliance with statewide land-use goals and any local acknowledged land-use plan.

The use of water shall be limited when it interferes with any prior surface or ground water rights.

Completion of construction and complete application of the water to the use shall be made within 20 years of the date of this permit. If the water is not completely applied within 20 years, and the permittee wishes to continue development under the permit, the permittee must submit an application for extension of time, which may be approved based upon the merit of the application.

Within one year after complete application of water to the proposed use, the permittee shall submit a claim of beneficial use, which includes a map and report, prepared by a Certified Water Rights Examiner (CWRE).

Issued _____, 2006

---- DRAFT ----

....

Phillip C. Ward, Director Water Resources Department

RECEIVED

FEB 2 7 2006

Mailing List for FO Copies

Application #G-15244

Original mailed to applicant with claim of beneficial use form:

SPRINGFIELD UTILITY BOARD; MCKEE, BART 202 S 18TH ST SPRINGFIELD OREGON 97477

Copies sent to:1. WRD - File # G-15244

- 2. WRD Ken Stahr
- 3. WRD Data Center
- 4. WRD John Falk (for reservoir applications only)

Copies Mailed
By:
(SUPPORT STAFF)
on:
(DATE)

FO and Map Copies sent to (remember to reduce copy margins):

- 5. WRD Watermaster District #: District 2
- 6. WRD Regional Manager: (Not to SCR)

CASEWORKER: Cory Engel

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FEB 2 7 2006

Oregon Water Resources Department Water Rights Division

Water Rights Application Number S-85336

DRAFT Final Order Incorporating Settlement Agreement

Application History

On November 8, 2002, SPRINGFIELD UTILITY BOARD submitted an application to the Department for a water use permit. The Department issued a Proposed Final Order on November 8, 2005. The protest period closed December 23, 2005. A timely protest was filed by the applicant on December 19, 2005.

Through a Settlement Agreement between the applicant and the Department, the protest was withdrawn on ______. The terms of the Settlement Agreement are incorporated herein by reference.

DRAFT Order

Application S-85336 therefore is approved consistently with the terms of the aforementioned Settlement Agreement, and Permit S-DRAFT is issued as limited by the conditions set forth therein.

DATED February , 2006

---- DRAFT ----

Phillip C. Ward, Director Water Resources Department

Hearing and Appeal Rights

Under the provisions of ORS 537.170 and ORS 537.622, the applicant may request a contested case hearing by submitting the information required for a protest under ORS 537.153(6) or ORS 537.621(7) to the Department within 14 days after the date of mailing of this order as shown below. If a contested case hearing is requested, the Department must schedule one. In the contested case hearing, however, only those issues based on the above modifications to the proposed final order may be addressed.

ORS 536.075 allows for additional appeal rights for other than contested case. This is a final order in other than contested case. This order is subject to judicial review under ORS 183.484. Any petition for judicial review must be filed within the 60 day time period specified by ORS 183.484(2). Pursuant to ORS 536.075 and OAR 137-004-0080 you may either 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 PECEIVED petition was filed, the petition shall be deemed denied.

FEB 2 7 2006

This statement of judicial review rights does not create a right to judicial review of this order, if judicial review is otherwise precluded by law. Where no changes have been made to a Proposed Final Order on a water right application and no protests have been filed during the protest period, the final order is not subject to judicial review.

This document was prepared by Cory Engel. If you have any questions about any of the statements contained in this document I am most likely the best person to answer your questions. You can reach me at 503-986-0813.

If you have questions about how to file a protest or a request for standing, please refer to section in this Final Order entitled "Hearing and Appeal Rights". If you have previously filed a protest and want to know its status, please contact Mike Reynolds at 503-986-0820.

If you have other questions about the Department or any of its programs please contact our Customer Service Group at 503-986-0801.

Address all other correspondence to: Water Rights Section, Oregon Water Resources Department, 725 Summer St NE Ste A, Salem OR 97301-1266, Fax: 503-986-0901.

STATE OF OREGON

COUNTY OF LANE

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FFB 2 7 2006

WATER RESOURCES DEPT SALEM, OREGON

DRAFT PERMIT TO APPROPRIATE THE PUBLIC WATERS

THIS DRAFT PERMIT IS HEREBY ISSUED TO

SPRINGFIELD UTILITY BOARD 202 S 18TH ST SPRINGFIELD, OR 97477

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

APPLICATION FILE NUMBER: S-85336

SOURCE OF WATER: MCKENZIE RIVER, A TRIBUTARY OF WILLAMETTE RIVER

PURPOSE OR USE: MUNICIPAL USE, FISH LIFE USE, AND WILDLIFE USE

MAXIMUM RATE: 35.9 CUBIC FEET PER SECOND (CFS) FOR MUNICIPAL USE AND 4.1 CFS FOR FISH LIFE AND WILDLIFE USES

PERIOD OF USE: YEAR ROUND

DATE OF PRIORITY: NOVEMBER 8, 2002

POINT OF DIVERSION LOCATIONS:

MUNICIPAL USE: NW % SW % SECTION 26, T17S, R2W, W.M.; 250 FEET SOUTH & 972 FEET EAST FROM THE WEST 1/4 CORNER OF SECTION 26

FISH LIFE AND WILDLIFE USES: SE % SW % SECTION 29, T17S, R1W, W.M.; 300 FEET NORTH & 2400 FEET EAST FROM THE SW CORNER OF SECTION 29

THE PLACE OF USE IS LOCATED AS FOLLOWS:

MUNICIPAL USE: WITHIN THE SERVICE AREA OF CITY OF SPRINGFIELD

FISH LIFE AND WILDLIFE USES: WITHIN THE CHANNEL OF CEDAR CREEK

Measurement, recording and reporting conditions:

A. Before water use may begin under this permit, the permittee shall install a meter or other suitable measuring device as approved by the Director. The permittee shall maintain the meter or measuring device in good working order, shall keep a complete record of the amount of water used each month and shall submit a report which includes the recorded 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.

B. The permittee shall allow the watermaster access to the meter or measuring device; provided however, where the meter or measuring device is located within a private structure, the watermaster shall request access upon reasonable notice.

The permittee shall not construct, operate or maintain any dam or artificial obstruction to fish passage at the diversion into Cedar Creek 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.

If the Cedar Creek flow monitoring program currently maintained by the U.S. Geological Survey (USGS) in conjunction with the U.S. Army Corps of Engineers and the Eugene Water and Electric Board (EWEB) is discontinued, the permittee shall ensure that a similar flow monitoring program is implemented on Cedar Creek. For the purpose of this condition, such a flow monitoring program must include, at minimum, installation of a calibrated staff gage.

While EWEB's license from Federal Energy Regulatory Energy Commission (FERC) requires EWEB to bypass 1,000 cfs of water past the Walterville Canal diversion, the permittee may divert water into Cedar Creek under this permit only when the flow in the McKenzie River, as measured at USGS gage 14163900, is greater than or equal to 1,000 cfs plus the actual rate of appropriation into Cedar Creek under this permit. In the event that EWEB's license from FERC is modified, the permittee may divert water under this permit only when flow in the McKenzie River, as measured at USGS gage 14163900, is greater than or equal to the FERC-required minimum bypass flow plus the actual rate of appropriation into Cedar Creek under this permit, or 1,400 cfs plus the actual rate of appropriation into Cedar Creek under this permit, whichever is greater. In the event that EWEB's license from FERC is rescinded, the permittee may divert water under this permit only when flow in the McKenzie River, as measured at USGS gage 14163900, is greater than or equal to 1,400 cfs plus the actual rate of appropriation under this permit.

The use may be restricted if the quality of the McKenzie River, Cedar Creek, or downstream waters decrease to the point that those waters no longer meet existing state or federal water quality standards as a result of the use.

STANDARD CONDITIONS

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.

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

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

By law, the land use associated with this water use must be in compliance with statewide land-use goals and any local acknowledged land-use plan.

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

Completion of construction and complete application of the water to the use shall be made within 20 years of the date of this permit. If the water is not completely applied within 20 years, and the permittee wishes to continue development under the permit, the permittee must submit an application for extension of time, which may be approved based upon the merit of the application.

Within one year after complete application of water to the proposed use, the permittee shall submit a claim of beneficial use, which includes a map and report, prepared by a Certified Water Rights Examiner (CWRE).

| Issued | , | 2006 |
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---- DRAFT ----

Phillip C. Ward, Director Water Resources Department

> WATER RESOURCES DEPT SALEM, OREGON

PERMIT S-DRAFT

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Application S-85336 Water Resources Department Volume 2 MCKENZIE R MISC

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Mailing List for FO Copies

Application #S-85336

Original mailed to applicant with claim of beneficial use form:

BART MCKEE SPRINGFIELD UTILITY BOARD 202 S 18TH ST SPRINGFIELD OR 97477

Copies sent to:

- 1. WRD File # S-85336
- 2. WRD Ken Stahr
- 3. WRD Data Center
- 4. WRD John Falk (for reservoir applications only)

| ies Mailed |
|-----------------|
| (SUPPORT STAFF) |
| (DATE) |
| |

FO and Map Copies sent to (remember to reduce copy margins):

- 5. WRD Watermaster District #: 2
- 6. WRD Regional Manager: (Not to SCR)

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| "\$10 LETTER" se | ent to Interested Persons who have not protested or paid for copies |
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CASEWORKER: Cory Engel

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FEB 2 7 2006
WATER RESOURCES DEP SALEM, OREGON

BEFORE THE OREGON WATER RESOURCES DEPARTMENT

| In the Matter of Water Right Applications G-1524 | 1,) | |
|---|-----|--------------------------------------|
| G-15243, G-15244, and S-85336 in the name of Springfield Utility Board |) | AMENDMENT TO SETTLEMENT AGREEMENT |
| Applicants and Protestants |) | SETTLEMENT AGREEMENT |
| | | |

On February 24, 2006, the Oregon Water Resources Department ("OWRD") and Springfield Utility Board ("Applicant"), referred to collectively as "the Parties" and each individually a "Party," entered into a "Settlement Agreement" pertaining to Applicant's water right applications G-15241, G-15243, G-15244, and S-85336. This document is an "Amendment" to the Settlement Agreement.

 The Parties agree that Stipulation IV of the Settlement Agreement is amended to read in its entirety as follows:

"OWRD and Applicant agree that all issues raised in Applicant's protests against the PFOs for Applications G-15241, G-15243, G-15244, and S-85336 are resolved solely on the following terms, including any amendment(s) to this Settlement Agreement."

2. The Parties agree that Term #1 of the Settlement Agreement is amended to read in its entirety as follows:

"In signing this Settlement Agreement, and contingent on OWRD performing in accordance with this Settlement Agreement and any Amendment(s) thereto, Applicant withdraws its protests to the PFOs for Applications G-15241, G-15243, G-15244, and S-85336 with prejudice."

3. The Parties agree that Term #2 of the Settlement Agreement is amended to read in its entirety as follows:

"Regarding Applications G-15241, G-15243, G-15244, and S-85336, upon full performance under this Settlement Agreement and any Amendment(s) thereto, Applicant expressly waives all right and opportunity to file a protest or request for contested case hearing, request for reconsideration, exceptions, or to seek judicial review of the Final Orders or Permits, in addition to waiving any right and opportunity to challenge this Settlement Agreement."

4. The Parties agree that Term #4 of the Settlement Agreement is modified to state, in its entirety:

"Except as provided below, no later than January 26, 2007, OWRD will issue Final Orders and Permits that are consistent with the Draft Final Orders and Draft Permits attached to the February 24, 2006 Settlement Agreement. Any Final Orders on water right applications G-15241, G-15243, G-15244, and S-85336 will incorporate the February 24, 2006 Settlement Agreement and any Amendment(s) thereto, by reference and as attachments.

On or before November 27, 2006, the Applicant may submit additional information or proposals to OWRD pertaining to mitigation requirements associated with water right applications G-15241, G-15243, G-15244, and S-85336.

If the Applicant timely submits such information or proposals, OWRD will make a determination, no later than December 27, 2006, as to whether any modification to mitigation requirements associated with water right applications G-15241, G-15243, G-15244, and S-85336 will be approved.

In the event that the Applicant submits information or proposals to OWRD as provided above, but OWRD determines that no modifications will be made to the mitigation requirements associated with water right applications G-15241, G-15243, G-15244, and S-85336, the Parties agree that OWRD will issue, no later than January 26, 2007, final orders and permits consistent with the Draft Final Orders and Draft Permits attached to the February 24, 2006 Settlement Agreement.

If OWRD determines that modification(s) will be made to mitigation requirements associated with water right applications G-15241, G-15243, G-15244, and S-85336, OWRD will issue, no later than January 26, 2007, Final Orders and Permits consistent with the Draft Final Orders and Draft Permits attached to the February 24, 2006 Settlement Agreement, except as modified by OWRD.

In addition to the Applicant's waivers contained in Term #2 of the February 24, 2006 Settlement Agreement including any amendment(s) to Term #2, the Applicant hereby expressly waives all right and opportunity to challenge any determination by OWRD as to whether modifications will or will not be made to the mitigation requirements associated with water right applications G-15241, G-15243, G-15244, and S-85336. Applicant also hereby expressly waives all right and opportunity to challenge any modification(s) made by OWRD to the mitigation requirements associated with water right applications G-15241, G-15243, G-15244, and S-85336.

However, if the Applicant disagrees with modification(s) that OWRD has determined will be made to the mitigation requirements associated with water right applications G-15241, G-15243, G-15244, and S-85336, the Applicant may submit a letter to OWRD on or before January 10, 2007, requesting to retain the mitigation requirements set forth in the February 24, 2006 Settlement Agreement and the attached Draft Final Orders and Draft Permits. If the Applicant timely makes such a request, OWRD will issue, no later than February 8, 2007, Final Orders and Permits consistent with the Draft Final Orders and Draft Permits attached to the February 24, 2006 Settlement Agreement."

- 5. The Parties to this Amendment agree that this Amendment does not allow, and cannot be construed to allow, any challenge whatsoever to the February 24, 2006 Settlement Agreement including the attached Draft Final Orders and Draft Permits, this Amendment, or Final Orders or Permits for water right applications G-15241, G-15243, G-15244, and S-85336.
- Except as provided above, the Parties to this Amendment agree that the Settlement Agreement is unchanged and remains in full effect.
- 7. The Parties to this Amendment acknowledge that the time periods specified in item #4, above, may be extended for a reasonable duration by an additional amendment to the Settlement Agreement. However, neither Party is bound to propose or agree to any such additional amendment, and any additional amendment would require the written agreement of both Parties.
- 8. Each Party to this Amendment represents, warrants, and agrees that the person who executed this Amendment on its behalf has the full right and authority to enter into this Amendment on behalf of that Party and bind that Party to the terms of this Amendment.
- 9. Each Party to this Amendment certifies that they have had a reasonable opportunity to review and request changes to the Amendment, and that they have signed this Amendment of their own free will and accord. Each Party to this Amendment also certifies that it has read the entire Amendment, and understands and fully agrees with the contents thereof.
- This Amendment may be signed in counterparts.

| Dwight France, Administrator, Water Rights and Adjudications Division for Phillip C. Ward, Director Oregon Water Resources Department 725 Summer St. NE, Suite A Salem, OR 97301 | March 23, 2000 |
|--|----------------|
| Springfield Utility Board, Applicant | Date |

- 5. The Parties to this Amendment agree that this Amendment does not allow, and cannot be construed to allow, any challenge whatsoever to the February 24, 2006 Settlement Agreement including the attached Draft Final Orders and Draft Permits, this Amendment, or Final Orders or Permits for water right applications G-15241, G-15243, G-15244, and S-85336.
- Except as provided above, the Parties to this Amendment agree that the Settlement Agreement is unchanged and remains in full effect.
- 7. The Parties to this Amendment acknowledge that the time periods specified in item #4, above, may be extended for a reasonable duration by an additional amendment to the Settlement Agreement. However, neither Party is bound to propose or agree to any such additional amendment, and any additional amendment would require the written agreement of both Parties.
- 8. Each Party to this Amendment represents, warrants, and agrees that the person who executed this Amendment on its behalf has the full right and authority to enter into this Amendment on behalf of that Party and bind that Party to the terms of this Amendment.
- 9. Each Party to this Amendment certifies that they have had a reasonable opportunity to review and request changes to the Amendment, and that they have signed this Amendment of their own free will and accord. Each Party to this Amendment also certifies that it has read the entire Amendment, and understands and fully agrees with the contents thereof.
- 10. This Amendment may be signed in counterparts.

| Dwight French, Administrator, | |
|---|----|
| Water Rights and Adjudications Division | on |
| for | |
| Phillip C. Ward, Director | |
| Oregon Water Resources Department | |
| 725 Summer St. NE, Suite A | |
| Salem, OR 97301 | |

Date

Springfield Utility Board, Applicant

3/22/06 Date

RECEIVED

MAR 2 3 2006

STATE OF OREGON

COUNTY OF LANE

PERMIT TO APPROPRIATE THE PUBLIC WATERS

THIS PERMIT IS HEREBY ISSUED TO:

SPRINGFIELD UTILITY BOARD 202 S 18TH ST SPRINGFIELD, OR 97477

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

APPLICATION FILE NUMBER: S-85336

SOURCE OF WATER: MCKENZIE RIVER, A TRIBUTARY OF WILLAMETTE RIVER

PURPOSE OR USE: MUNICIPAL USE, FISH LIFE USE, AND WILDLIFE USE

MAXIMUM RATE: 35.9 CUBIC FEET PER SECOND (CFS) FOR MUNICIPAL USE AND 4.1 CFS

FOR FISH LIFE AND WILDLIFE USES

PERIOD OF USE: YEAR ROUND

DATE OF PRIORITY: NOVEMBER 8, 2002

POINT OF DIVERSION LOCATIONS:

MUNICIPAL USE: NW 1/4 SW 1/4 SECTION 26, T17S, R2W, W.M.; 250 FEET SOUTH & 972 FEET EAST FROM THE WEST 1/4 CORNER OF SECTION 26

FISH LIFE AND WILDLIFE USES: SE ¼ SW ¼ SECTION 29, T17S, R1W, W.M.; 300 FEET NORTH & 2400 FEET EAST FROM THE SW CORNER OF SECTION 29

THE PLACE OF USE IS LOCATED AS FOLLOWS:

MUNICIPAL USE: WITHIN THE SERVICE AREA OF CITY OF SPRINGFIELD FISH LIFE AND WILDLIFE USES: WITHIN THE CHANNEL OF CEDAR CREEK

Measurement, recording and reporting conditions:

- A. Before water use may begin under this permit, the permittee shall install a meter or other suitable measuring device as approved by the Director. The permittee shall maintain the meter or measuring device in good working order, shall keep a complete record of the amount of water used each month and shall submit a report which includes the recorded 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.
- B. The permittee shall allow the watermaster access to the meter or measuring device; provided however, where the meter or measuring device is located within a private structure, the watermaster shall request access upon reasonable notice.

The permittee shall not construct, operate or maintain any dam or artificial obstruction to fish passage at the diversion into Cedar Creek 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.

If the Cedar Creek flow monitoring program currently maintained by the U.S. Geological Survey (USGS) in conjunction with the U.S. Army Corps of Engineers and the Eugene Water and Electric Board (EWEB) is discontinued, the permittee shall ensure that a similar flow monitoring program is implemented on Cedar Creek. For the purpose of this condition, such a flow monitoring program must include, at minimum, installation of a calibrated staff gage.

While EWEB's license from Federal Energy Regulatory Energy Commission (FERC) requires EWEB to bypass 1,000 cfs of water past the Walterville Canal diversion, the permittee may divert water into Cedar Creek under this permit only when the flow in the McKenzie River, as measured at USGS gage 14163900, is greater than or equal to 1,000 cfs plus the actual rate of appropriation into Cedar Creek under this permit. In the event that EWEB's license from FERC is modified, the permittee may divert water under this permit only when flow in the McKenzie River, as measured at USGS gage 14163900, is greater than or equal to the FERC-required minimum bypass flow plus the actual rate of appropriation into Cedar Creek under this permit, or 1,400 cfs plus the actual rate of appropriation into Cedar Creek under this permit, whichever is greater. In the event that EWEB's license from FERC is rescinded, the permittee may divert water under this permit only when flow in the McKenzie River, as measured at USGS gage 14163900, is greater than or equal to 1,400 cfs plus the actual rate of appropriation under this permit.

The use may be restricted if the quality of the McKenzie River, Cedar Creek, or downstream waters decrease to the point that those waters no longer meet existing state or federal water quality standards as a result of the use.

STANDARD CONDITIONS

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.

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

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

By law, the land use associated with this water use must be in compliance with statewide land-use goals and any local acknowledged land-use plan.

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

Completion of construction and complete application of the water to the use shall be made within 20 years of the date of this permit. If the water is not completely applied within 20 years, and the permittee wishes to continue development under the permit, the permittee must submit an application for extension of time, which may be approved based upon the merit of the application.

Within one year after complete application of water to the proposed use, the permittee shall submit a claim of beneficial use, which includes a map and report, prepared by a Certified Water Rights Examiner (CWRE).

Issued January 2, 2007

Dwigh French Administrator

Water Rights and Adjudications,

for

Phillip C. Ward, Director

Oregon Water Resources Department

Mailing List for FO Copies Application #S-85336

Original mailed to applicant with claim of beneficial use form:

BART MCKEE and CHUCK ARRERA SPRINGFIELD UTILITY BOARD 202 S 18TH ST SPRINGFIELD OR 97477

Copies sent to:

WRD - File # S-85336

WRD - Ken Stahr

WRD - Data Center

WRD - John Falk (for reservoir applications only)

FO and Map Copies sent to (remember to reduce copy

margins):

WRD - Watermaster District #: 2

WRD - Regional Manager: (Not to SCR) NW Region

Copies Mailed

By: 015 (SUPPORT STAFF)

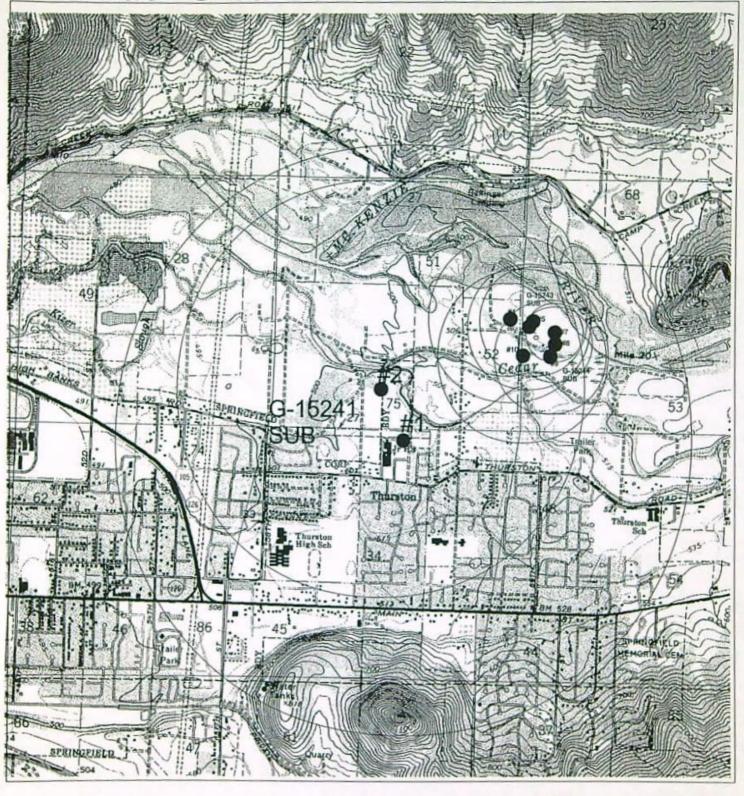
on: 1-2-07 (DATE)

Copies sent to Other Interested Persons (CWRE, Agent, Commenter, etc.)

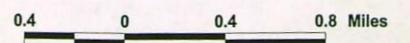
Greg D. Corbin, Stoel Rives LLP, 900 SW Fifth Avenue, Suite 2600, Portland, OR 97204

"\$10 LETTER" sent to Interested Persons who have not protested or paid for copies

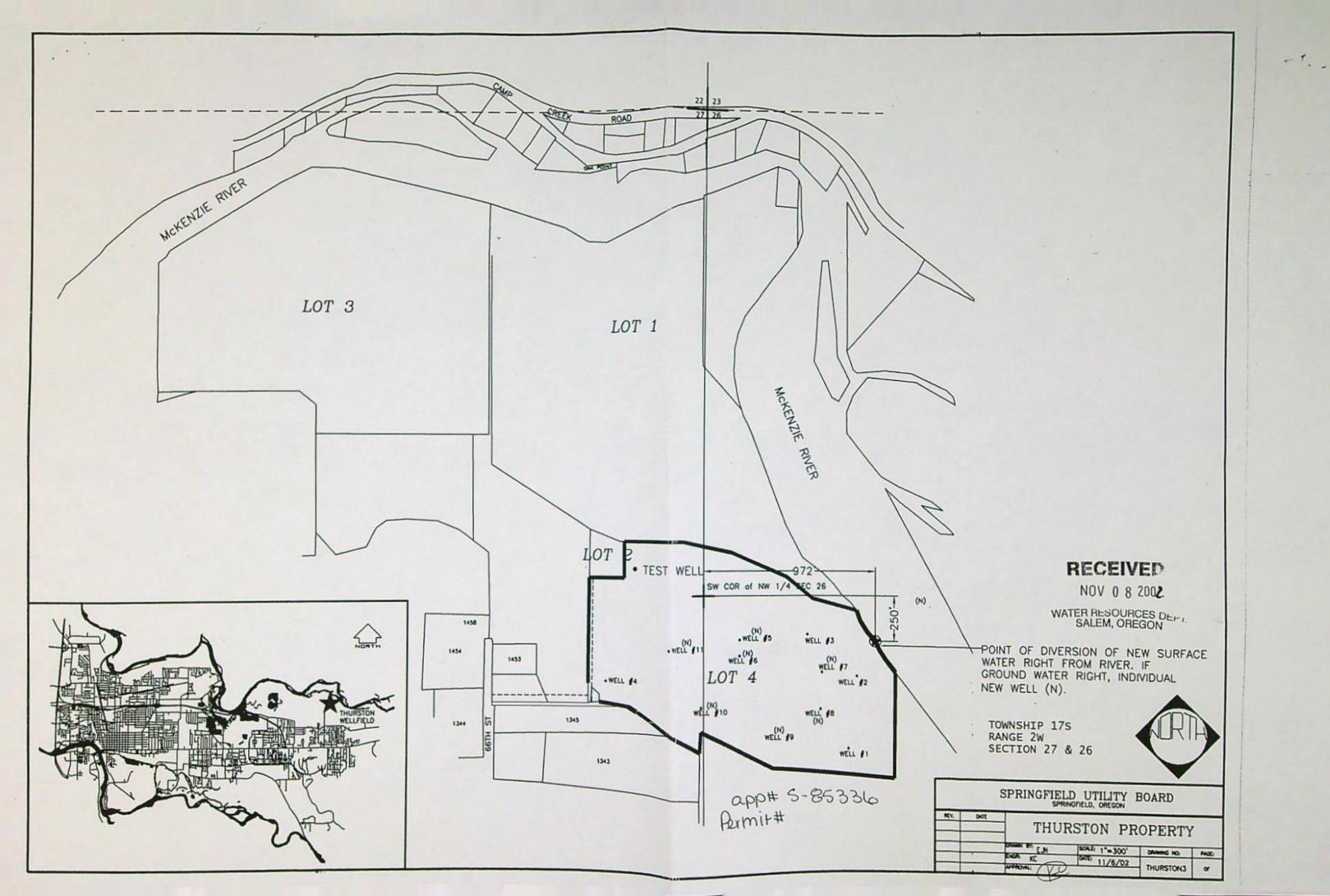
Potential Area of Influence For Wells Under G-15243 & G-15244 & G-15241

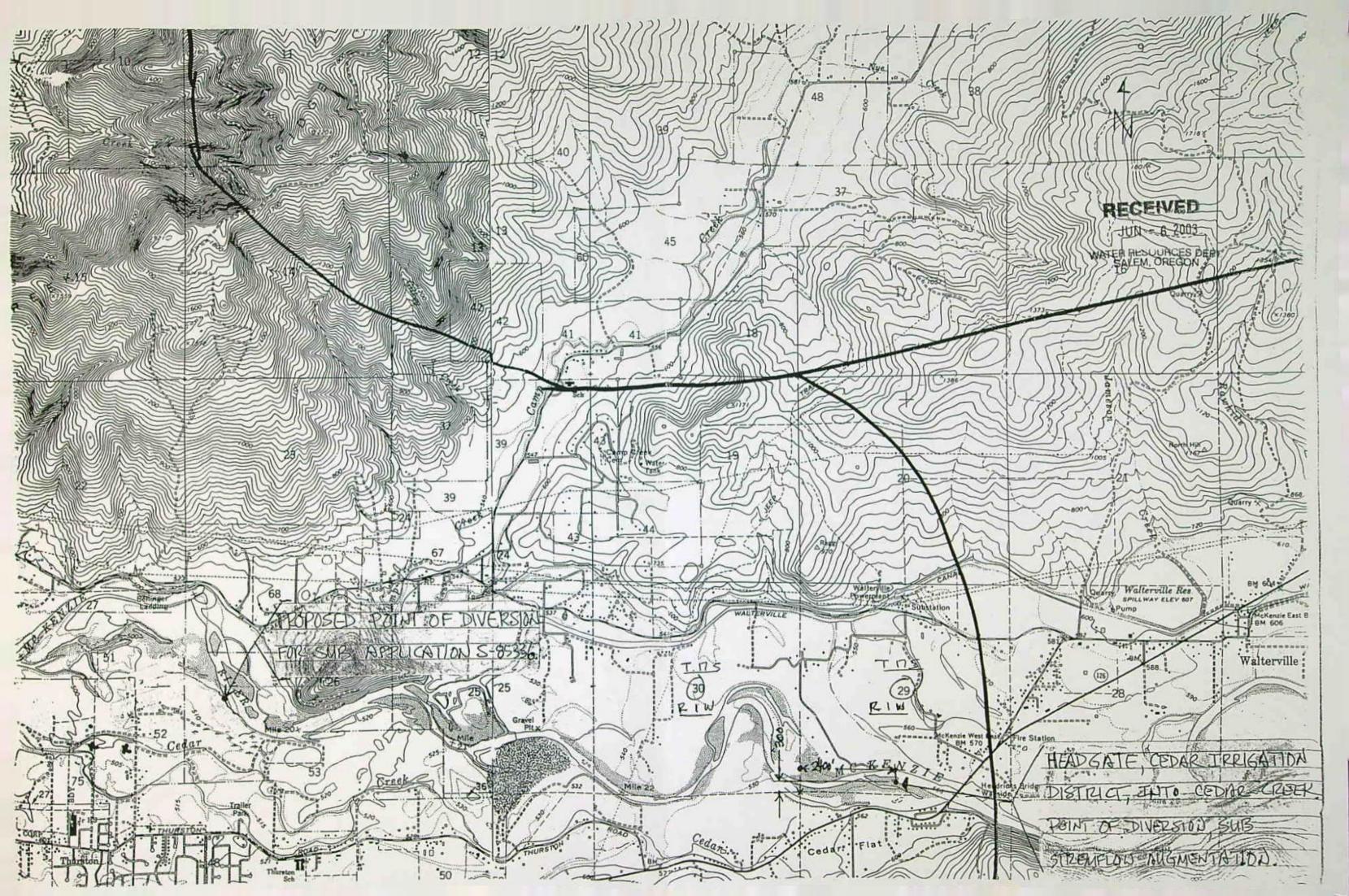


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5-85336

BEFORE THE WATER RESOURCES DEPARTMENT OF THE STATE OF OREGON

| In the Matter of Permit Amendment |) | FINAL ORDER |
|-----------------------------------|---|-------------------------------|
| T-10402, Lane County |) | APPROVING AN ADDITIONAL POINT |
| |) | OF DIVERSION |

Authority

ORS 537.211 establishes the process in which a water right permit holder may submit a request to change the point of diversion and/or place of use authorized under an existing water right permit.

Applicant

Springfield Utility Board 202 South 18th Street Springfield, Oregon 97477

Findings of Fact

 On June 6, 2007, Springfield Utility Board, filed an application for an additional point of diversion under Permit S-54378. The Department assigned the application number T-10402.

2. The permit to be amended is as follows:

Permit:

S-54378, in the name of Springfield Utility Board;

Use:

Municipal, fish life, and wildlife uses

Priority Date: November 8, 2002

Quantity:

35.9 cubic feet per second (cfs) for municipal use and 4.1 cfs for fish life

and wildlife uses

Source:

McKenzie River, a tributary of the Willamette River.

Date of Complete Application of Water:

January 2, 2027

Authorized Points of Diversion:

| Township | | Range | | Meridian | Sec | 1/4 1/4 | | Location |
|----------|---|-------|---|----------|-----|---------|----|---|
| 17 | S | 2 | w | W.M. | 26 | NW | sw | Municipal Use – 250 feet South and 972 feet East from the W¼ Corner of Section 26 |
| 17 | S | 1 | W | W.M. | 29 | SE | sw | Fish and Wildlife Uses – 300 feet North and 2400 feet East from the SW Corner of Section 29 |

This is a final order in other than contested case. This order is subject to judicial review under ORS 183.484. Any petition for judicial review must be filed within the 60 day time period specified by ORS 183.484(2). Pursuant to ORS 536.075 and OAR 137-004-080 and OAR 690-01-005 you may either 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.

Authorized Place of Use:

Municipal Use

Within the Service area of the City of Springfield

Fish Life and Wildlife Uses

Within the channel of Cedar Creek

 Application T-10204 proposes an additional point of diversion for fish life and wildlife uses to be located:

A portable pump located on the bank of the McKenzie River between a point located in the SE¼ SW¼, Section 29, T 17 S, R 1 W, W.M., said point being 300 feet North and 2400 feet East from the SW Corner of Section 29, and a point located in the NW¼ SW¼, Section 26, T 17 S, R 2 W, W.M., said point being 250 feet South and 972 feet East from the W¼ Corner of Section 26.

- Notice of the application for the permit amendment was published in the Department's weekly notice on June 12, 2007, and in the Register Guard newspaper on October 14, 21, and 28, 2007, pursuant to ORS 540.520(5). No comments were filed in response to the notices.
- 5. The Oregon Department of Fish and Wildlife (ODFW) has determined that a fish screening and/or by-pass device is necessary at the additional point of diversion to prevent fish from entering the diversion and/or safely transport fish back to the body of water from which the fish were diverted and that the diversion is not currently equipped with an appropriate fish screening and/or by-pass device. This diversion may be eligible for screening cost share funds.
- The change would not result in injury to other water rights.
- The change does not enlarge the permit.
- 8. The change does not alter any other terms of the permit.

Conclusion of Law

The additional point of diversion proposed by Permit Amendment Application T-10204 is consistent with the requirements of ORS 537.211.

Now, therefore, it is ORDERED:

The change and subsequent use of water shall be subject to the following conditions:

 The combined quantity of water diverted at the new point of diversion, together with that diverted at the old point of diversion, shall not exceed the quantity of water lawfully available at the original point of diversion. 2. Prior to water use from the proposed additional point of diversion, the permittee shall install a meter or other suitable measuring device as approved by the Director. The permittee shall maintain the meter or measuring device in good working order, and shall keep a complete record of the amount of water used each month and shall submit a report which includes the recorded 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.

The permittee shall allow the watermaster access to the meter or measuring device; provided however, where the meter or measuring device is located within a private structure, the watermaster shall request access upon reasonable notice.

- Water shall be acquired from the same surface water source as the original point of diversion.
- 4. Prior to diverting water, the water user shall install a fish screening and/or by-pass device, as appropriate, at the new point of diversion consistent with the Oregon Department of Fish and Wildlife's (ODFW) design and construction standards. Prior to installation, the water user shall obtain written approval from ODFW that the required screen and/or by-pass device meets ODFW's criteria. Prior to submitting a Claim of Beneficial Use, the water user must obtain written approval from ODFW that the required screening and/or by-pass device was installed to the state's criteria. The water user shall maintain and operate the fish screen and/or by-pass device, as appropriate, at the point of diversion consistent with ODFW's operational and maintenance standards.
- 5. All other terms and conditions of Permit S-54378 remain the same.
- Permit S-54378, in the name of Springfield Utility Board is amended as described herein.

Dated at Salem, Oregon this 6 day of November 2007.

Whillip C. Ward,

Director

NOV 0 8 2007

Mailing Date:



WATER SERVICE CENTER 202 South 18th Street Springfield, OR 97477-5240 Tel 541.726.2396 Fax 541.747.7348 www.subutil.com

November 22, 2006

Mr. Dwight French, Administrator Water Rights and Adjudications Division Oregon Water Resources Department 725 Summer Street, NE, Suite A Salem, OR 97301

Re: Water Right Applications G-15241, G-15243, G-15244, and S-85336

Dear Dwight:

On February 24, 2006, the Oregon Water Resources Department ("OWRD") and Springfield Utility Board ("SUB") entered into a Settlement Agreement concerning SUB's protests to the Final Proposed Orders ("PFOs") for water right applications G-15241, G-15243, G-15244, and S-85336 (the "Applications"). On March 23, 2006, OWRD and SUB entered into an Amendment to Settlement Agreement (the "Amendment") that, among other things, set out a timeline for obtaining and considering additional information about mitigation requirements in Cedar Creek that could be incorporated into the PFOs. Pursuant to the Amendment, SUB is required to provide any additional information to OWRD by November 27, 2006. This letter contains SUB's submission under the Amendment.

As you know, surface water permit application S-85336 allows SUB to divert water from the McKenzie River into Cedar Creek. A portion of the permitted flow (4.1 CFS) is for fish and wildlife use and is intended to mitigate for impacts on Cedar Creek that may be caused by approval of the other Applications. After OWRD and SUB entered into the Settlement Agreement, but before OWRD issued Final Orders and Permits pursuant to the Settlement Agreement, SUB learned of a significant change in the McKenzie River that impacts the ability to divert water into Cedar Creek.

Specifically, in early March 2006, Eric Gossler of the Cedar Creek Irrigation District notified me that the McKenzie River flows had reached the normal summer time rate of about 1100 CFS, but the level of the McKenzie River was approximately 5 feet below normal for that flow. This elevation change is thought to be caused by the river "head cutting" a deeper channel, allowing the river to carry the same volume of water in a narrower river channel. The result of this head cutting was to move the McKenzie River flow away from the side channel that feeds the head gate for diverting water into Cedar Creek. The head gate was isolated from the main channel by about 100 feet perpendicular to the main channel. SUB informed OWRD of this change in the river system shortly after being notified of it, which lead to OWRD and SUB entering into the Amendment to allow time to fully evaluate and consider the effect of the shift in the McKenzie River on the Applications and the mitigation portion of S-85336.

From about mid-March to mid-April the McKenzie River ran at sufficient elevation to allow water to be diverted into Cedar Creek. This, combined with the natural flow of the southern branch of Cedar Creek, maintained near normal flows in Cedar Creek during this period.

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WATER RESOURCES DEPT SALEM, OREGON Oregon Water Resources Water Right Apps. G-15241, G-15243, G-15244, and S-85336 November 22, 2006 Page 2 of 2

In late April of 2006, the McKenzie River level dropped to its regulated, summer level, which because of the head cutting isolated the Cedar Creek head gate, making diversion into Cedar Creek impossible using the current system. In response to a significant drop in Cedar Creek flow, someone (identity unknown to SUB) removed enough gravel from the McKenzie River side channel inlet to restore McKenzie River flows to the Cedar Creek head gate.

On May 10, 2006, SUB hosted a field tour of the McKenzie River, Cedar Creek, and Thurston Well field that was attended by OWRD staff and Eric Gossler. You will recall that during the tour, the McKenzie River level was high enough to allow a limited diversion of water into Cedar Creek. At the field tour, SUB and OWRD agreed that it would be useful for SUB to observe the effects of the changes to the McKenzie River on Cedar Creek over the summer months and report those results to OWRD. It was thought that this study period would help identify alternatives to using the 4.1 CFS of S-85336 as mitigation for the groundwater Applications.

Unfortunately, several times during the summer as the McKenzie River has dropped, unidentified persons further deepened the side channel to allow water to reach the Cedar Creek head gate. This action made it impossible for SUB to gather any useful data about the impact of the shift of the McKenzie River on Cedar Creek. Therefore, SUB is not able at this time to report anything useful to OWRD concerning this situation, and does not have a mitigation alternative to propose. Nevertheless, SUB does propose one minor change.

Each of the PFOs and Draft Permits for the groundwater Applications includes a restriction that the wells may be used only when SUB is able to divert a specified amount of water "from the McKenzie River into Cedar Creek" under S-85336. SUB requests that this requirement be modified to allow SUB to provide the required amount of mitigation from S-85336 or under another permit or authorization for diversion into Cedar Creek at or above the uppermost extent of the zone of impact of the wells appropriating water under G-15241, G-15243, G-15244, as identified by OWRD's Groundwater Section. As you know, this is part of the requirement for SUB's use of Limited License No. 892. The map produced by the Groundwater Section could be made a part of this requirement to make clear the location of the uppermost zone of impact. This modification would allow SUB continued flexibility to explore mitigation options in the knowledge that a viable alternative could be used to meet the mitigation requirements for G-15241, G-15243, G-15244. Without this knowledge, there may be less of an incentive for SUB to continue seeking creative mitigation options that will benefit Cedar Creek.

Thank you for OWRD's cooperation and efforts to assist SUB in finding a solution to these issues, and for OWRD's full consideration of this letter and SUB's request.

Sincerely,

Charles C. Arrera, PE

Cala a

Director of Water Engineering and Operations

CCA:mkm

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WATER RESOURCES DEPT SALEM, OREGON



PO Box 300, Springfield, OR 97477-0077

ADDRESS SERVICE REQUESTED

Mr. Dwight French, Administrator Water Rights and Adjudications Division Oregon Water Resources Department 725 Summer Street, NE, Suite A Salem, OR 97301





POST OFFICE TO ADDRESSEE

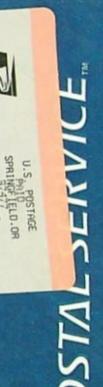
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FOR PICKUP OR TRACKING CALL 1-800-222-1811

www.usps.com



Addressee Copy



0000

MikeR

From: Corbin, Greg [GDCORBIN@stoel.com]

Sent: Wednesday, December 27, 2006 7:04 AM

Sent: Wednesday, December 27, 2006 7:04 AM

To: Mike Reynolds
Cc: ARRERA Chuck

Subject: RE: SUB

Attachments: Corbin, Greg.11826DEFANGED-vcf

Mike,

Hope you had a nice holiday weekend. I have conferred with Chuck Arrera and SUB accepts the modifications to the language as set out below. Please go ahead and process the permits. Thanks for all of your hard work and cooperation in getting this done!

Greg D. Corbin
Stoel Rives LLP
900 SW Fifth Avenue, Suite 2600
Portland, OR 97204
(503) 294-9632 office
(503) 220-2480 fax
www.stoel.com

App
Pernul
6-15241
6-16147
6-16148
6-15243
6-16148

From: Mike Reynolds [mailto:Mike.J.REYNOLDS@wrd.state.or.us]

Sent: Monday, December 18, 2006 10:48 AM

To: Corbin, Greg Subject: SUB

Good morning Greg,

Here is an excerpt from one of the DRAFT groundwater permits, showing some proposed language. Under the Amendment to the Settlement Agreement, SUB can elect to use this language (with appropriate customization for the specific cfs numbers for each permit) for the groundwater permits, or the draft permit language that was prepared as part of the original Settlement Agreement. I look forward to talking with you. The new proposed text is highlighted and in bold.

. . . .

"The use allowed herein may be made only at times when 1.78 cubic feet per second of water is diverted from the McKenzie River into Cedar Creek under permit [approving application S-85336], or under another permit or legal authorization held by the same permittee/appropriator (currently Springfield Utility Board) for diversion of water into Cedar Creek for fish and wildlife purposes or other non-consumptive instream purposes, at or above the uppermost extent of the zone of impact, as determined by the Department on the attached map, of the wells appropriating water under permits or certificates resulting from water right applications G-15241, G-15243, and G-15244. This water may not be used to provide mitigation for permit [approving application G-15243] or

permit [approving application G-15244].

Sincerely,

/s/ Mike Reynolds
Protest Program Coordinator
Oregon Water Resources Department

Phone: 503-986-0820 Fax: 503-986-0901

E-mail: mike.j.reynolds@wrd.state.or.us

NOTE: Messages to and from this e-mail address may be available under Oregon law.

WATER RESOURCES DEPARTMENT

MEMO June 12, 2006

TO: Mike Reynolds, Water Rights Section

FROM: Marc Norton, Ground Water Section MAN

SUBJECT: Ground Water Application G-15241, G-15243 & G-15244

Springfield Utility Board agreed to divert 2.0 cfs to Cedar Creek to mitigate impacts of pumping from the three applications, G-15241, G-15243 & G-15244. There has been a shift in the McKenzie River and the stream is no longer near the diversion for Cedar Creek. Diverting the water is much more complicated now. SUB and the Department are looking at alternatives and options for mitigation.

I was asked to determine the area of influence of the wells listed for the following ground water applications; G-15241, G-15243 & G-15244. I discussed options with Karl Wozniak. I determined the distance from each well to the McKenzie River. Under perfect conditions the cone of depression would reach the recharge boundary, and stop. Because there probably is some clogging, the river is not straight through the area and other variables, a circle around each well was drawn using 1.5 times the measured distance. The other variables include changes in aquifer thickness, permeability, the many variations in pumping rates, times and number of wells in use. The circles or cones are shown are the attached maps.

This is a simple method for looking at the portions of Cedar Creek that might be impacted by pumping the well field. There are far too many variables to be much more accurate.

(1) Although it is useful to Know what strady state impacts might be, it is likely that pumping will be highly variable during the year within the wellfield. Because the creek is in woose proximity to the well field transient impacts are likely to be variable throughout the year even when the well field is tilly developed and has refered a state. Therefore seasonal transient impacts will likely be higher in some months (+ lower in others) than the average annual steady state impacto

Kerl Waznisk

underlying model is. strengthon would allow a best of s What the modeled imports to keeps to the magnitude to the magnitude to the test of the magnitude of the test of the magnitude of the test imports compared to historic IN COROL Crack, Wells. Threets from wells on older (S) These modeled woneries only evolunte the incremental impacts of the new of the creek. a less efficient boundary, important took of depression of depicted on took to in took up and Romustroom limits of the imposts on the creek within the transfing is they to have significant does not extend beyond the creek, (++ the effective limit . + 0, 25 H) housesydes to some six some probused Color Creek of a fairly efferent

Sanger of Figure 1 the model sees

RE: Western LW services mean of L-L-2006 regarding againer drawdown analysis in the Thurston well field.

D Basic methodology is occuptable
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Livek, you w/t w/o wells 5, 6, 4 2 and
sustreat liter-ners.

(2) Diticult to theroughly evaluate enalysis
without Knowing how the McKenzie
River and Cedar Crock were
modeled, Streambed thickness to
streambed conductance values
for both streams?

(3) The extent of the came of Depression

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model runs.

Diseport uses a minimum modeled drumboun of 0.25 feet stating that the is a minimum prectical drawdown that can be measured in the field.

This is hardly the case. 0.05 or 0.1 ft might be re-sonable.

RE: Western GW Services were of 6-6-2006 regarding agnifer drowdown analysis in the Thurston well field. D Basic me theology is occuptable Live. Ron model with a without beder Criek, you w/t w/o wills 5, 6, 47 and sustruct differences @ officult to theroughly evaluate enalying River and Codar Crock were modeled, Streembed thickness + streambed conductance values
for both streams?

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2 suggests that the model sees

Celar Crock as a fairly efficient
boundary since the come of dispression

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It this is in fact the case,

pumping is lively to have significant

impacts on the crock within the

up and downstream limits of the

come of depression as depicted on

figure 1. If the crock is in fact

a less efficient boundary, impacts

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et the creek.

(5) These mudeled servarios only evaluate
the incremental impacts of the new
wells. Impacts from wells on other
permits will also impact streamflow
in Codor Creek.

(6) It would be useful to Know what the modeled impacts to Ecdar Creek are (in cfs). The magnitude of these impacts compared to historic streamflow would allow a beter evaluation of how reasonable the underlying model is.

Delthough it is verted to know

what strongly state impacts might
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year within the well field.

Because the arrow is in alose

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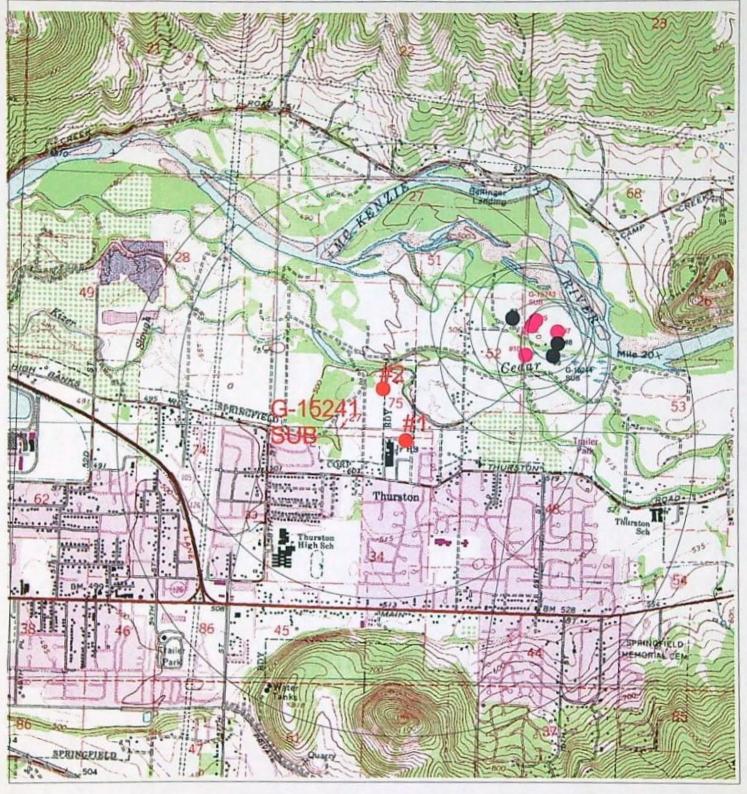
(the lover in others) than the

average annual strong state

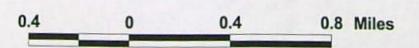
impact.

Kevl Waznisk

Potential Area of Influence For Wells Under G-15243 & G-15244 & G-15241

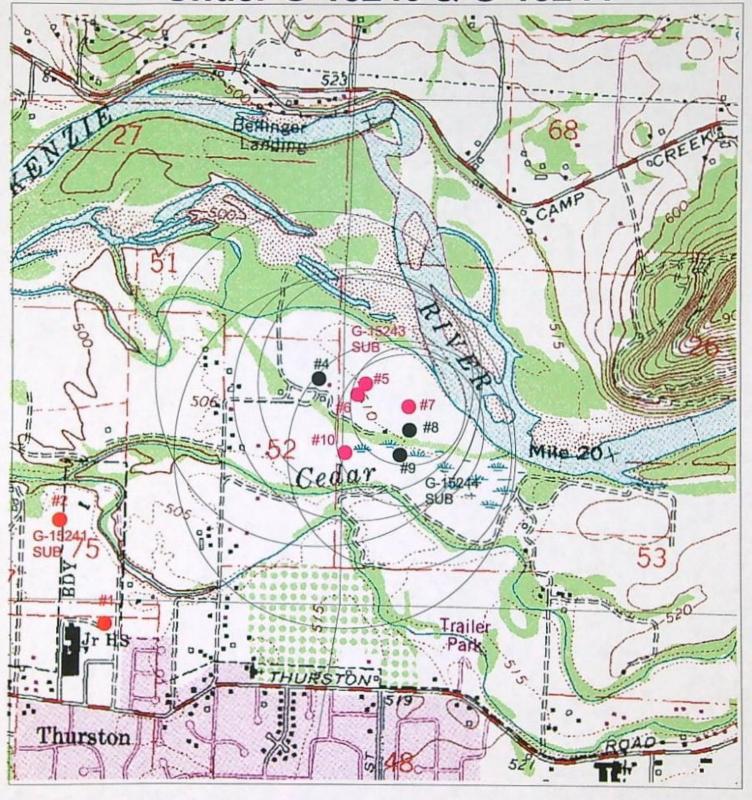


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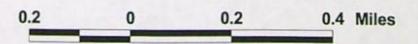




Potential Area of Influence For Wells Under G-15243 & G-15244



1:12000 Scale





June 6, 2006

Mr. Chuck Arrera, PE Springfield Utility Board 202 South 18th Street Springfield, OR 97477

RE: AQUIFER DRAWDOWN ANALYSIS THURSON WELLFIELD NOS. 5, 6 AND 7

Dear Chuck:

This letter presents drawdown calculations for the Thurston Wellfield to evaluate the extent to which well nos. 5, 6 and 7 create a cone of depression below the channel of Cedar Creek. The work was completed using the same model as used to support the permit application for these wells (G-15243), and is documented further in the earlier report submitted to Oregon Water Resources Department¹.

Model Setup

Two versions of the model were run, with and without Cedar Creek represented by river cells. The original model setup includes Cedar Creek. A second model was saved and then the river cells of Cedar Creek were deleted. Otherwise, all other model parameters were left unchanged. Modeling was conducted in steady-state (continuous pumping, no changes to boundaries with time).

Well Pumping Rates

The pumping rate of well no. 2 was set to zero in order to represent the 2006 operation schedule. Existing well nos. 1, 3, and 4, and Platt well nos. 1 and 2 were set to the rates shown in Table 1. Well nos. 5, 6 and 7 were set to rates of 600, 600, and 400 gpm, respectively, as appears on the permit for these wells. Well no. 10, which is included in permit G-15243, was set to zero, as it is not yet constructed, and therefore will not operate during 2006.

Western Groundwater Services, LLC (2002) Supplementary Technical Analysis for Permit Application Nos. G-15241, G-15243, and G-15244, report to Springfield Utility Board, October 8, 2002.

TABLE 1 MODEL PUMPING RATES FOR EXISTING WELLS

| Well Name | Model Pumping Rate (gpm) | |
|-----------------------|--------------------------|--|
| Thurston Wellfield #1 | 797 | |
| Thurston Wellfield #2 | 0 | |
| Thurston Wellfield #3 | 497 | |
| Thurston Wellfield #4 | 202 | |
| Platt #1 | 251 | |
| Platt #2 | 448 | |
| Total | 2,195 | |

Drawdown Analysis

In both cases, with and without Cedar Creek flow, the model was first run with only the older permit wells operating (nos, 1, 3, and 4, and Platt nos. 1 and 2). The water table elevation calculated by the model was saved from this run to be used as a basis for determining the incremental drawdown caused by well nos. 5, 6, and 7. The model was subsequently run with the addition of well nos. 5, 6 and 7, and the new drawdown caused only by these wells was evaluated (i.e., water table elevations with nos. 5, 6, and 7 operating were subtracted from water table elevations without nos. 5, 6, and 7 operating).

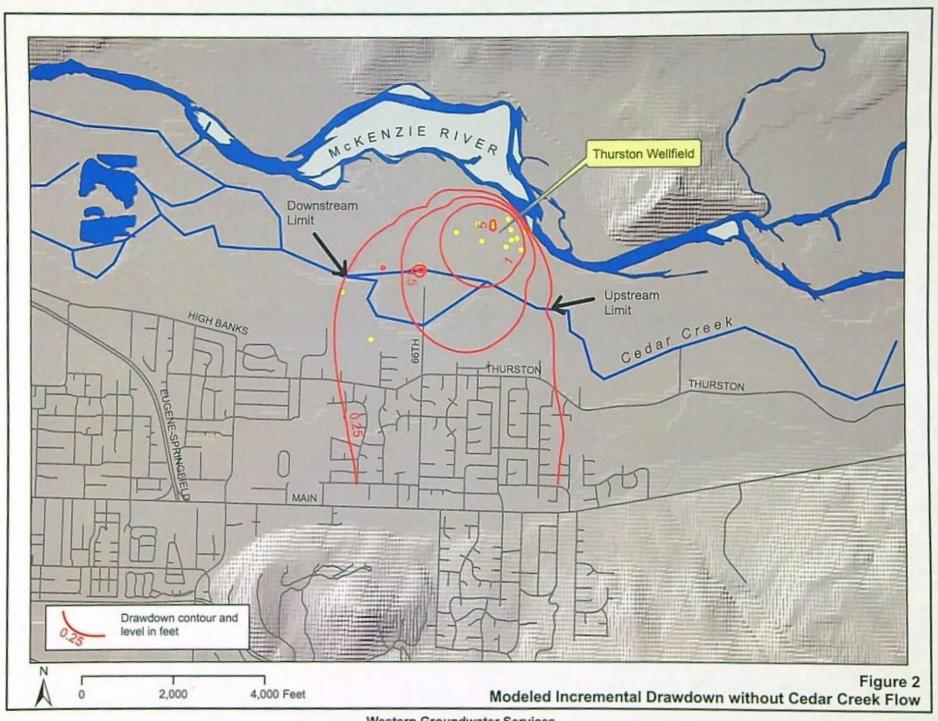
Figures 1 and 2 illustrate the extent to which the cone of depression related to well nos. 5, 6 and 7 underlies the channel of Cedar Creek. The drawdown value of 0.25 feet was taken as a practical minimum drawdown that could be measured in the field, and therefore delineates the extent of the cone of depression. A larger cone of depression is developed without Cedar Creek flow as shown on Figure 2.

Sincerely,

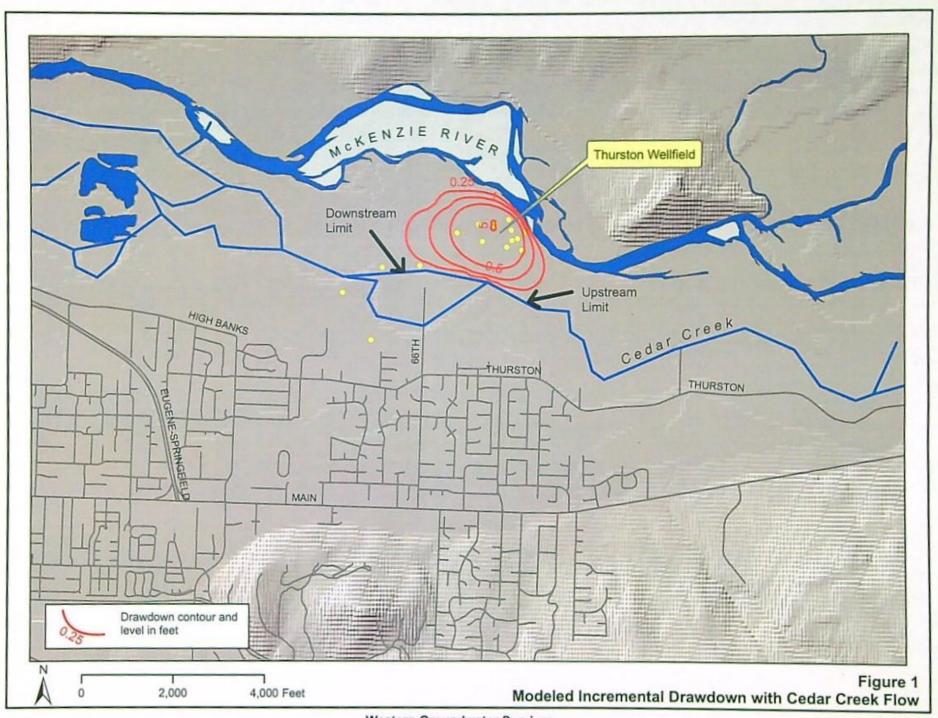
WESTERN GROUNDWATER SERVICES, LLC

Mark Cunnane, P.E., P.G. Civil Engineer - Hydrogeologist

Attachments: Figures 1 and 2



Western Groundwater Services



Western Groundwater Services

BEFORE THE OREGON WATER RESOURCES DEPARTMENT

| In the Matter of Water Right Applications G-15241,) | |
|---|------------|
| G-15243, G-15244, and S-85336 in the name of) | |
| Springfield Utility Board) | SETTLEMENT |
| Applicants and Protestants) | AGREEMENT |
| | |

The Oregon Water Resources Department ("OWRD") and Springfield Utility Board ("Applicant"), referred to collectively as "the Parties" and each individually a "Party," do hereby stipulate and agree in this "Settlement Agreement" as follows:

Stipulations

- I. On December 11, 2000, Applicant submitted Applications G-15241, G-15243, and G-15244. These applications proposed to use water from various wells in the vicinity of Cedar Creek for municipal use. On February 9, 2001, OWRD determined that the applications would have the potential for substantial interference with Cedar Creek which, if not mitigated, would result in denial of the applications. On November 8, 2002, Applicant submitted application S-85336. In addition to proposing to use water from the McKenzie River for municipal use, Applicant proposed in S-85336 to mitigate the impacts to Cedar Creek by the use of water from the wells, by diverting water from the McKenzie River into Cedar Creek.
- II. On November 8, 2005, OWRD issued Proposed Final Orders ("PFOs") for Applications G-15241, G-15243, G-15244, and S-85336, recommending approval of all four applications.
- III. On December 19, 2005, Applicant protested all four PFOs. All four protests were timely filed.
- IV. OWRD and Applicant agree that all issues raised in Applicant's protests against the PFOs for Applications G-15241, G-15243, G-15244, and S-85336 are resolved solely on the following terms.

Terms of Agreement

- In signing this Settlement Agreement, and contingent on OWRD performing in accordance with this Settlement Agreement, Applicant withdraws its protests to the PFOs for Applications G-15241, G-15243, G-15244, and S-85336 with prejudice.
- Regarding Applications G-15241, G-15243, G-15244, and S-85336, upon full
 performance under this Settlement Agreement, Applicant expressly waives all right and
 opportunity to file a protest or request for contested case hearing, request for
 reconsideration, exceptions, or to seek judicial review of the Final Orders or Permits, in

FEB 2 7 2006

WATER RESOURCES DEPT SALEM, OREGON 1

addition to waiving any right and opportunity to challenge this Settlement Agreement.

- After Applicant signs this Settlement Agreement, it will mail the signed original back to Oregon Water Resources Department, ATTN: Mike Reynolds, 725 Summer St. NE Suite A, Salem OR 97301-1266.
- Within 30 days after OWRD receives the original Settlement Agreement signed by OWRD and Applicant, OWRD will issue Final Orders and Permits that are consistent with the Draft Final Orders and Draft Permits attached to this Settlement Agreement. The Final Orders will incorporate this Settlement Agreement by reference and as an attachment.
- 5. Each Party to this Settlement Agreement represents, warrants, and agrees that the person who executed this Settlement Agreement on its behalf has the full right and authority to enter into this Settlement Agreement on behalf of that Party and bind that Party to the terms of this Settlement Agreement.
- 6. Each Party to this Settlement Agreement certifies that they have had a reasonable opportunity to review and request changes to the Settlement Agreement, and that they have signed this Settlement Agreement of their own free will and accord. Each Party to this Settlement Agreement also certifies that it has read the entire Settlement Agreement, Draft Final Orders, and Draft Permits, and understands and fully agrees with the contents thereof.
- 7. This Settlement Agreement may be signed in counterparts.

Dwight French, Administrator,

Water Rights and Adjudications Division

for

Phillip C. Ward, Director

Oregon Water Resources Department

725 Summer St. NE, Suite A

Salem, OR 97301

2-11

pringfield Utility Board, Applicant

2/24/06 Date

REVIEWED & APPROVED

DATE: 2 24 06 LEGAL COUNSEL

SPRINGFIELD UTILITY BOARD

2

Oregon Water Resources Department Water Rights Division

Water Rights Application Number G-15241

DRAFT Final Order Incorporating Settlement Agreement

Application History
On DECEMBER 11, 2000, SPRINGFIELD UTILITY BOARD submitted an application to the Department for a water use permit. The Department issued a Proposed Final Order on November 8, 2005. The protest period closed December 23, 2005. A timely protest was filed by the applicant on December 19, 2005.

Through a Settlement Agreement between the applicant and the Department, the protest was withdrawn on ______. The terms of the Settlement Agreement are incorporated herein by reference.

DRAFT Order

Application G-15241 therefore is approved consistently with the terms of the aforementioned Settlement Agreement, and Permit G-DRAFT is issued as limited by the conditions set forth therein.

DATED February , 2006

---- DRAFT ----

Phillip C. Ward, Director Water Resources Department

Hearing and Appeal Rights
Under the provisions of ORS 537.170 and ORS 537.622, the applicant may request a contested case hearing by submitting the information required for a protest under ORS 537.153(6) or ORS 537.621(7) to the Department within 14 days after the date of mailing of this order as shown below. If a contested case hearing is requested, the Department must schedule one. In the contested case hearing, however, only those issues based on the above modifications to the

proposed final order may be addressed.

ORS 536.075 allows for additional appeal rights for other than contested case. This is a final order in other than contested case. This order is subject to judicial review under ORS 183.484. Any petition for judicial review must be filed within the 60 day time period specified by ORS 183.484(2). Pursuant to ORS 536.075 and OAR 137-004-0080 you may either 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.

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This statement of judicial review rights does not create a right to judicial review of this order, if judicial review is otherwise precluded by law. Where no changes have been made to a Proposed Final Order on a water right application and no protests have been filed during the protest period, the final order is not subject to judicial review.

This document was prepared by Cory Engel. If you have any questions about any of the statements contained in this document I am most likely the best person to answer your questions. You can reach me at 503-986-0813.

If you have questions about how to file a protest or a request for standing, please refer to section in this Final Order entitled "Hearing and Appeal Rights". If you have previously filed a protest and want to know its status, please contact Mike Reynolds at 503-986-0820.

If you have other questions about the Department or any of its programs please contact our Customer Service Group at 503-986-0801.

Address all other correspondence to: Water Rights Section, Oregon Water Resources Department, 725 Summer St NE Ste A, Salem OR 97301-1266, Fax: 503-986-0901.

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FEB 2 7 2006

SALEM, OREGON

COUNTY OF LANE

DRAFT PERMIT TO APPROPRIATE THE PUBLIC WATERS

THIS DRAFT PERMIT IS HEREBY ISSUED TO

SPRINGFIELD UTILITY BOARD 202 S 18TH ST SPRINGFIELD, OREGON 97477

541-726-2396

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

APPLICATION FILE NUMBER: G-15241

SOURCE OF WATER: TWO WELLS IN CEDAR CREEK BASIN

PURPOSE OR USE: MUNICIPAL USE

MAXIMUM RATE: 1.78 CUBIC FEET PER SECOND (CFS), BEING 0.89 CFS FROM EACH

WELL

in- 1,0 . . .

PERIOD OF USE: YEAR ROUND

DATE OF PRIORITY: DECEMBER 11, 2000

WELL LOCATIONS:

WELL #1: NW % NE %, SECTION 34, T17S, R2W, W.M.; 43 FEET SOUTH & 280 FEET EAST FROM THE NORTH 1/4 CORNER OF SECTION 34

SE % SW %, SECTION 27, T17S, R2W, W.M.; 1002 FEET NORTH WELL #2: & 118 FEET WEST FROM THE SOUTH 1/4 CORNER OF SECTION 27

THE PLACE OF USE IS THE SERVICE AREA OF CITY OF SPRINGFIELD.

Measurement, recording and reporting conditions:

- Before water use may begin under this permit, the permittee A. shall install a meter or other suitable measuring device as approved by the Director. The permittee shall maintain the meter or measuring device in good working order, shall keep a complete record of the amount of water used each month and shall submit a report which includes the recorded 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.
- The permittee shall allow the watermaster access to the meter or measuring device; provided however, where the meter or

measuring device is located within a private structure, the watermaster shall request access upon reasonable notice.

The water user shall develop a plan to monitor and report the impact of water use under this permit on water levels within the aquifer that provides water to the permitted well(s). The plan shall be submitted to the Department within one year of the date the permit is issued and shall be subject to the approval of the Department. At a minimum, the plan shall include a program to periodically measure static water levels within the permitted well(s) or an adequate substitute such as water levels in nearby wells. The plan shall also stipulate a reference water level against which any water-level declines will be compared. If a well listed on this permit (or replacement well) displays a total static water-level decline of 25 or more feet over any period of years, as compared to the reference level, then the water user shall discontinue use of, or reduce the rate or volume of withdrawal from, the well(s). Such action shall be taken until the water level recovers to above the 25-foot decline level or until the Department determines, based on the water user's and/or the Department's data and analysis, that no action is necessary because the aquifer in question can sustain the observed declines without adversely impacting the resource or senior water rights. The water user shall in no instance allow excessive decline, as defined in Commission rules, to occur within the aquifer as a result of use under this permit.

Willamette Basin basalt ground water condition:

- (1) Use of water from either well, as allowed herein, shall be controlled or shut off if the well displays:
 - (a) An average water level decline of three or more feet per year for five consecutive years; or
 - (b) A total water level decline of fifteen or more feet; or
 - (c) A hydraulic interference decline of fifteen or more feet in any neighboring well providing water for senior exempt uses or wells covered by prior rights.
- (2) The water user shall install a meter or other measuring device suitable to the Director, and shall submit an annual report of water used to the Department by December 1 of each year.
- (3) The permittee/appropriator shall be responsible for complying with each of the following requirements for measuring water levels in the wells.
 - (a) Use of water from a new well shall not begin until an initial static water level in the well has been measured and submitted to the Department.

- (b) In addition to the measurement required in subsection (a). of this section, a water level measurement shall be made each month between the 1st and 5th day of the month.
- (c) All water level measurements shall be made by a qualified individual. Qualified individuals are certified water rights examiners, registered geologists, registered professional engineers, licensed land surveyors, licensed water well constructors, licensed pump installers, or the permittee / appropriator.
- (d) Any qualified individual measuring a well shall use standard methods of procedure and equipment designed for the purpose of well measurement. The equipment used shall be well suited to the conditions of construction at the well. A list of standard methods of procedure and suitable equipment shall be available from the Department.
- (e) The permittee/appropriator shall submit a record of the measurements to the Department on a form available from the Department. The record of measurements shall include both measurements and calculations, shall include a certification as to their accuracy signed by the individual making the measurements. The permittee/appropriator shall submit to the Department one year of monthly measurements (December through November) by December 1. The Department shall determine when any of the declines cited in section (1) are evidenced by the well measurement required in section (3).

The use allowed herein may be made only at times when 1.78 cubic feet per second of water is diverted from the McKenzie River into Cedar Creek under permit [approving S-85336]. This water may not be used to provide mitigation for permit [approving G-15243] or [approving G-15244].

The use may be restricted if the quality of the McKenzie River, Cedar Creek, or downstream waters decrease to the point that those waters no longer meet existing state or federal water quality standards as a result of the use.

STANDARD CONDITIONS

If the number, location, source, or construction of any well deviates from that proposed in the permit application or required by permit conditions, this permit may not be valid, unless the Department authorizes the change in writing.

If substantial interference with a senior water right occurs due to withdrawal of water from any well listed on this permit, then use of water from the well(s) shall be discontinued or RECEIVED or the

Application G-15241 Water Resources Department

PERMIT G-DRAFT FEB 2 7 2006

schedule of withdrawal shall be regulated until or unless the Department approves or implements an alternative administrative action to mitigate the interference. The Department encourages junior and senior appropriators to jointly develop plans to mitigate interferences.

The wells shall be constructed in accordance with the General Standards for the Construction and Maintenance of Water Wells in Oregon. The works shall be equipped with a usable access port, and may also include an air line and pressure gauge adequate to determine water level elevation in the well at all times.

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.

Prior to receiving a certificate of water right, the permit holder shall submit the results of a pump test meeting the department's standards, to the Water Resources Department. The Director may require water level or pump test results every ten years thereafter.

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

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

By law, the land use associated with this water use must be in compliance with statewide land-use goals and any local acknowledged land-use plan.

The use of water shall be limited when it interferes with any prior surface or ground water rights.

Completion of construction and complete application of the water to the use shall be made within 20 years of the date of this permit. If the water is not completely applied within 20 years, and the permittee wishes to continue development under the permit, the permittee must submit an application for extension of time, which may be approved based upon the merit of the application.

Within one year after complete application of water to the proposed use, the permittee shall submit a claim of beneficial use, which includes a map and report, prepared by a Certified Water Rights Examiner (CWRE).

Issued ____, 2005

---- DRAFT ----

of open .

Phillip C. Ward, Director Water Resources Department

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FEB 2 7 2006

Mailing List for FO Copies

Application #G-15241

Original mailed to applicant with claim of beneficial use form:

SPRINGFIELD UTILITY BOARD; MCKEE, BART 202 S 18TH ST SPRINGFIELD OREGON 97477

Copies sent to:1. WRD - File # G-15241

- 2. WRD Ken Stahr
- 3. WRD Data Center
- 4. WRD John Falk (for reservoir applications only)

FO and Map Copies sent to (remember to reduce copy margins):

- 5. WRD Watermaster District #: District 2
- 6. WRD Regional Manager: (Not to SCR)

Copies sent to Other Interested Persons (CWRE, Agent, Commenter, etc.)

- 9._____
- 11.
- 13.

"\$10 LETTER" sent to Interested Persons who have not protested or paid for copies

- 3.

CASEWORKER: Cory Engel

RECEIVED

Copies Mailed

(DATE)

(SUPPORT STAFF)

FEB 2 7 2006

Oregon Water Resources Department Water Rights Division

Water Rights Application Number G-15243

DRAFT Final Order Incorporating Settlement Agreement

Application History
On DECEMBER 11, 2000, SPRINGFIELD UTILITY BOARD submitted an application to the Department for a water use permit. The Department issued a Proposed Final Order on November 8, 2005. The protest period closed December 23, 2005. A timely protest was filed by the applicant on December 19, 2005.

Through a Settlement Agreement between the applicant and the Department, the protest was withdrawn on ______. The terms of the Settlement Agreement are incorporated herein by reference.

DRAFT Order

Application G-15243 therefore is approved consistently with the terms of the aforementioned Settlement Agreement, and Permit G-DRAFT is issued as limited by the conditions set forth therein.

DATED February , 2006

---- DRAFT ----

Phillip C. Ward, Director Water Resources Department

Hearing and Appeal Rights
Under the provisions of ORS 537.170 and ORS 537.622, the applicant may request a contested case hearing by submitting the information required for a protest under ORS 537.153(6) or ORS 537.621(7) to the Department within 14 days after the date of mailing of this order as shown below. If a contested case hearing is requested, the Department must schedule one. In the contested case hearing, however, only those issues based on the above modifications to the proposed final order may be addressed.

ORS 536.075 allows for additional appeal rights for other than contested case. This is a final order in other than contested case. This order is subject to judicial review under ORS 183.484. Any petition for judicial review must be filed within the 60 day time period specified by ORS 183.484(2). Pursuant to ORS 536.075 and OAR 137-004-0080 you may either 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.

FFB 2 7 2006

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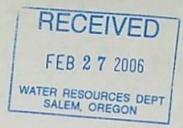
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If you have other questions about the Department or any of its programs please contact our Customer Service Group at 503-986-0801.

Address all other correspondence to: Water Rights Section, Oregon Water Resources Department, 725 Summer St NE Ste A, Salem OR 97301-1266, Fax: 503-986-0901.

STATE OF OREGON

COUNTY OF LANE



DRAFT PERMIT TO APPROPRIATE THE PUBLIC WATERS

THIS DRAFT PERMIT IS HEREBY ISSUED TO

SPRINGFIELD UTILITY BOARD 202 S 18TH ST SPRINGFIELD, OREGON 97477

541-726-2396

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

APPLICATION FILE NUMBER: G-15243

SOURCE OF WATER: FOUR WELLS IN CEDAR CREEK BASIN

PURPOSE OR USE: MUNICIPAL USE

MAXIMUM RATE: 4.91 CUBIC FEET PER SECOND (CFS), BEING 1.34 CFS FROM EACH

OF THREE WELLS (5, 6, AND 10) AND 0.89 CFS FROM WELL 7

PERIOD OF USE: YEAR ROUND

DATE OF PRIORITY: DECEMBER 11, 2000

WELL LOCATIONS:

WELL #5: 154 FEET SOUTH & 239 FEET EAST WELL #6: 241 FEET SOUTH & 240 FEET EAST WELL #7: 333 FEET SOUTH & 707 FEET EAST WELL #10: 518 FEET SOUTH & 21 FEET EAST

ALL FROM THE WEST 1/4 CORNER OF SECTION 26, WITHIN THE NW % SW %, OF SECTION 26, T17S, R2W, W.M.

THE PLACE OF USE IS THE SERVICE AREA OF CITY OF SPRINGFIELD.

Measurement, recording and reporting conditions:

Before water use may begin under this permit, the permittee A. shall install a meter or other suitable measuring device as approved by the Director. The permittee shall maintain the meter or measuring device in good working order, shall keep a complete record of the amount of water used each month and shall submit a report which includes the recorded 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.

B. The permittee shall allow the watermaster access to the meter or measuring device; provided however, where the meter or measuring device is located within a private structure, the watermaster shall request access upon reasonable notice.

The water user shall develop a plan to monitor and report the impact of water use under this permit on water levels within the aquifer that provides water to the permitted well(s). The plan shall be submitted to the Department within one year of the date the permit is issued and shall be subject to the approval of the Department. At a minimum, the plan shall include a program to periodically measure static water levels within the permitted well(s) or an adequate substitute such as water levels in nearby wells. The plan shall also stipulate a reference water level against which any water-level declines will be compared. If a well listed on this permit (or replacement well) displays a total static water-level decline of 25 or more feet over any period of years, as compared to the reference level, then the water user shall discontinue use of, or reduce the rate or volume of withdrawal from, the well(s). Such action shall be taken until the water level recovers to above the 25-foot decline level or until the Department determines, based on the water user's and/or the Department's data and analysis, that no action is necessary because the aquifer in question can sustain the observed declines without adversely impacting the resource or senior water rights. The water user shall in no instance allow excessive decline, as defined in Commission rules, to occur within the aquifer as a result of use under this permit.

Willamette Basin basalt ground water condition:

- (1) Use of water from either well, as allowed herein, shall be controlled or shut off if the well displays:
 - (a) An average water level decline of three or more feet per year for five consecutive years; or
 - (b) A total water level decline of fifteen or more feet; or
 - (c) A hydraulic interference decline of fifteen or more feet in any neighboring well providing water for senior exempt uses or wells covered by prior rights.
- (2) The water user shall install a meter or other measuring device suitable to the Director, and shall submit an annual report of water used to the Department by December 1 of each year.
- (3) The permittee/appropriator shall be responsible for complying with each of the following requirements for measuring water levels in the wells.

- (a) Use of water from a new well shall not begin until an initial static water level in the well has been measured and submitted to the Department.
- (b) In addition to the measurement required in subsection (a). of this section, a water level measurement shall be made each month between the 1st and 5th day of the month.
- (c) All water level measurements shall be made by a qualified individual. Qualified individuals are certified water rights examiners, registered geologists, registered professional engineers, licensed land surveyors, licensed water well constructors, licensed pump installers, or the permittee / appropriator.
- (d) Any qualified individual measuring a well shall use standard methods of procedure and equipment designed for the purpose of well measurement. The equipment used shall be well suited to the conditions of construction at the well. A list of standard methods of procedure and suitable equipment shall be available from the Department.
- (e) The permittee/appropriator shall submit a record of the measurements to the Department on a form available from the Department. The record of measurements shall include both measurements and calculations, shall include a certification as to their accuracy signed by the individual making the measurements. The permittee/appropriator shall submit to the Department one year of monthly measurements (December through November) by December 1. The Department shall determine when any of the declines cited in section (1) are evidenced by the well measurement required in section (3).

The use allowed herein may be made only at times when 1.28 cubic feet per second of water is diverted from the McKenzie River into Cedar Creek under permit [approving S-85336]. This water may not be used to provide mitigation for permit [approving G-15241] or [approving G-15244].

The use may be restricted if the quality of the McKenzie River, Cedar Creek, or downstream waters decrease to the point that those waters no longer meet existing state or federal water quality standards as a result of the use.

STANDARD CONDITIONS

If the number, location, source, or construction of any well deviates from that proposed in the permit application or required by permit conditions, this permit may not be valid, unless the Department authorizes the change in writing.

Application G-15243 Water Resources Department PERMIT G-DRAFT FEB 2 7 2006

If substantial interference with a senior water right occurs due to withdrawal of water from any well listed on this permit, then use of water from the well(s) shall be discontinued or reduced and/or the schedule of withdrawal shall be regulated until or unless the Department approves or implements an alternative administrative action to mitigate the interference. The Department encourages junior and senior appropriators to jointly develop plans to mitigate interferences.

The wells shall be constructed in accordance with the General Standards for the Construction and Maintenance of Water Wells in Oregon. The works shall be equipped with a usable access port, and may also include an air line and pressure gauge adequate to determine water level elevation in the well at all times.

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.

Prior to receiving a certificate of water right, the permit holder shall submit the results of a pump test meeting the department's standards, to the Water Resources Department. The Director may require water level or pump test results every ten years thereafter.

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

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

By law, the land use associated with this water use must be in compliance with statewide land-use goals and any local acknowledged land-use plan.

The use of water shall be limited when it interferes with any prior surface or ground water rights.

Completion of construction and complete application of the water to the use shall be made within 20 years of the date of this permit. If the water is not completely applied within 20 years, and the permittee wishes to continue development under the permit, the permittee must submit an application for extension of time, which may be approved based upon the merit of the application.

Within one year after complete application of water to the proposed use, the permittee shall submit a claim of beneficial use, which includes a map and report, prepared by a Certified Water Rights Examiner (CWRE).

Issued _____, 2006

---- DRAFT ----

Phillip C. Ward, Director Water Resources Department

RECEIVED

FEB 2 7 2006

Mailing List for FO Copies

Application #G-15243

Original mailed to applicant with claim of beneficial use form:

SPRINGFIELD UTILITY BOARD; MCKEE, BART 202 S 18TH ST SPRINGFIELD OREGON 97477-5240

Copies sent to:1. WRD - File # G-15243

- 2. WRD Ken Stahr
- 3. WRD Data Center
- 4. WRD John Falk (for reservoir applications only)

| Cop | pies Mailed |
|-----|-----------------|
| By: | |
| | (SUPPORT STAFF) |
| on: | |
| | (DATE) |

FO and Map Copies sent to (remember to reduce copy margins):

- 5. WRD Watermaster District #: District 2
- 6. WRD Regional Manager: (Not to SCR)

Copies sent to Other Interested Persons (CWRE, Agent, Commenter, etc.)

- 11.
- 13.

"\$10 LETTER" sent to Interested Persons who have not protested or paid for copies

CASEWORKER: Cory Engel

RECEIVED
FEB 2 7 2006
WATER RESOURCES DEPT SALEM, OREGON

Oregon Water Resources Department Water Rights Division

Water Rights Application Number G-15244

DRAFT Final Order Incorporating Settlement Agreement

Application History
On DECEMBER 11, 2000, SPRINGFIELD UTILITY BOARD submitted an application to the Department for a water use permit. The Department issued a Proposed Final Order on November 8, 2005. The protest period closed December 23, 2005. A timely protest was filed by the applicant on December 19, 2005.

Through a Settlement Agreement between the applicant and the Department, the protest was withdrawn on ______. The terms of the Settlement Agreement are incorporated herein by reference.

DRAFT Order

Application G-15244 therefore is approved consistently with the terms of the aforementioned Settlement Agreement, and Permit G-DRAFT is issued as limited by the conditions set forth therein.

DATED February , 2006

---- DRAFT ----

Phillip C. Ward, Director Water Resources Department

Hearing and Appeal Rights

Under the provisions of ORS 537.170 and ORS 537.622, the applicant may request a contested case hearing by submitting the information required for a protest under ORS 537.153(6) or ORS 537.621(7) to the Department within 14 days after the date of mailing of this order as shown below. If a contested case hearing is requested, the Department must schedule one. In the contested case hearing, however, only those issues based on the above modifications to the proposed final order may be addressed.

ORS 536.075 allows for additional appeal rights for other than contested case. This is a final order in other than contested case. This order is subject to judicial review under ORS 183.484. Any petition for judicial review must be filed within the 60 day time period specified by ORS 183.484(2). Pursuant to ORS 536.075 and OAR 137-004-0080 you may either 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.

FEB 2 7 2006
WATER RESOURCES DEPT

This statement of judicial review rights does not create a right to judicial review of this order, if judicial review is otherwise precluded by law. Where no changes have been made to a Proposed Final Order on a water right application and no protests have been filed during the protest period, the final order is not subject to judicial review.

This document was prepared by Cory Engel. If you have any questions about any of the statements contained in this document I am most likely the best person to answer your questions. You can reach me at 503-986-0813.

If you have questions about how to file a protest or a request for standing, please refer to section in this Final Order entitled "Hearing and Appeal Rights". If you have previously filed a protest and want to know its status, please contact Mike Reynolds at 503-986-0820.

If you have other questions about the Department or any of its programs please contact our Customer Service Group at 503-986-0801.

Address all other correspondence to: Water Rights Section, Oregon Water Resources Department, 725 Summer St NE Ste A, Salem OR 97301-1266, Fax: 503-986-0901.

RECEIVED

COUNTY OF LANE

DRAFT PERMIT TO APPROPRIATE THE PUBLIC WATERS

THIS DRAFT PERMIT IS HEREBY ISSUED TO

SPRINGFIELD UTILITY BOARD 202 S 18TH ST SPRINGFIELD, OREGON 97477

541-726-2396

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

APPLICATION FILE NUMBER: G-15244

SOURCE OF WATER: THREE WELLS IN CEDAR CREEK BASIN

PURPOSE OR USE: MUNICIPAL USE

MAXIMUM RATE: 4.02 CUBIC FEET PER SECOND (CFS), BEING 1.34 CFS EACH FROM

WELLS 8, 9, AND 11

PERIOD OF USE: YEAR ROUND

DATE OF PRIORITY: DECEMBER 11, 2000

WELL LOCATIONS:

WELL #8: NW % SW % SECTION 26, T17S, R2W, W.M.; 533 FEET SOUTH &

699 FEET EAST

NW % SW % SECTION 26, T17S, R2W, W.M.; 693 FEET SOUTH & WELL #9:

364 FEET EAST

WELL #11: NE % SE % SECTION 27, T17S, R2W, W.M.; 206 FEET SOUTH &

169 FEET WEST

ALL FROM THE WEST 1/4 CORNER OF SECTION 26

THE PLACE OF USE IS THE SERVICE AREA OF CITY OF SPRINGFIELD.

Measurement, recording and reporting conditions:

Before water use may begin under this permit, the permittee shall install a meter or other suitable measuring device as approved by the Director. The permittee shall maintain the meter or measuring device in good working order, shall keep a complete record of the amount of water used each month and shall submit a report which includes the recorded 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.

B. The permittee shall allow the watermaster access to the meter or measuring device; provided however, where the meter or measuring device is located within a private structure, the watermaster shall request access upon reasonable notice.

The water user shall develop a plan to monitor and report the impact of water use under this permit on water levels within the aquifer that provides water to the permitted well(s). The plan shall be submitted to the Department within one year of the date the permit is issued and shall be subject to the approval of the Department. At a minimum, the plan shall include a program to periodically measure static water levels within the permitted well(s) or an adequate substitute such as water levels in nearby wells. The plan shall also stipulate a reference water level against which any water-level declines will be compared. If a well listed on this permit (or replacement well) displays a total static water-level decline of 25 or more feet over any period of years, as compared to the reference level, then the water user shall discontinue use of, or reduce the rate or volume of withdrawal from, the well(s). Such action shall be taken until the water level recovers to above the 25-foot decline level or until the Department determines, based on the water user's and/or the Department's data and analysis, that no action is necessary because the aquifer in question can sustain the observed declines without adversely impacting the resource or senior water rights. The water user shall in no instance allow excessive decline, as defined in Commission rules, to occur within the aquifer as a result of use under this permit.

Willamette Basin basalt ground water condition:

- (1) Use of water from either well, as allowed herein, shall be controlled or shut off if the well displays:
 - (a) An average water level decline of three or more feet per year for five consecutive years; or
 - (b) A total water level decline of fifteen or more feet; or
 - (c) A hydraulic interference decline of fifteen or more feet in any neighboring well providing water for senior exempt uses or wells covered by prior rights.
- (2) The water user shall install a meter or other measuring device suitable to the Director, and shall submit an annual report of water used to the Department by December 1 of each year.
- (3) The permittee/appropriator shall be responsible for complying with each of the following requirements for measuring water levels in the wells.

FFB 2 7 2006

WATER RESOURCES DEPT

PAGE 3

Use of water from a new well shall not begin until an initial static water level in the well has been measured and submitted to the Department.

- In addition to the measurement required in subsection (b) (a). of this section, a water level measurement shall be made each month between the 1st and 5th day of the month.
- All water level measurements shall be made by a qualified individual. Qualified individuals are certified water rights examiners, registered geologists, registered professional engineers, licensed land surveyors, licensed water well constructors, licensed pump installers, or the permittee / appropriator.
- (d) Any qualified individual measuring a well shall use standard methods of procedure and equipment designed for the purpose of well measurement. The equipment used shall be well suited to the conditions of construction at the well. A list of standard methods of procedure and suitable equipment shall be available from Department.
- The permittee/appropriator shall submit a record of the (e) measurements to the Department on a form available from the Department. The record of measurements shall include both measurements and calculations, shall include a certification as to their accuracy signed by the individual making the measurements. permittee/appropriator shall submit to the Department one year of monthly measurements (December through November) by December 1. The Department shall determine when any of the declines cited in section (1) are evidenced by the well measurement required in section (3).

The use allowed herein may be made only at times when 1.04 cubic feet per second of water is diverted from the McKenzie River into Cedar Creek under permit [approving S-85336]. This water may not be used to provide mitigation for permit [approving G-15241] or [approving G-15243].

The use may be restricted if the quality of the McKenzie River, Cedar Creek, or downstream waters decrease to the point that those waters no longer meet existing state or federal water quality standards as a result of the use.

STANDARD CONDITIONS

If the number, location, source, or construction of any well deviates from that proposed in the permit application or required by permit conditions, this permit may not be valid, unless the Department authorizes the change in writing.

If substantial interference with a senior water right occurs due to withdrawal of water from any well listed on this permit, then use of water from the well(s) shall be discontinued or reduced and/or the schedule of withdrawal shall be regulated until or unless the Department approves or implements an alternative administrative action to mitigate the interference. The Department encourages junior and senior appropriators to jointly develop plans to mitigate interferences.

The wells shall be constructed in accordance with the General Standards for the Construction and Maintenance of Water Wells in Oregon. The works shall be equipped with a usable access port, and may also include an air line and pressure gauge adequate to determine water level elevation in the well at all times.

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.

Prior to receiving a certificate of water right, the permit holder shall submit the results of a pump test meeting the department's standards, to the Water Resources Department. The Director may require water level or pump test results every ten years thereafter.

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

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

By law, the land use associated with this water use must be in compliance with statewide land-use goals and any local acknowledged land-use plan.

The use of water shall be limited when it interferes with any prior surface or ground water rights.

Completion of construction and complete application of the water to the use shall be made within 20 years of the date of this permit. If the water is not completely applied within 20 years, and the permittee wishes to continue development under the permit, the permittee must submit an application for extension of time, which may be approved based upon the merit of the application.

Within one year after complete application of water to the proposed use, the permittee shall submit a claim of beneficial use, which includes a map and report, prepared by a Certified Water Rights Examiner (CWRE).

Issued , 2006

---- DRAFT ----

Phillip C. Ward, Director Water Resources Department

RECEIVED

FEB 2 7 2006

Mailing List for FO Copies

Application #G-15244

Original mailed to applicant with claim of beneficial use form:

SPRINGFIELD UTILITY BOARD; MCKEE, BART 202 S 18TH ST SPRINGFIELD OREGON 97477

Copies sent to:1. WRD - File # G-15244

- 2. WRD Ken Stahr
- 3. WRD Data Center
- 4. WRD John Falk (for reservoir applications only)

FO and Map Copies sent to (remember to reduce copy margins):

- 5. WRD Watermaster District #: District 2
- 6. WRD Regional Manager: (Not to SCR)

| Copies sent to Other | Interested | Persons | (CWRE, As | gent, | Commenter, | etc.) |
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"\$10 LETTER" sent to Interested Persons who have not protested or paid for copies

- 1. 2.
- 3.

CASEWORKER: Cory Engel

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Copies Mailed

(SUPPORT STAFF)

FEB 2 7 2006

Oregon Water Resources Department Water Rights Division

Water Rights Application Number S-85336

DRAFT Final Order Incorporating Settlement Agreement

Application History
On November 8, 2002, SPRINGFIELD UTILITY BOARD submitted an application to the Department for a water use permit. The Department issued a Proposed Final Order on November 8, 2005. The protest period closed December 23, 2005. A timely protest was filed by the applicant on December 19, 2005.

Through a Settlement Agreement between the applicant and the Department, the protest was withdrawn on ______. The terms of the Settlement Agreement are incorporated herein by reference.

DRAFT Order

Application S-85336 therefore is approved consistently with the terms of the aforementioned Settlement Agreement, and Permit S-DRAFT is issued as limited by the conditions set forth therein.

DATED February , 2006

---- DRAFT ----

Phillip C. Ward, Director Water Resources Department

Hearing and Appeal Rights
Under the provisions of ORS 537.170 and ORS 537.622, the applicant may request a contested case hearing by submitting the information required for a protest under ORS 537.153(6) or ORS 537.621(7) to the Department within 14 days after the date of mailing of this order as shown below. If a contested case hearing is requested, the Department must schedule one. In the contested case hearing, however, only those issues based on the above modifications to the proposed final order may be addressed.

ORS 536.075 allows for additional appeal rights for other than contested case. This is a final order in other than contested case. This order is subject to judicial review under ORS 183.484. Any petition for judicial review must be filed within the 60 day time period specified by ORS 183.484(2). Pursuant to ORS 536.075 and OAR 137-004-0080 you may either 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 petition was filed, the petition shall be deemed denied.

FEB 2 7 2006

This statement of judicial review rights does not create a right to judicial review of this order, if judicial review is otherwise precluded by law. Where no changes have been made to a Proposed Final Order on a water right application and no protests have been filed during the protest period, the final order is not subject to judicial review.

This document was prepared by Cory Engel. If you have any questions about any of the statements contained in this document I am most likely the best person to answer your questions. You can reach me at 503-986-0813.

If you have questions about how to file a protest or a request for standing, please refer to section in this Final Order entitled "Hearing and Appeal Rights". If you have previously filed a protest and want to know its status, please contact Mike Reynolds at 503-986-0820.

If you have other questions about the Department or any of its programs please contact our Customer Service Group at 503-986-0801.

Address all other correspondence to: Water Rights Section, Oregon Water Resources Department, 725 Summer St NE Ste A, Salem OR 97301-1266, Fax: 503-986-0901.

WATER RESOURCES DEPT SALEM, OREGON

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COUNTY OF LANE

DRAFT PERMIT TO APPROPRIATE THE PUBLIC WATERS

THIS DRAFT PERMIT IS HEREBY ISSUED TO

SPRINGFIELD UTILITY BOARD 202 S 18TH ST SPRINGFIELD, OR 97477

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

APPLICATION FILE NUMBER: S-85336

SOURCE OF WATER: MCKENZIE RIVER, A TRIBUTARY OF WILLAMETTE RIVER

PURPOSE OR USE: MUNICIPAL USE, FISH LIFE USE, AND WILDLIFE USE

MAXIMUM RATE: 35.9 CUBIC FEET PER SECOND (CFS) FOR MUNICIPAL USE AND 4.1 CFS FOR FISH LIFE AND WILDLIFE USES

PERIOD OF USE: YEAR ROUND

DATE OF PRIORITY: NOVEMBER 8, 2002

POINT OF DIVERSION LOCATIONS:

MUNICIPAL USE: NW 1/4 SW 1/4 SECTION 26, T17S, R2W, W.M.; 250 FEET SOUTH & 972 FEET EAST FROM THE WEST 1/4 CORNER OF SECTION 26

FISH LIFE AND WILDLIFE USES: SE % SW % SECTION 29, T17S, R1W, W.M.; 300 FEET NORTH & 2400 FEET EAST FROM THE SW CORNER OF SECTION 29

THE PLACE OF USE IS LOCATED AS FOLLOWS:

MUNICIPAL USE: WITHIN THE SERVICE AREA OF CITY OF SPRINGFIELD FISH LIFE AND WILDLIFE USES: WITHIN THE CHANNEL OF CEDAR CREEK Measurement, recording and reporting conditions:

Before water use may begin under this permit, the permittee shall install a meter or other suitable measuring device as approved by the Director. The permittee shall maintain the meter or measuring device in good working order, shall keep a complete record of the amount of water used each month and shall submit a report which includes the recorded 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.

B. The permittee shall allow the watermaster access to the meter or measuring device; provided however, where the meter or measuring device is located within a private structure, the watermaster shall request access upon reasonable notice.

The permittee shall not construct, operate or maintain any dam or artificial obstruction to fish passage at the diversion into Cedar Creek 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.

If the Cedar Creek flow monitoring program currently maintained by the U.S. Geological Survey (USGS) in conjunction with the U.S. Army Corps of Engineers and the Eugene Water and Electric Board (EWEB) is discontinued, the permittee shall ensure that a similar flow monitoring program is implemented on Cedar Creek. For the purpose of this condition, such a flow monitoring program must include, at minimum, installation of a calibrated staff gage.

While EWEB's license from Federal Energy Regulatory Energy Commission (FERC) requires EWEB to bypass 1,000 cfs of water past the Walterville Canal diversion, the permittee may divert water into Cedar Creek under this permit only when the flow in the McKenzie River, as measured at USGS gage 14163900, is greater than or equal to 1,000 cfs plus the actual rate of appropriation into Cedar Creek under this permit. In the event that EWEB's license from FERC is modified, the permittee may divert water under this permit only when flow in the McKenzie River, as measured at USGS gage 14163900, is greater than or equal to the FERC-required minimum bypass flow plus the actual rate of appropriation into Cedar Creek under this permit, or 1,400 cfs plus the actual rate of appropriation into Cedar Creek under this permit, whichever is greater. In the event that EWEB's license from FERC is rescinded, the permittee may divert water under this permit only when flow in the McKenzie River, as measured at USGS gage 14163900, is greater than or equal to 1,400 cfs plus the actual rate of appropriation under this permit.

The use may be restricted if the quality of the McKenzie River, Cedar Creek, or downstream waters decrease to the point that those waters no longer meet existing state or federal water quality standards as a result of the use.

STANDARD CONDITIONS

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.

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

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

By law, the land use associated with this water use must be in compliance with statewide land-use goals and any local acknowledged land-use plan.

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

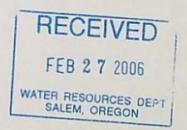
Completion of construction and complete application of the water to the use shall be made within 20 years of the date of this permit. If the water is not completely applied within 20 years, and the permittee wishes to continue development under the permit, the permittee must submit an application for extension of time, which may be approved based upon the merit of the application.

Within one year after complete application of water to the proposed use, the permittee shall submit a claim of beneficial use, which includes a map and report, prepared by a Certified Water Rights Examiner (CWRE).

| Issued | , | 2006 |
|--------|---|------|
| | | |

---- DRAFT ----

Phillip C. Ward, Director Water Resources Department



Mailing List for FO Copies

Application #S-85336

Original mailed to applicant with claim of beneficial use form:

BART MCKEE SPRINGFIELD UTILITY BOARD 202 S 18TH ST SPRINGFIELD OR 97477

Copies sent to:

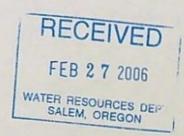
- 1. WRD File # S-85336
- 2. WRD Ken Stahr
- 3. WRD Data Center
- 4. WRD John Falk (for reservoir applications only)

| Cop | pies Mailed |
|-----|-----------------|
| By: | |
| | (SUPPORT STAFF) |
| on: | |
| | (DATE) |

FO and Map Copies sent to (remember to reduce copy margins):

- 5. WRD Watermaster District #: 2
- 6. WRD Regional Manager: (Not to SCR)

CASEWORKER: Cory Engel



BEFORE THE OREGON WATER RESOURCES DEPARTMENT

| In the Matter of Water Right Applications G-15241,) | |
|---|--|
| G-15243, G-15244, and S-85336 in the name of | |
| Springfield Utility Board) | |
| Applicants and Protestants) | |
| | |

AMENDMENT TO SETTLEMENT AGREEMENT

On February 24, 2006, the Oregon Water Resources Department ("OWRD") and Springfield Utility Board ("Applicant"), referred to collectively as "the Parties" and each individually a "Party," entered into a "Settlement Agreement" pertaining to Applicant's water right applications G-15241, G-15243, G-15244, and S-85336. This document is an "Amendment" to the Settlement Agreement.

 The Parties agree that St entirety as follows:

> "OWRD and Appli PFOs for Applicati solely on the follow Agreement."

The Parties agree that I follows:

"In signing this S accordance with t Applicant withdra 15244, and S-85.

Original
Signed
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Averdment

3. The Parties agree that Term #2 of the Settlement ... follows:

"Regarding Applications G-15241, G-15243, G-15244, and S-85336, upon full performance under this Settlement Agreement and any Amendment(s) thereto, Applicant expressly waives all right and opportunity to file a protest or request for contested case hearing, request for reconsideration, exceptions, or to seek judicial review of the Final Orders or Permits, in addition to waiving any right and opportunity to challenge this Settlement Agreement."

RECEIVED

MAR 2 3 2006

BEFORE THE OREGON WATER RESOURCES DEPARTMENT

| In the Matter of Water Right Applications G-15241,) | |
|---|----------------------|
| G-15243, G-15244, and S-85336 in the name of) | AMENDMENT TO |
| Springfield Utility Board) | SETTLEMENT AGREEMENT |
| Applicants and Protestants) | |
|) | |

On February 24, 2006, the Oregon Water Resources Department ("OWRD") and Springfield Utility Board ("Applicant"), referred to collectively as "the Parties" and each individually a "Party," entered into a "Settlement Agreement" pertaining to Applicant's water right applications G-15241, G-15243, G-15244, and S-85336. This document is an "Amendment" to the Settlement Agreement.

1. The Parties agree that Stipulation IV of the Settlement Agreement is amended to read in its entirety as follows:

"OWRD and Applicant agree that all issues raised in Applicant's protests against the PFOs for Applications G-15241, G-15243, G-15244, and S-85336 are resolved solely on the following terms, including any amendment(s) to this Settlement Agreement."

2. The Parties agree that Term #1 of the Settlement Agreement is amended to read in its entirety as follows:

"In signing this Settlement Agreement, and contingent on OWRD performing in accordance with this Settlement Agreement and any Amendment(s) thereto, Applicant withdraws its protests to the PFOs for Applications G-15241, G-15243, G-15244, and S-85336 with prejudice."

3. The Parties agree that Term #2 of the Settlement Agreement is amended to read in its entirety as follows:

"Regarding Applications G-15241, G-15243, G-15244, and S-85336, upon full performance under this Settlement Agreement and any Amendment(s) thereto, Applicant expressly waives all right and opportunity to file a protest or request for contested case hearing, request for reconsideration, exceptions, or to seek judicial review of the Final Orders or Permits, in addition to waiving any right and opportunity to challenge this Settlement Agreement."



4. The Parties agree that Term #4 of the Settlement Agreement is modified to state, in its entirety:

"Except as provided below, no later than January 26, 2007, OWRD will issue Final Orders and Permits that are consistent with the Draft Final Orders and Draft Permits attached to the February 24, 2006 Settlement Agreement. Any Final Orders on water right applications G-15241, G-15243, G-15244, and S-85336 will incorporate the February 24, 2006 Settlement Agreement and any Amendment(s) thereto, by reference and as attachments.

On or before November 27, 2006, the Applicant may submit additional information or proposals to OWRD pertaining to mitigation requirements associated with water right applications G-15241, G-15243, G-15244, and S-85336.

If the Applicant timely submits such information or proposals, OWRD will make a determination, no later than December 27, 2006, as to whether any modification to mitigation requirements associated with water right applications G-15241, G-15243, G-15244, and S-85336 will be approved.

In the event that the Applicant submits information or proposals to OWRD as provided above, but OWRD determines that no modifications will be made to the mitigation requirements associated with water right applications G-15241, G-15243, G-15244, and S-85336, the Parties agree that OWRD will issue, no later than January 26, 2007, final orders and permits consistent with the Draft Final Orders and Draft Permits attached to the February 24, 2006 Settlement Agreement.

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In addition to the Applicant's waivers contained in Term #2 of the February 24, 2006 Settlement Agreement including any amendment(s) to Term #2, the Applicant hereby expressly waives all right and opportunity to challenge any determination by OWRD as to whether modifications will or will not be made to the mitigation requirements associated with water right applications G-15241, G-15243, G-15244, and S-85336. Applicant also hereby expressly waives all right and opportunity to challenge any modification(s) made by OWRD to the mitigation requirements associated with water right applications G-15241, G-15243, G-15244, and S-85336.

However, if the Applicant disagrees with modification(s) that OWRD has determined will be made to the mitigation requirements associated with water right applications G-15241, G-15243, G-15244, and S-85336, the Applicant may submit a letter to OWRD on or before January 10, 2007, requesting to retain the mitigation requirements set forth in the February 24, 2006 Settlement Agreement and the attached Draft Final Orders and Draft Permits. If the Applicant timely makes such a request, OWRD will issue, no later than February 8, 2007, Final Orders and Permits consistent with the Draft Final Orders and Draft Permits attached to the February 24, 2006 Settlement Agreement."

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- 5. The Parties to this Amendment agree that this Amendment does not allow, and cannot be construed to allow, any challenge whatsoever to the February 24, 2006 Settlement Agreement including the attached Draft Final Orders and Draft Permits, this Amendment, or Final Orders or Permits for water right applications G-15241, G-15243, G-15244, and S-85336.
- Except as provided above, the Parties to this Amendment agree that the Settlement Agreement is unchanged and remains in full effect.
- 7. The Parties to this Amendment acknowledge that the time periods specified in item #4, above, may be extended for a reasonable duration by an additional amendment to the Settlement Agreement. However, neither Party is bound to propose or agree to any such additional amendment, and any additional amendment would require the written agreement of both Parties.
- 8. Each Party to this Amendment represents, warrants, and agrees that the person who executed this Amendment on its behalf has the full right and authority to enter into this Amendment on behalf of that Party and bind that Party to the terms of this Amendment.
- 9. Each Party to this Amendment certifies that they have had a reasonable opportunity to review and request changes to the Amendment, and that they have signed this Amendment of their own free will and accord. Each Party to this Amendment also certifies that it has read the entire Amendment, and understands and fully agrees with the contents thereof.
- 10. This Amendment may be signed in counterparts.

| Dwight French, Administrator, | |
|---|---|
| Water Rights and Adjudications Division | 1 |
| for | |
| Phillip C. Ward, Director | |
| Oregon Water Resources Department | |
| 725 Summer St. NE, Suite A | |
| Salem, OR 97301 | |

Date

Springfield Utility Board, Applicant

3/22/06 Date

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WATER RESOURCES DEPT

BEFORE THE OREGON WATER RESOURCES DEPARTMENT

| In the Matter of Water Right Applications G-15241,) G-15243, G-15244, and S-85336 in the name of | AMENDMENT TO |
|---|----------------------|
| Springfield Utility Board) Applicants and Protestants) | SETTLEMENT AGREEMENT |
| | |

On February 24, 2006, the Oregon Water Resources Department ("OWRD") and Springfield Utility Board ("Applicant"), referred to collectively as "the Parties" and each individually a "Party," entered into a "Settlement Agreement" pertaining to Applicant's water right applications G-15241, G-15243, G-15244, and S-85336. This document is an "Amendment" to the Settlement Agreement.

 The Parties agree that Stipulation IV of the Settlement Agreement is amended to read in its entirety as follows:

"OWRD and Applicant agree that all issues raised in Applicant's protests against the PFOs for Applications G-15241, G-15243, G-15244, and S-85336 are resolved solely on the following terms, including any amendment(s) to this Settlement Agreement."

2. The Parties agree that Term #1 of the Settlement Agreement is amended to read in its entirety as follows:

"In signing this Settlement Agreement, and contingent on OWRD performing in accordance with this Settlement Agreement and any Amendment(s) thereto, Applicant withdraws its protests to the PFOs for Applications G-15241, G-15243, G-15244, and S-85336 with prejudice."

3. The Parties agree that Term #2 of the Settlement Agreement is amended to read in its entirety as follows:

"Regarding Applications G-15241, G-15243, G-15244, and S-85336, upon full performance under this Settlement Agreement and any Amendment(s) thereto, Applicant expressly waives all right and opportunity to file a protest or request for contested case hearing, request for reconsideration, exceptions, or to seek judicial review of the Final Orders or Permits, in addition to waiving any right and opportunity to challenge this Settlement Agreement."

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In the event that the Applicant submits information or proposals to OWRD as provided above, but OWRD determines that no modifications will be made to the mitigation requirements associated with water right applications G-15241, G-15243, G-15244, and S-85336, the Parties agree that OWRD will issue, no later than January 26, 2007, final orders and permits consistent with the Draft Final Orders and Draft Permits attached to the February 24, 2006 Settlement Agreement.

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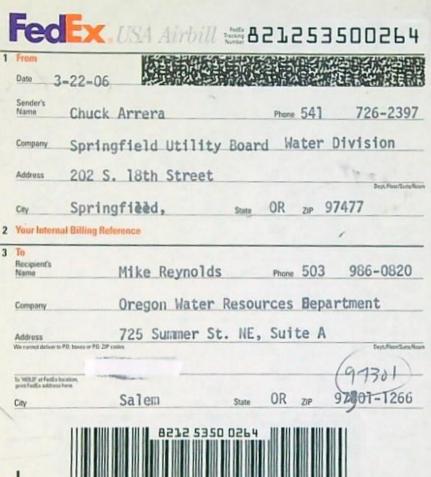
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- This Amendment may be signed in counterparts.

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| Dwight French, Administrator, Water Rights and Adjudications Division for Phillip C. Ward, Director Oregon Water Resources Department 725 Summer St. NE, Suite A Salem, OR 97301 | March 23, 2006 |
|--|----------------|
| Springfield Utility Board, Applicant | Date |



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BEFORE THE OREGON WATER RESOURCES DEPARTMENT

| In the Matter of Water Right Applications G-15241,) | |
|---|----------------------|
| G-15243, G-15244, and S-85336 in the name of | AMENDMENT TO |
| Springfield Utility Board) | SETTLEMENT AGREEMENT |
| Applicants and Protestants) | |
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On February 24, 2006, the Oregon Water Resources Department ("OWRD") and Springfield Utility Board ("Applicant"), referred to collectively as "the Parties" and each individually a "Party," entered into a "Settlement Agreement" pertaining to Applicant's water right applications G-15241, G-15243, G-15244, and S-85336. This document is an "Amendment" to the Settlement Agreement.

 The Parties agree that Stipulation IV of the Settlement Agreement is amended to read in its entirety as follows:

"OWRD and Applicant agree that all issues raised in Applicant's protests against the PFOs for Applications G-15241, G-15243, G-15244, and S-85336 are resolved solely on the following terms, including any amendment(s) to this Settlement Agreement."

2. The Parties agree that Term #1 of the Settlement Agreement is amended to read in its entirety as follows:

"In signing this Settlement Agreement, and contingent on OWRD performing in accordance with this Settlement Agreement and any Amendment(s) thereto, Applicant withdraws its protests to the PFOs for Applications G-15241, G-15243, G-15244, and S-85336 with prejudice."

3. The Parties agree that Term #2 of the Settlement Agreement is amended to read in its entirety as follows:

"Regarding Applications G-15241, G-15243, G-15244, and S-85336, upon full performance under this Settlement Agreement and any Amendment(s) thereto, Applicant expressly waives all right and opportunity to file a protest or request for contested case hearing, request for reconsideration, exceptions, or to seek judicial review of the Final Orders or Permits, in addition to waiving any right and opportunity to challenge this Settlement Agreement."

4. The Parties agree that Term #4 of the Settlement Agreement is modified to state, in its entirety:

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- 10. This Amendment may be signed in counterparts.

| Dwight French, Administrator, Water Rights and Adjudications Division for Phillip C. Ward, Director Oregon Water Resources Department 725 Summer St. NE, Suite A Salem, OR 97301 | Movel 23, 2000 |
|--|----------------|
| | |
| Springfield Utility Board, Applicant | Date |

BEFORE THE OREGON WATER RESOURCES DEPARTMENT

| In the Matter of Water Right Applications G-15241, | |
|---|--|
| G-15243, G-15244, and S-85336 in the name of Springfield Utility Board |) AMENDMENT TO SETTLEMENT AGREEMENT |
| Applicants and Protestants |)) |

On February 24, 2006, the Oregon Water Resources Department ("OWRD") and Springfield Utility Board ("Applicant"), referred to collectively as "the Parties" and each individually a "Party," entered into a "Settlement Agreement" pertaining to Applicant's water right applications G-15241, G-15243, G-15244, and S-85336. This document is an "Amendment" to the Settlement Agreement.

1. The Parties agree that Stipulation IV of the Settlement Agreement is amended to read in its entirety as follows:

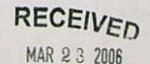
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2. The Parties agree that Term #1 of the Settlement Agreement is amended to read in its entirety as follows:

"In signing this Settlement Agreement, and contingent on OWRD performing in accordance with this Settlement Agreement and any Amendment(s) thereto, Applicant withdraws its protests to the PFOs for Applications G-15241, G-15243, G-15244, and S-85336 with prejudice."

3. The Parties agree that Term #2 of the Settlement Agreement is amended to read in its entirety as follows:

"Regarding Applications G-15241, G-15243, G-15244, and S-85336, upon full performance under this Settlement Agreement and any Amendment(s) thereto, Applicant expressly waives all right and opportunity to file a protest or request for contested case hearing, request for reconsideration, exceptions, or to seek judicial review of the Final Orders or Permits, in addition to waiving any right and opportunity to challenge this Settlement Agreement."



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| Dwight French, Administrator, |
|---|
| Water Rights and Adjudications Division |
| for |
| Phillip C. Ward, Director |
| Oregon Water Resources Department |
| 725 Summer St. NE, Suite A |
| Salem, OR 97301 |

Date

Springfield Utility Board, Applicant

3/22/06 Date

RECEIVED

MAR 2 3 2006

BEFORE THE OREGON WATER RESOURCES DEPARTMENT

| In the Matter of Water Right Applications G-15241,) | |
|---|------------|
| G-15243, G-15244, and S-85336 in the name of | |
| Springfield Utility Board) | SETTLEMENT |
| Applicants and Protestants) | AGREEMENT |
| | |

The Oregon Water Resources Department ("OWRD") and Springfield Utility Board ("Applicant"), referred to collectively as "the Parties" and each individually a "Party," do hereby stipulate and agree in this "Settlement Agreement" as follows:

Stipulations

- I. On December 11, 2000, Applicant submitted Applications G-15241, G-15243, and G-15244. These applications proposed to use water from various wells in the vicinity of Cedar Creek for municipal use. On February 9, 2001, OWRD determined that the applications would have the potential for substantial interference with Cedar Creek which, if not mitigated, would result in denial of the applications. On November 8, 2002, Applicant submitted application S-85336. In addition to proposing to use water from the McKenzie River for municipal use, Applicant proposed in S-85336 to mitigate the impacts to Cedar Creek by the use of water from the wells, by diverting water from the McKenzie River into Cedar Creek.
- II. On November 8, 2005, OWRD issued Proposed Final Orders ("PFOs") for Applications G-15241, G-15243, G-15244, and S-85336, recommending approval of all four applications.
- III. On December 19, 2005, Applicant protested all four PFOs. All four protests were timely filed.
- IV. OWRD and Applicant agree that all issues raised in Applicant's protests against the PFOs for Applications G-15241, G-15243, G-15244, and S-85336 are resolved solely on the following terms.

Terms of Agreement

- In signing this Settlement Agreement, and contingent on OWRD performing in accordance with this Settlement Agreement, Applicant withdraws its protests to the PFOs for Applications G-15241, G-15243, G-15244, and S-85336 with prejudice.
- Regarding Applications G-15241, G-15243, G-15244, and S-85336, upon full
 performance under this Settlement Agreement, Applicant expressly waives all right and
 opportunity to file a protest or request for contested case hearing, request for
 reconsideration, exceptions, or to seek judicial review of the Final Orders or Permits, in

addition to waiving any right and opportunity to challenge this Settlement Agreement.

- After Applicant signs this Settlement Agreement, it will mail the signed original back to Oregon Water Resources Department, ATTN: Mike Reynolds, 725 Summer St. NE Suite A, Salem OR 97301-1266.
- Within 30 days after OWRD receives the original Settlement Agreement signed by OWRD and Applicant, OWRD will issue Final Orders and Permits that are consistent with the Draft Final Orders and Draft Permits attached to this Settlement Agreement. The Final Orders will incorporate this Settlement Agreement by reference and as an attachment.
- 5. Each Party to this Settlement Agreement represents, warrants, and agrees that the person who executed this Settlement Agreement on its behalf has the full right and authority to enter into this Settlement Agreement on behalf of that Party and bind that Party to the terms of this Settlement Agreement.
- 6. Each Party to this Settlement Agreement certifies that they have had a reasonable opportunity to review and request changes to the Settlement Agreement, and that they have signed this Settlement Agreement of their own free will and accord. Each Party to this Settlement Agreement also certifies that it has read the entire Settlement Agreement, Draft Final Orders, and Draft Permits, and understands and fully agrees with the contents thereof.
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| Dwyle Strel | 2-14-06 |
|--|---------|
| Dwight French, Administrator, Water Rights and Adjudications Division for Phillip C. Ward, Director Oregon Water Resources Department 725 Summer St. NE, Suite A Salem, OR 97301 | Date |
| Springfield Utility Board, Applicant | Date |

Oregon Water Resources Department Water Rights Division

Water Rights Application Number G-15241

DRAFT Final Order Incorporating Settlement Agreement

Application History
On DECEMBER 11, 2000, SPRINGFIELD UTILITY BOARD submitted an application to the Department for a water use permit. The Department issued a Proposed Final Order on November 8, 2005. The protest period closed December 23, 2005. A timely protest was filed by the applicant on December 19, 2005.

Through a Settlement Agreement between the applicant and the Department, the protest was withdrawn on ______. The terms of the Settlement Agreement are incorporated herein by reference.

DRAFT Order

Application G-15241 therefore is approved consistently with the terms of the aforementioned Settlement Agreement, and Permit G-DRAFT is issued as limited by the conditions set forth therein.

DATED February , 2006

---- DRAFT ----

Phillip C. Ward, Director Water Resources Department

Hearing and Appeal Rights

Under the provisions of ORS 537.170 and ORS 537.622, the applicant may request a contested case hearing by submitting the information required for a protest under ORS 537.153(6) or ORS 537.621(7) to the Department within 14 days after the date of mailing of this order as shown below. If a contested case hearing is requested, the Department must schedule one. In the contested case hearing, however, only those issues based on the above modifications to the proposed final order may be addressed.

ORS 536.075 allows for additional appeal rights for other than contested case. This is a final order in other than contested case. This order is subject to judicial review under ORS 183.484. Any petition for judicial review must be filed within the 60 day time period specified by ORS 183.484(2). Pursuant to ORS 536.075 and OAR 137-004-0080 you may either 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.

This statement of judicial review rights does not create a right to judicial review of this order, if judicial review is otherwise precluded by law. Where no changes have been made to a Proposed Final Order on a water right application and no protests have been filed during the protest period, the final order is not subject to judicial review.

This document was prepared by Cory Engel. If you have any questions about any of the statements contained in this document I am most likely the best person to answer your questions. You can reach me at 503-986-0813.

If you have questions about how to file a protest or a request for standing, please refer to section in this Final Order entitled "Hearing and Appeal Rights". If you have previously filed a protest and want to know its status, please contact Mike Reynolds at 503-986-0820.

If you have other questions about the Department or any of its programs please contact our Customer Service Group at 503-986-0801.

Address all other correspondence to: Water Rights Section, Oregon Water Resources Department, 725 Summer St NE Ste A, Salem OR 97301-1266, Fax: 503-986-0901.

STATE OF OREGON

COUNTY OF LANE

DRAFT PERMIT TO APPROPRIATE THE PUBLIC WATERS

THIS DRAFT PERMIT IS HEREBY ISSUED TO

SPRINGFIELD UTILITY BOARD 202 S 18TH ST SPRINGFIELD, OREGON 97477

541-726-2396

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

APPLICATION FILE NUMBER: G-15241

SOURCE OF WATER: TWO WELLS IN CEDAR CREEK BASIN

PURPOSE OR USE: MUNICIPAL USE

MAXIMUM RATE: 1.78 CUBIC FEET PER SECOND (CFS), BEING 0.89 CFS FROM EACH

WELL

PERIOD OF USE: YEAR ROUND

DATE OF PRIORITY: DECEMBER 11, 2000

WELL LOCATIONS:

WELL #1: NW % NE %, SECTION 34, T17S, R2W, W.M.; 43 FEET SOUTH & 280 FEET EAST FROM THE NORTH 1/4 CORNER OF SECTION 34

WELL #2: SE % SW %, SECTION 27, T17S, R2W, W.M.; 1002 FEET NORTH & 118 FEET WEST FROM THE SOUTH 1/4 CORNER OF SECTION 27

THE PLACE OF USE IS THE SERVICE AREA OF CITY OF SPRINGFIELD.

Measurement, recording and reporting conditions:

- Before water use may begin under this permit, the permittee shall install a meter or other suitable measuring device as approved by the Director. The permittee shall maintain the meter or measuring device in good working order, shall keep a complete record of the amount of water used each month and shall submit a report which includes the recorded 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.
- The permittee shall allow the watermaster access to the meter В. or measuring device; provided however, where the meter or

measuring device is located within a private structure, the watermaster shall request access upon reasonable notice.

The water user shall develop a plan to monitor and report the impact of water use under this permit on water levels within the aquifer that provides water to the permitted well(s). The plan shall be submitted to the Department within one year of the date the permit is issued and shall be subject to the approval of the Department. At a minimum, the plan shall include a program to periodically measure static water levels within the permitted well(s) or an adequate substitute such as water levels in nearby wells. The plan shall also stipulate a reference water level against which any water-level declines will be compared. If a well listed on this permit (or replacement well) displays a total static water-level decline of 25 or more feet over any period of years, as compared to the reference level, then the water user shall discontinue use of, or reduce the rate or volume of withdrawal from, the well(s). Such action shall be taken until the water level recovers to above the 25-foot decline level or until the Department determines, based on the water user's and/or the Department's data and analysis, that no action is necessary because the aquifer in question can sustain the observed declines without adversely impacting the resource or senior water rights. The water user shall in no instance allow excessive decline, as defined in Commission rules, to occur within the aguifer as a result of use under this permit.

Willamette Basin basalt ground water condition:

- (1) Use of water from either well, as allowed herein, shall be controlled or shut off if the well displays:
 - (a) An average water level decline of three or more feet per year for five consecutive years; or
 - (b) A total water level decline of fifteen or more feet; or
 - (c) A hydraulic interference decline of fifteen or more feet in any neighboring well providing water for senior exempt uses or wells covered by prior rights.
- (2) The water user shall install a meter or other measuring device suitable to the Director, and shall submit an annual report of water used to the Department by December 1 of each year.
- (3) The permittee/appropriator shall be responsible for complying with each of the following requirements for measuring water levels in the wells.
 - (a) Use of water from a new well shall not begin until an initial static water level in the well has been measured and submitted to the Department.

- (b) In addition to the measurement required in subsection (a). of this section, a water level measurement shall be made each month between the 1st and 5th day of the month.
- (c) All water level measurements shall be made by a qualified individual. Qualified individuals are certified water rights examiners, registered geologists, registered professional engineers, licensed land surveyors, licensed water well constructors, licensed pump installers, or the permittee / appropriator.
- (d) Any qualified individual measuring a well shall use standard methods of procedure and equipment designed for the purpose of well measurement. The equipment used shall be well suited to the conditions of construction at the well. A list of standard methods of procedure and suitable equipment shall be available from the Department.
- (e) The permittee/appropriator shall submit a record of the measurements to the Department on a form available from the Department. The record of measurements shall include both measurements and calculations, shall include a certification as to their accuracy signed by the individual making the measurements. The permittee/appropriator shall submit to the Department one year of monthly measurements (December through November) by December 1. The Department shall determine when any of the declines cited in section (1) are evidenced by the well measurement required in section (3).

The use allowed herein may be made only at times when 1.78 cubic feet per second of water is diverted from the McKenzie River into Cedar Creek under permit [approving S-85336]. This water may not be used to provide mitigation for permit [approving G-15243] or [approving G-15244].

The use may be restricted if the quality of the McKenzie River, Cedar Creek, or downstream waters decrease to the point that those waters no longer meet existing state or federal water quality standards as a result of the use.

STANDARD CONDITIONS

If the number, location, source, or construction of any well deviates from that proposed in the permit application or required by permit conditions, this permit may not be valid, unless the Department authorizes the change in writing.

If substantial interference with a senior water right occurs due to withdrawal of water from any well listed on this permit, then use of water from the well(s) shall be discontinued or reduced and/or the

schedule of withdrawal shall be regulated until or unless the Department approves or implements an alternative administrative action to mitigate the interference. The Department encourages junior and senior appropriators to jointly develop plans to mitigate interferences.

The wells shall be constructed in accordance with the General Standards for the Construction and Maintenance of Water Wells in Oregon. The works shall be equipped with a usable access port, and may also include an air line and pressure gauge adequate to determine water level elevation in the well at all times.

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.

Prior to receiving a certificate of water right, the permit holder shall submit the results of a pump test meeting the department's standards, to the Water Resources Department. The Director may require water level or pump test results every ten years thereafter.

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

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

By law, the land use associated with this water use must be in compliance with statewide land-use goals and any local acknowledged land-use plan.

The use of water shall be limited when it interferes with any prior surface or ground water rights.

Completion of construction and complete application of the water to the use shall be made within 20 years of the date of this permit. If the water is not completely applied within 20 years, and the permittee wishes to continue development under the permit, the permittee must submit an application for extension of time, which may be approved based upon the merit of the application.

Within one year after complete application of water to the proposed use, the permittee shall submit a claim of beneficial use, which includes a map and report, prepared by a Certified Water Rights Examiner (CWRE).

Issued , 2005

---- DRAFT ----

Phillip C. Ward, Director Water Resources Department

Mailing List for FO Copies

Application #G-15241

Original mailed to applicant with claim of beneficial use form:

SPRINGFIELD UTILITY BOARD; MCKEE, BART 202 S 18TH ST SPRINGFIELD OREGON 97477

Copies sent to:1. WRD - File # G-15241

- 2. WRD Ken Stahr
- 3. WRD Data Center
- 4. WRD John Falk (for reservoir applications only)

| Cop | pies Mailed |
|-----|-----------------|
| By: | (SUPPORT STAFF) |
| on: | (SUPPORT STAFF) |
| | (DATE) |

FO and Map Copies sent to (remember to reduce copy margins):

- 5. WRD Watermaster District #: District 2
- 6. WRD Regional Manager: (Not to SCR)

| opies sent to Other Interested Persons (CWRE, Agent, Com | menter, etc.) |
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| 10 LETTER" sent to Interested Persons who have not pro | tested or paid for copies |
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CASEWORKER: Cory Engel

Oregon Water Resources Department Water Rights Division

Water Rights Application Number G-15243

DRAFT Final Order Incorporating Settlement Agreement

Application History
On DECEMBER 11, 2000, SPRINGFIELD UTILITY BOARD submitted an application to the Department for a water use permit. The Department issued a Proposed Final Order on November 8, 2005. The protest period closed December 23, 2005. A timely protest was filed by the applicant on December 19, 2005.

Through a Settlement Agreement between the applicant and the Department, the protest was withdrawn on ______. The terms of the Settlement Agreement are incorporated herein by reference.

DRAFT Order

Application G-15243 therefore is approved consistently with the terms of the aforementioned Settlement Agreement, and Permit G-DRAFT is issued as limited by the conditions set forth therein.

DATED February , 2006

---- DRAFT ----

Phillip C. Ward, Director Water Resources Department

Hearing and Appeal Rights

Under the provisions of ORS 537.170 and ORS 537.622, the applicant may request a contested case hearing by submitting the information required for a protest under ORS 537.153(6) or ORS 537.621(7) to the Department within 14 days after the date of mailing of this order as shown below. If a contested case hearing is requested, the Department must schedule one. In the contested case hearing, however, only those issues based on the above modifications to the proposed final order may be addressed.

ORS 536.075 allows for additional appeal rights for other than contested case. This is a final order in other than contested case. This order is subject to judicial review under ORS 183.484. Any petition for judicial review must be filed within the 60 day time period specified by ORS 183.484(2). Pursuant to ORS 536.075 and OAR 137-004-0080 you may either 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.

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This document was prepared by Cory Engel. If you have any questions about any of the statements contained in this document I am most likely the best person to answer your questions. You can reach me at 503-986-0813.

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If you have other questions about the Department or any of its programs please contact our Customer Service Group at 503-986-0801.

Address all other correspondence to: Water Rights Section, Oregon Water Resources Department, 725 Summer St NE Ste A, Salem OR 97301-1266, Fax: 503-986-0901.

STATE OF OREGON

COUNTY OF LANE

DRAFT PERMIT TO APPROPRIATE THE PUBLIC WATERS

THIS DRAFT PERMIT IS HEREBY ISSUED TO

SPRINGFIELD UTILITY BOARD 202 S 18TH ST SPRINGFIELD, OREGON 97477

541-726-2396

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

APPLICATION FILE NUMBER: G-15243

SOURCE OF WATER: FOUR WELLS IN CEDAR CREEK BASIN

PURPOSE OR USE: MUNICIPAL USE

MAXIMUM RATE: 4.91 CUBIC FEET PER SECOND (CFS), BEING 1.34 CFS FROM EACH OF THREE WELLS (5, 6, AND 10) AND 0.89 CFS FROM WELL 7

PERIOD OF USE: YEAR ROUND

DATE OF PRIORITY: DECEMBER 11, 2000

WELL LOCATIONS:

WELL #5: 154 FEET SOUTH & 239 FEET EAST WELL #6: 241 FEET SOUTH & 240 FEET EAST WELL #7: 333 FEET SOUTH & 707 FEET EAST WELL #10: 518 FEET SOUTH & 21 FEET EAST

ALL FROM THE WEST 1/4 CORNER OF SECTION 26, WITHIN THE NW % SW %, OF SECTION 26, T17S, R2W, W.M.

THE PLACE OF USE IS THE SERVICE AREA OF CITY OF SPRINGFIELD.

Measurement, recording and reporting conditions:

Before water use may begin under this permit, the permittee A. shall install a meter or other suitable measuring device as approved by the Director. The permittee shall maintain the meter or measuring device in good working order, shall keep a complete record of the amount of water used each month and shall submit a report which includes the recorded 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.

B. The permittee shall allow the watermaster access to the meter or measuring device; provided however, where the meter or measuring device is located within a private structure, the watermaster shall request access upon reasonable notice.

The water user shall develop a plan to monitor and report the impact of water use under this permit on water levels within the aquifer that provides water to the permitted well(s). The plan shall be submitted to the Department within one year of the date the permit is issued and shall be subject to the approval of the Department. At a minimum, the plan shall include a program to periodically measure static water levels within the permitted well(s) or an adequate substitute such as water levels in nearby wells. The plan shall also stipulate a reference water level against which any water-level declines will be compared. If a well listed on this permit (or replacement well) displays a total static water-level decline of 25 or more feet over any period of years, as compared to the reference level, then the water user shall discontinue use of, or reduce the rate or volume of withdrawal from, the well(s). Such action shall be taken until the water level recovers to above the 25-foot decline level or until the Department determines, based on the water user's and/or the Department's data and analysis, that no action is necessary because the aquifer in question can sustain the observed declines without adversely impacting the resource or senior water rights. The water user shall in no instance allow excessive decline, as defined in Commission rules, to occur within the aquifer as a result of use under this permit.

Willamette Basin basalt ground water condition:

- (1) Use of water from either well, as allowed herein, shall be controlled or shut off if the well displays:
 - (a) An average water level decline of three or more feet per year for five consecutive years; or
 - (b) A total water level decline of fifteen or more feet; or
 - (c) A hydraulic interference decline of fifteen or more feet in any neighboring well providing water for senior exempt uses or wells covered by prior rights.
- (2) The water user shall install a meter or other measuring device suitable to the Director, and shall submit an annual report of water used to the Department by December 1 of each year.
- (3) The permittee/appropriator shall be responsible for complying with each of the following requirements for measuring water levels in the wells.

- (a) Use of water from a new well shall not begin until an initial static water level in the well has been measured and submitted to the Department.
- In addition to the measurement required in subsection (b) (a). of this section, a water level measurement shall be made each month between the 1st and 5th day of the month.
- All water level measurements shall be made by a qualified individual. Oualified individuals are certified water rights examiners, registered geologists, registered professional engineers, licensed land surveyors, licensed water well constructors, licensed pump installers, or the permittee / appropriator.
- Any qualified individual measuring a well shall use standard methods of procedure and equipment designed for the purpose of well measurement. The equipment used shall be well suited to the conditions of construction at the well. A list of standard methods of procedure and suitable equipment shall be available from the Department.
- The permittee/appropriator shall submit a record of the (e) measurements to the Department on a form available from the Department. The record of measurements shall include both measurements and calculations, shall include a certification as to their accuracy signed by the individual making the measurements. permittee/appropriator shall submit to the Department one year of monthly measurements (December through November) by December 1. The Department shall determine when any of the declines cited in section (1) are evidenced by the well measurement required in section (3).

The use allowed herein may be made only at times when 1.28 cubic feet per second of water is diverted from the McKenzie River into Cedar Creek under permit [approving S-85336]. This water may not be used to provide mitigation for permit [approving G-15241] or [approving G-15244].

The use may be restricted if the quality of the McKenzie River, Cedar Creek, or downstream waters decrease to the point that those waters no longer meet existing state or federal water quality standards as a result of the use.

STANDARD CONDITIONS

If the number, location, source, or construction of any well deviates from that proposed in the permit application or required by permit conditions, this permit may not be valid, unless the Department authorizes the change in writing.

If substantial interference with a senior water right occurs due to withdrawal of water from any well listed on this permit, then use of water from the well(s) shall be discontinued or reduced and/or the schedule of withdrawal shall be regulated until or unless the Department approves or implements an alternative administrative action to mitigate the interference. The Department encourages junior and senior appropriators to jointly develop plans to mitigate interferences.

The wells shall be constructed in accordance with the General Standards for the Construction and Maintenance of Water Wells in Oregon. The works shall be equipped with a usable access port, and may also include an air line and pressure gauge adequate to determine water level elevation in the well at all times.

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.

Prior to receiving a certificate of water right, the permit holder shall submit the results of a pump test meeting the department's standards, to the Water Resources Department. The Director may require water level or pump test results every ten years thereafter.

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

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

By law, the land use associated with this water use must be in compliance with statewide land-use goals and any local acknowledged land-use plan.

The use of water shall be limited when it interferes with any prior surface or ground water rights.

Completion of construction and complete application of the water to the use shall be made within 20 years of the date of this permit. If the water is not completely applied within 20 years, and the permittee wishes to continue development under the permit, the permittee must submit an application for extension of time, which may be approved based upon the merit of the application.

Within one year after complete application of water to the proposed use, the permittee shall submit a claim of beneficial use, which includes a map and report, prepared by a Certified Water Rights Examiner (CWRE).

Issued _____, 2006

---- DRAFT ----

Phillip C. Ward, Director Water Resources Department

Mailing List for FO Copies

Application #G-15243

Original mailed to applicant with claim of beneficial use form:

SPRINGFIELD UTILITY BOARD; MCKEE, BART 202 S 18TH ST SPRINGFIELD OREGON 97477-5240

Copies sent to:1. WRD - File # G-15243

- 2. WRD Ken Stahr
- 3. WRD Data Center
- 4. WRD John Falk (for reservoir applications only)

| Copies Mailed By: |
|----------------------|
| (SUPPORT STAFF) |
| on: |
| (DATE) |

FO and Map Copies sent to (remember to reduce copy margins):

- 5. WRD Watermaster District #: District 2
- 6. WRD Regional Manager: (Not to SCR)

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CASEWORKER: Cory Engel

Oregon Water Resources Department Water Rights Division

Water Rights Application Number G-15244

DRAFT Final Order Incorporating Settlement Agreement

Application History
On DECEMBER 11, 2000, SPRINGFIELD UTILITY BOARD submitted an application to the Department for a water use permit. The Department issued a Proposed Final Order on November 8, 2005. The protest period closed December 23, 2005. A timely protest was filed by the applicant on December 19, 2005.

Through a Settlement Agreement between the applicant and the Department, the protest was withdrawn on _____. The terms of the Settlement Agreement are incorporated herein by reference.

DRAFT Order

Application G-15244 therefore is approved consistently with the terms of the aforementioned Settlement Agreement, and Permit G-DRAFT is issued as limited by the conditions set forth therein.

DATED February , 2006

---- DRAFT ----

Phillip C. Ward, Director Water Resources Department

Hearing and Appeal Rights
Under the provisions of ORS 537.170 and ORS 537.622, the applicant may request a contested case hearing by submitting the information required for a protest under ORS 537.153(6) or ORS 537.621(7) to the Department within 14 days after the date of mailing of this order as shown below. If a contested case hearing is requested, the Department must schedule one. In the contested case hearing, however, only those issues based on the above modifications to the proposed final order may be addressed.

ORS 536.075 allows for additional appeal rights for other than contested case. This is a final order in other than contested case. This order is subject to judicial review under ORS 183.484. Any petition for judicial review must be filed within the 60 day time period specified by ORS 183.484(2). Pursuant to ORS 536.075 and OAR 137-004-0080 you may either 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.

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This document was prepared by Cory Engel. If you have any questions about any of the statements contained in this document I am most likely the best person to answer your questions. You can reach me at 503-986-0813.

If you have questions about how to file a protest or a request for standing, please refer to section in this Final Order entitled "Hearing and Appeal Rights". If you have previously filed a protest and want to know its status, please contact Mike Reynolds at 503-986-0820.

If you have other questions about the Department or any of its programs please contact our Customer Service Group at 503-986-0801.

Address all other correspondence to: Water Rights Section, Oregon Water Resources Department, 725 Summer St NE Ste A, Salem OR 97301-1266, Fax: 503-986-0901.

STATE OF OREGON

COUNTY OF LANE

DRAFT PERMIT TO APPROPRIATE THE PUBLIC WATERS

THIS DRAFT PERMIT IS HEREBY ISSUED TO

SPRINGFIELD UTILITY BOARD 202 S 18TH ST SPRINGFIELD, OREGON 97477

541-726-2396

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

APPLICATION FILE NUMBER: G-15244

SOURCE OF WATER: THREE WELLS IN CEDAR CREEK BASIN

PURPOSE OR USE: MUNICIPAL USE

MAXIMUM RATE: 4.02 CUBIC FEET PER SECOND (CFS), BEING 1.34 CFS EACH FROM WELLS 8, 9, AND 11

PERIOD OF USE: YEAR ROUND

DATE OF PRIORITY: DECEMBER 11, 2000

WELL LOCATIONS:

WELL #8: NW % SW % SECTION 26, T17S, R2W, W.M.; 533 FEET SOUTH &

699 FEET EAST

WELL #9: NW % SW % SECTION 26, T17S, R2W, W.M.; 693 FEET SOUTH &

364 FEET EAST

WELL #11: NE % SE % SECTION 27, T17S, R2W, W.M.; 206 FEET SOUTH &

169 FEET WEST

ALL FROM THE WEST 1/4 CORNER OF SECTION 26

THE PLACE OF USE IS THE SERVICE AREA OF CITY OF SPRINGFIELD.

Measurement, recording and reporting conditions:

Before water use may begin under this permit, the permittee shall install a meter or other suitable measuring device as approved by the Director. The permittee shall maintain the meter or measuring device in good working order, shall keep a complete record of the amount of water used each month and shall submit a report which includes the recorded 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.

B. The permittee shall allow the watermaster access to the meter or measuring device; provided however, where the meter or measuring device is located within a private structure, the watermaster shall request access upon reasonable notice.

The water user shall develop a plan to monitor and report the impact of water use under this permit on water levels within the aquifer that provides water to the permitted well(s). The plan shall be submitted to the Department within one year of the date the permit is issued and shall be subject to the approval of the Department. At a minimum, the plan shall include a program to periodically measure static water levels within the permitted well(s) or an adequate substitute such as water levels in nearby wells. The plan shall also stipulate a reference water level against which any water-level declines will be compared. If a well listed on this permit (or replacement well) displays a total static water-level decline of 25 or more feet over any period of years, as compared to the reference level, then the water user shall discontinue use of, or reduce the rate or volume of withdrawal from, the well(s). Such action shall be taken until the water level recovers to above the 25-foot decline level or until the Department determines, based on the water user's and/or the Department's data and analysis, that no action is necessary because the aquifer in question can sustain the observed declines without adversely impacting the resource or senior water rights. The water user shall in no instance allow excessive decline, as defined in Commission rules, to occur within the aquifer as a result of use under this permit.

Willamette Basin basalt ground water condition:

- (1) Use of water from either well, as allowed herein, shall be controlled or shut off if the well displays:
 - (a) An average water level decline of three or more feet per year for five consecutive years; or
 - (b) A total water level decline of fifteen or more feet; or
 - (c) A hydraulic interference decline of fifteen or more feet in any neighboring well providing water for senior exempt uses or wells covered by prior rights.
- (2) The water user shall install a meter or other measuring device suitable to the Director, and shall submit an annual report of water used to the Department by December 1 of each year.
- (3) The permittee/appropriator shall be responsible for complying with each of the following requirements for measuring water levels in the wells.

- (a) Use of water from a new well shall not begin until an initial static water level in the well has been measured and submitted to the Department.
- (b) In addition to the measurement required in subsection (a). of this section, a water level measurement shall be made each month between the 1st and 5th day of the month.
- (c) All water level measurements shall be made by a qualified individual. Qualified individuals are certified water rights examiners, registered geologists, registered professional engineers, licensed land surveyors, licensed water well constructors, licensed pump installers, or the permittee / appropriator.
- (d) Any qualified individual measuring a well shall use standard methods of procedure and equipment designed for the purpose of well measurement. The equipment used shall be well suited to the conditions of construction at the well. A list of standard methods of procedure and suitable equipment shall be available from the Department.
- (e) The permittee/appropriator shall submit a record of the measurements to the Department on a form available from the Department. The record of measurements shall include both measurements and calculations, shall include a certification as to their accuracy signed by the individual making the measurements. The permittee/appropriator shall submit to the Department one year of monthly measurements (December through November) by December 1. The Department shall determine when any of the declines cited in section (1) are evidenced by the well measurement required in section (3).

The use allowed herein may be made only at times when 1.04 cubic feet per second of water is diverted from the McKenzie River into Cedar Creek under permit [approving S-85336]. This water may not be used to provide mitigation for permit [approving G-15241] or [approving G-15243].

The use may be restricted if the quality of the McKenzie River, Cedar Creek, or downstream waters decrease to the point that those waters no longer meet existing state or federal water quality standards as a result of the use.

STANDARD CONDITIONS

If the number, location, source, or construction of any well deviates from that proposed in the permit application or required by permit conditions, this permit may not be valid, unless the Department authorizes the change in writing. If substantial interference with a senior water right occurs due to withdrawal of water from any well listed on this permit, then use of water from the well(s) shall be discontinued or reduced and/or the schedule of withdrawal shall be regulated until or unless the Department approves or implements an alternative administrative action to mitigate the interference. The Department encourages junior and senior appropriators to jointly develop plans to mitigate interferences.

The wells shall be constructed in accordance with the General Standards for the Construction and Maintenance of Water Wells in Oregon. The works shall be equipped with a usable access port, and may also include an air line and pressure gauge adequate to determine water level elevation in the well at all times.

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.

Prior to receiving a certificate of water right, the permit holder shall submit the results of a pump test meeting the department's standards, to the Water Resources Department. The Director may require water level or pump test results every ten years thereafter.

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

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

By law, the land use associated with this water use must be in compliance with statewide land-use goals and any local acknowledged land-use plan.

The use of water shall be limited when it interferes with any prior surface or ground water rights.

Completion of construction and complete application of the water to the use shall be made within 20 years of the date of this permit. If the water is not completely applied within 20 years, and the permittee wishes to continue development under the permit, the permittee must submit an application for extension of time, which may be approved based upon the merit of the application.

Within one year after complete application of water to the proposed use, the permittee shall submit a claim of beneficial use, which includes a map and report, prepared by a Certified Water Rights Examiner (CWRE).

Issued _____, 2006

---- DRAFT ----

Phillip C. Ward, Director Water Resources Department

Mailing List for FO Copies

Application #G-15244

Original mailed to applicant with claim of beneficial use form:

SPRINGFIELD UTILITY BOARD; MCKEE, BART 202 S 18TH ST SPRINGFIELD OREGON 97477

Copies sent to:1. WRD - File # G-15244

- 2. WRD Ken Stahr
- 3. WRD Data Center
- 4. WRD John Falk (for reservoir applications only)

| Cop | pies Mailed |
|------|-----------------|
| Ву:_ | (SUPPORT STAFF) |
| on: | |
| | (DATE) |

FO and Map Copies sent to (remember to reduce copy margins):

- 5. WRD Watermaster District #: District 2
- 6. WRD Regional Manager: (Not to SCR)

Copies sent to Other Interested Persons (CWRE, Agent, Commenter, etc.)
7.
8.
9.
10.
11.
12.
13.

"\$10 LETTER" sent to Interested Persons who have not protested or paid for copies
1.
2.

CASEWORKER: Cory Engel

Oregon Water Resources Department Water Rights Division

Water Rights Application Number S-85336

DRAFT Final Order Incorporating Settlement Agreement

Application History
On November 8, 2002, SPRINGFIELD UTILITY BOARD submitted an application to the Department for a water use permit. The Department issued a Proposed Final Order on November 8, 2005. The protest period closed December 23, 2005. A timely protest was filed by the applicant on December 19, 2005.

Through a Settlement Agreement between the applicant and the Department, the protest was withdrawn on ______. The terms of the Settlement Agreement are incorporated herein by reference.

DRAFT Order

Application S-85336 therefore is approved consistently with the terms of the aforementioned Settlement Agreement, and Permit S-DRAFT is issued as limited by the conditions set forth therein.

DATED February , 2006

---- DRAFT ----

Phillip C. Ward, Director Water Resources Department

Hearing and Appeal Rights

Under the provisions of ORS 537.170 and ORS 537.622, the applicant may request a contested case hearing by submitting the information required for a protest under ORS 537.153(6) or ORS 537.621(7) to the Department within 14 days after the date of mailing of this order as shown below. If a contested case hearing is requested, the Department must schedule one. In the contested case hearing, however, only those issues based on the above modifications to the proposed final order may be addressed.

ORS 536.075 allows for additional appeal rights for other than contested case. This is a final order in other than contested case. This order is subject to judicial review under ORS 183.484. Any petition for judicial review must be filed within the 60 day time period specified by ORS 183.484(2). Pursuant to ORS 536.075 and OAR 137-004-0080 you may either 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.

This statement of judicial review rights does not create a right to judicial review of this order, if judicial review is otherwise precluded by law. Where no changes have been made to a Proposed Final Order on a water right application and no protests have been filed during the protest period, the final order is not subject to judicial review.

This document was prepared by Cory Engel. If you have any questions about any of the statements contained in this document I am most likely the best person to answer your questions. You can reach me at 503-986-0813.

If you have questions about how to file a protest or a request for standing, please refer to section in this Final Order entitled "Hearing and Appeal Rights". If you have previously filed a protest and want to know its status, please contact Mike Reynolds at 503-986-0820.

If you have other questions about the Department or any of its programs please contact our Customer Service Group at 503-986-0801.

Address all other correspondence to: Water Rights Section, Oregon Water Resources Department, 725 Summer St NE Ste A, Salem OR 97301-1266, Fax: 503-986-0901.

STATE OF OREGON

COUNTY OF LANE

DRAFT PERMIT TO APPROPRIATE THE PUBLIC WATERS

THIS DRAFT PERMIT IS HEREBY ISSUED TO

SPRINGFIELD UTILITY BOARD 202 S 18TH ST SPRINGFIELD, OR 97477

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

APPLICATION FILE NUMBER: S-85336

SOURCE OF WATER: MCKENZIE RIVER, A TRIBUTARY OF WILLAMETTE RIVER

PURPOSE OR USE: MUNICIPAL USE, FISH LIFE USE, AND WILDLIFE USE

MAXIMUM RATE: 35.9 CUBIC FEET PER SECOND (CFS) FOR MUNICIPAL USE AND 4.1 CFS FOR FISH LIFE AND WILDLIFE USES

PERIOD OF USE: YEAR ROUND

DATE OF PRIORITY: NOVEMBER 8, 2002

POINT OF DIVERSION LOCATIONS:

MUNICIPAL USE: NW 1/4 SW 1/4 SECTION 26, T17S, R2W, W.M.; 250 FEET SOUTH & 972 FEET EAST FROM THE WEST 1/4 CORNER OF SECTION 26

FISH LIFE AND WILDLIFE USES: SE % SW % SECTION 29, T17S, R1W, W.M.; 300 FEET NORTH & 2400 FEET EAST FROM THE SW CORNER OF SECTION 29

THE PLACE OF USE IS LOCATED AS FOLLOWS:

MUNICIPAL USE: WITHIN THE SERVICE AREA OF CITY OF SPRINGFIELD

FISH LIFE AND WILDLIFE USES: WITHIN THE CHANNEL OF CEDAR CREEK

Measurement, recording and reporting conditions:

A. Before water use may begin under this permit, the permittee shall install a meter or other suitable measuring device as approved by the Director. The permittee shall maintain the meter or measuring device in good working order, shall keep a complete record of the amount of water used each month and shall submit a report which includes the recorded 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.

The permittee shall allow the watermaster access to the meter or measuring device; provided however, where the meter or measuring device is located within a private structure, the watermaster shall request access upon reasonable notice.

The permittee shall not construct, operate or maintain any dam or artificial obstruction to fish passage at the diversion into Cedar Creek 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.

If the Cedar Creek flow monitoring program currently maintained by the U.S. Geological Survey (USGS) in conjunction with the U.S. Army Corps of Engineers and the Eugene Water and Electric Board (EWEB) is discontinued, the permittee shall ensure that a similar flow monitoring program is implemented on Cedar Creek. For the purpose of this condition, such a flow monitoring program must include, at minimum, installation of a calibrated staff gage.

While EWEB's license from Federal Energy Regulatory Energy Commission (FERC) requires EWEB to bypass 1,000 cfs of water past the Walterville Canal diversion, the permittee may divert water into Cedar Creek under this permit only when the flow in the McKenzie River, as measured at USGS gage 14163900, is greater than or equal to 1,000 cfs plus the actual rate of appropriation into Cedar Creek under this permit. In the event that EWEB's license from FERC is modified, the permittee may divert water under this permit only when flow in the McKenzie River, as measured at USGS gage 14163900, is greater than or equal to the FERC-required minimum bypass flow plus the actual rate of appropriation into Cedar Creek under this permit, or 1,400 cfs plus the actual rate of appropriation into Cedar Creek under this permit, whichever is greater. In the event that EWEB's license from FERC is rescinded, the permittee may divert water under this permit only when flow in the McKenzie River, as measured at USGS gage 14163900, is greater than or equal to 1,400 cfs plus the actual rate of appropriation under this permit.

The use may be restricted if the quality of the McKenzie River, Cedar Creek, or downstream waters decrease to the point that those waters no longer meet existing state or federal water quality standards as a result of the use.

STANDARD CONDITIONS

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.

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

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

By law, the land use associated with this water use must be in compliance with statewide land-use goals and any local acknowledged land-use plan.

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

Completion of construction and complete application of the water to the use shall be made within 20 years of the date of this permit. If the water is not completely applied within 20 years, and the permittee wishes to continue development under the permit, the permittee must submit an application for extension of time, which may be approved based upon the merit of the application.

Within one year after complete application of water to the proposed use, the permittee shall submit a claim of beneficial use, which includes a map and report, prepared by a Certified Water Rights Examiner (CWRE).

| Issued | , 2006 |
|--------------|-----------------|
| DRAFT | |
| Phillip C. | Ward, Director |
| Water Resour | rces Department |

Mailing List for FO Copies

Application #S-85336

Original mailed to applicant with claim of beneficial use form:

BART MCKEE SPRINGFIELD UTILITY BOARD 202 S 18TH ST SPRINGFIELD OR 97477

Copies sent to:

- 1. WRD File # S-85336
- 2. WRD Ken Stahr
- 3. WRD Data Center
- 4. WRD John Falk (for reservoir applications only)

| Cop: | ies Mai | led |
|------|------------|------|
| | SUPPORT ST | AFF) |
| on: | | |
| | (DATE) | |

FO and Map Copies sent to (remember to reduce copy margins):

- 5. WRD Watermaster District #: 2
- 6. WRD Regional Manager: (Not to SCR)

CASEWORKER: Cory Engel

MikeR

From: Sent:

Corbin, Greg [GDCORBIN@stoel.com] Wednesday, March 08, 2006 7:42 PM

To:

Mike Reynolds

Cc: Subject:

ARRERA Chuck; Filippi, David SUB Settlement Agreement/Permits

Attachments:

SUB Exception Request.doc



SUB Exception Request.doc (67 ... Mike,

Per our conversation earlier today, I am sending this email to describe what SUB understands to be the effect of the recent McKenzie River shift on Cedar Creek, and how that shift affects the requirement in the various permits to divert water into Cedar Creek. You agreed to discuss this matter further with Dwight French at your meeting Thursday, March 9 and get back to me shortly thereafter.

To review the background, SUB recently discovered that the McKenzie River has shifted in its course in a way that diminishes, if not eliminates, the flow of water from the McKenzie into Cedar Creek.

Apparently the McKenzie had been at or near flood levels during our negotiation on the Settlement Agreement, and when the waters began to receded it became evident that the river had shifted north within its existing course such that the river no longer appears to flow naturally into Cedar Creek (on the South shore of the McKenzie). The shift occurred around the Hendricks Bridge where Highway 126 crosses the river. If you take a look at the aerial photograph at the following link, you can find the area I am talking about:

http://maps.google.com/?t=k&ll=44.057492,-122.869463&spn=0.044534,0.0798 <http://maps.google.com/?t=k&l1=44.057492,-122.869463&spn=0.044534,0.079</pre> 823&t=k>

Select the "Hybrid" tab in the upper right corner of the photograph to show roads. Hendricks Bridge is to the West (left) of the area where the map colors change. Just West of the bridge is a side channel of the McKenzie running between some small islands. The side channel has water in it in the photograph. This is where the shift occurred and as I understand it the side channel is now dry. Just down from the side channel, about 0.4 miles West from Hendricks Bridge, is the headgate at which water has been diverted into Cedar Creek. headgate also is dry and it appears that the new McKenzie River channel will not reach the headgate. Thus no water can be diverted into Cedar Creek via gravity flow at the headgate.

If you follow Highway 126 West from Hendricks Bridge you will see where Thurston Road comes off 126 to the North. Cedar Creek runs along Thurston Road. If you follow Thurston Road to 66th Street, then follow 66th Street to the North, you pass the Wallace M. Ruff Jr. Memorial Park to the East. The well field is North of the park and East of the end of 66th Street, lying between the McKenzie River and Cedar Creek. The well field is approximately 3.7 miles from Hendricks Bridge and 3.3 miles from the headgate. It appears that by the time you reach the well field, and the zone of possible influence from SUB's wells on Cedar Creek, the creek would be completely dry, even without SUB using the wells.

I want to reiterate what we discussed on the telephone today. It is impossible to know at this early stage the fate of Cedar Creek. It appears that even with inputs other than the McKenzie River, Cedar Creek could be completely dry in the area around the well field and below, even without SUB using the wells. In other words, it is possible that Cedar Creek will essentially cease to exist along this stretch no matter what SUB does with its wells. Of course, it is possible that some flow may occur, or even that the river could shift again or run into Cedar Creek during high flow events. It simply is too early to know.

As we discussed, it is possible that the effect of the shift in the McKenzie River will be to cause a permanent drying of Cedar Creek in the area potentially affected by SUB's wells. In other words, the creek may have no flow in it, even when SUB pumps. This means that one outcome of the shift in the McKenzie River may be to remove the purpose for the mitigation requirement in the permits altogether, or at least at times when there is no flow in Cedar Creek. If the basis for the mitigation requirement is the potential impact to Cedar Creek flows, and there are no flows remaining in the creek, it follows that the mitigation serves no purpose. What is more, given the distance between the point of diversion (headgate) and the area of influence with the well field, it is possible that any water diverted by SUB (which would require a pump or other engineered solution) may never reach the point of influence.

We do not know whether that is the case yet, but the possibility warrants taking time to figure out what will happen, and adjusting SUB's permits accordingly. I have suggested adding an appropriate provision to the permits that would adjust the mitigation requirements to match the situation. I still think that is one possible solution.

Please keep in mind a couple other points. First, if the Department issues the permits as currently drafted, they will have little value to SUB. The limited licenses that SUB operated the wells under last year are set to expire upon issuing the permits. And the mitigation requirement in the permits make it virtually impossible that SUB could operate the wells this season under the permits. The only way for SUB to divert water from McKenzie River into Cedar Creek is to pump the water or engineer some other fix. No matter how SUB might accomplish a diversion into Cedar Creek, it will need to obtain additional permits to do so, including possibly a 404 permit with the Army Corps, which obviously would include NEPA and ESA compliance. As you know, the likelihood that SUB could permit such a diversion between now and its peak use season this year (when it most needs the wells) is probably zero.

Second, the inability to use those wells, especially during the peak season, would increase the risk of negative human health and safety impacts, and possible create a water emergency in Springfield. This concern was one of the reasons SUB invested the time and effort to obtain an exception from the basin plan to allow this use. You should review SUB's basin plan exception request for additional background on the need for these wells. A copy is attached. The need for these wells is real and critical to SUB's ability to deliver municipal water during peak use.

Third, the timing of SUB learning about the sift in the McKenzie River and signing the Settlement Agreement should not be held against SUB. As I understand our conversation, Dwight has indicated that he wants to issue the permits notwithstanding this change in circumstances. If the timing had been a bit different, SUB could have decided not to sign the Settlement Agreement and the Department would not be in a position to push issuing the permits. Pushing forward and issuing the permits without taking the changed circumstances into account essentially penalizes SUB for acting in good faith when it signed the Settlement Agreement. A more reasonable approach would be to put the permits on

hold until we can agree on how best to modify the language in the permits, or reach some other solution.

Please discuss this matter with Dwight as you agreed. SUB asks that the Department put the Settlement and issuing the permits on hold until we can craft a reasonable solution to this unforeseen change in circumstances. I still believe we can find a relatively simple solution that will not require SUB and the Department to expend significant energy dealing with this situation.

Please call me after your meeting with Dwight. I will be out of the office, but feel free to call me on my cell phone at (503) 349-3578. If I am not available when you call I will return your call by the end of the day.

Thanks,

Greg

GREG D. CORBIN Direct (503) 294-9632 gdcorbin@stoel.com

February 7, 2005

Mr. Dwight French Oregon Water Resources Department 725 Summer Street NE, Suite A Salem, OR 97301-1271

Re: Updated Request for Exception from the Willamette Basin Program for Springfield Utility Board's Groundwater Permit Applications G-15241, G-15243, and G-15244; Request to Amend Surface Water Permit Application S-85336

Dear Mr. French:

This office represents the Springfield Utility Board ("SUB") in connection with the abovereferenced water right permit applications. This letter represents SUB's request that, pursuant to
ORS 536.295, the Oregon Water Resources Commission (the "Commission") allow the Oregon
Water Resources Department ("OWRD" or the "Department") to consider SUB's groundwater
permit applications G-15241, G-15243, and G-15244 (collectively the "Groundwater
Applications") notwithstanding the Willamette Basin Program (the "WBP") classification for
Cedar Creek, a tributary of the McKenzie River. As you know, the Department has made a
preliminary determination that the Groundwater Applications have the potential for substantial
interference with Cedar Creek. The Groundwater Applications are for year-round municipal use.
Under the WBP, Cedar Creek is classified for municipal use only for nine months of the year.

SUB also is hereby requesting to amend its surface water right permit application S-85336 (the "Surface Application") as described in Section II below. The Surface Application is integral to approval of the Groundwater Applications and SUB's master water development plan (the "Master Plan"), a copy of which is on file with the Department, because a portion of the Surface Application provides water to mitigate potential interference with Cedar Creek caused by water withdrawals under the Groundwater Applications. We intend to follow up with you regarding this correspondence, but would anticipate that the Commission may consider this matter at its next regularly scheduled Commission meeting.

I. Background

A. SUB's Operations and Water Development Plans

SUB is a customer-owned electric and water utility serving the greater Springfield, Oregon community. Collectively SUB and the Rainbow Water District ("RWD") serve approximately 55,000 customers from groundwater wells and surface water sources. SUB owns the vast majority of wells supplying the SUB/RWD territory. Even with an active water conservation and demand management program currently in place, SUB must develop additional water supplies to continue meeting the needs of the Springfield area into the future. According to its Water Conservation Plan (the "WCP"), a copy of which is on file with the Department, SUB's system is currently inadequate to provide future projected water needs with an adequate reserve capacity. WCP tbl 4-3. The current water supply deficit relative to need will increase over time unless SUB is able to develop additional water supply capacity. WCP fig 4-2.

To meet current and future demands, the Master Plan anticipates adding new wells to the SUB/RWD system out to 2017. The wells associated with the Groundwater Applications are integral to the Master Plan. Without developing these additional sources, SUB must find alternate, and largely more expensive and less reliable, sources of water to continue meeting customer demands.

B. SUB's Groundwater Applications

Consistent with the Master Plan and WCP, SUB filed the Groundwater Applications on November 8, 2000. Application G-15241 is for year-round appropriation of 1.78 cubic feet per second ("cfs") of municipal use water from two wells (0.89 cfs from each) located in the Cedar Creek basin. Application G-15243 is for year-round appropriation of 4.91 cfs of municipal use water from four wells (1.34 cfs from three wells and 0.89 cfs from the fourth well) located within the McKenzie River basin. Application G-15244 is for year-round appropriation of 4.02 cfs of municipal use water from three wells (1.34 cfs from each well) located within the McKenzie River basin.

¹ SUB filed a fourth groundwater permit application on November 8, 2000 that was designated G-15242. That application is on administrative hold pending a final decision on the Groundwater Applications. SUB is not requesting an exception from the WBP for G-15242 at this time but reserves the right to do so.

C. The Department's Reviews of SUB's Applications and SUB's Response

The Department issued initial reviews of the Groundwater Applications on February 9, 2001. It found that the amount of municipal use groundwater to be appropriated from each well is available year-round and allowed under the WBP. OAR 690-502-0160(2). For two of the Groundwater Applications (G-15243 and G-15244), the Department determined that the proposed groundwater use has the potential to interfere substantially with the McKenzie River and, therefore, that those applications must also be consistent with the WBP limits applicable to the McKenzie River. Water from the McKenzie River for municipal use is available year-round. Accordingly, the Department gave applications G-15243 and G-15244 favorable reviews.

The Department reached a different conclusion in its initial review for application G-15241. It found that the proposed use has the potential to interfere substantially with Cedar Creek and, therefore, that application G-15241 must also be consistent with the WBP surface water limits applicable to Cedar Creek. OAR 690-009-0040(2). Cedar Creek is classified for municipal use only from October 1 through June 30. OAR 690-502-0080(1)(d). Application G-15241 for year-round use thus is inconsistent with the WBP classification for Cedar Creek during the three-month period from July 1 to September 30. Accordingly, the Department indicated that it likely would not issue a permit for application G-15241.

On May 21, 2001, SUB provided additional information to the Department to address the issue of potential interference with Cedar Creek (G-15241). SUB explained that Cedar Creek, which begins and ends on the McKenzie River, is essentially a side channel of the McKenzie River composed entirely of McKenzie River water. As noted, McKenzie River water is classified for municipal use and available year-round. However, recognizing that the issue of connectivity between the wells proposed in the Groundwater Applications and the nearby surface water bodies is complex, SUB requested that the Department place the Groundwater Applications on administrative hold while it had an independent consultant study the relationship between the wells and surface water sources. The Department granted the administrative holds. During the administrative hold period, SUB and its consultant, Mark Cunnane of Western Groundwater Services, worked with the Department's hydrogeologist Marc Norton to resolve whether the proposed wells would substantially interfere with surface water sources. Mr. Cunnane's report, supplemented in October 2002, determined that the use proposed in the Groundwater Applications

² SUB has requested and received administrative holds for all of its water right permit applications, including G-15241, G-15242, G-15243, G-15244, and S-85336. They are currently on hold until April 30, 2005.

had the potential to affect 7.7 cfs of stream flow in the McKenzie River and 2.995 cfs in Cedar Creek.

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Following completion of Mr. Cunnane's report, SUB and its representatives met with Mr. Norton in Salem to discuss options for addressing the potential for interference with Cedar Creek that could result from water withdrawals proposed under the Groundwater Applications. As a means of fully addressing any potential interference, Mr. Norton expressed support for the option of SUB submitting a new application for a surface water right from the McKenzie River, and then having SUB divert water under such a surface water right from the McKenzie River and into Cedar Creek. Although such an approach would take time and add cost to the groundwater diversions, Mr. Norton agreed that such an approach would fully compensate for any interference effect that the Groundwater Applications might have on Cedar Creek, and it would avoid further debate over the existence or extent of the potential for interference.

Based on Mr. Cunnane's report and the additional discussions with the Department described above, on November 6, 2002 SUB filed the Surface Application for year-round diversion of 37.0 cfs of water from the McKenzie River for municipal use, and 3.0 cfs from the McKenzie River for stream flow augmentation in Cedar Creek, for a total of 40.0 cfs from the McKenzie River. The 3.0 cfs of stream flow augmentation was meant to mitigate for stream flow depletion in Cedar Creek associated with the Groundwater Applications.

On May 16, 2003, the Department issued its initial review of the Surface Application. The Department determined that 40.0 cfs of water from the McKenzie River is available year-round but that stream flow augmentation in Cedar Creek is not an allowed use under the WBP. It also determined that the proposed 3.0 cfs of stream flow augmentation in Cedar Creek is not a "municipal use" because Cedar Creek is not a "water service system of an incorporated municipality." OAR 690-502-0010(15).

³ "Municipal Use" is defined as "the delivery and use of water through the water service system of an incorporated municipality or a nonprofit corporation and includes quasi-municipal uses as defined in OAR 690-011." *Id.* SUB believes the Department's determination that the 3.0 cfs of flow augmentation in the Surface Application is not a "municipal use" is an overly narrow reading of the Commission's definition. However, because SUB is amending the Surface Application as proposed by the Department from 3.0 cfs of stream flow augmentation to 4.1 cfs of instream use for fish life and wildlife (*see* Section II below), SUB is not at this time challenging or seeking a reconsideration of that determination. SUB reserves the right to challenge the Department's determination if the Commission does not grant SUB's request for an exception to

Finally, in October 2003 the Department conducted a final review of the Groundwater Applications. It found that the proposed wells appropriate water from unconfined sands and gravel within one-quarter mile of a surface water source (Cedar Creek and McKenzie River). Under OAR 690-009-0040, the Department assumes that wells of such type are hydraulically connected to the surface water source. The Department found that the proposed uses in the Groundwater Applications would affect a total of 4.1 cfs of Cedar Creek's flow.

D. The Department's Proposals for Approving SUB's Permit Applications

On July 9, 2004, the Department wrote to inform SUB that it was prepared to issue Proposed Final Orders (the "PFOs") for the Groundwater Applications and Surface Application. The Department indicated that the PFOs would find that the Groundwater Applications and stream flow augmentation portion of the Surface Application should not be issued. The Department's letter discussed options that SUB might pursue to allow approval of the Groundwater Applications and Surface Application.

The Department proposed for the Surface Application that SUB either (1) amend the application from 3.0 cfs instream use for flow augmentation to 4.1 cfs instream use "to some other in-stream use or combination of uses, which are allowed by the basin program (e.g., fish life, wildlife)," or (2) petition the Commission "to allow the Department to consider the application notwithstanding the basin program, pursuant to ORS 536.295." As is explained in Section II below, SUB is electing to amend the Surface Application as proposed by the Department.

The Department proposed for the Groundwater Applications that SUB either (1) accept the period of use for Cedar Creek allowed under the WBP, which is three months less than the year-round use applied for, or (2) seek an exception from the Commission to allow the Department to

the WBP and the Department does not approve the Groundwater Applications and the Surface Application, as amended herein.

⁴ The Department's letter states: "As you may recall, on May 16, 2003 the Department issued Initial Reviews (IRs) of these applications indicating it was unlikely that a permit would be issued." As is described above, that statement is only partially correct. The Department's letter dated May 16, 2003 indicated only that application G-15241 had received a negative IR. The Department first indicated that all of SUB's applications would receive negative recommendations in its letter dated July 9, 2004.

consider the application notwithstanding the WBP. As is explained in Section III below, SUB is electing to seek an exception from the WBP for the Groundwater Applications.

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II. Amendment of the Surface Application

To the extent necessary to obtain approval of the Groundwater Applications, SUB hereby requests to amend the Surface Application as proposed by the Department, that is, surface water permit application S-85336 should be amended from 37.0 cfs of municipal use and 3.0 cfs for streamflow augmentation to 35.9 cfs for municipal use and 4.1 cfs instream use for fish life and wildlife in Cedar Creek. The 4.1 cfs instream use portion of the Surface Application will fully mitigate any potential impacts on Cedar Creek from the wells proposed in SUB's Groundwater Applications. As the Department indicated in its July 9, 2004 letter, with this amendment to the Surface Application the Department can propose issuance of the permit. This approach to mitigation is consistent with the approach proposed in discussions between Mr. Norton, SUB, and SUB's representatives described above.

III. Exception from the Willamette Basin Program for Permit Applications G-15241, G-15243, and G-15244

As noted above, SUB has invested in a Master Plan to direct development that will allow it to continue meeting customer needs and accommodate projected population and economic growth in the greater Springfield area. The Groundwater Applications and Surface Application are integral to the current phase of the Master Plan. Moreover, the Surface Application, which fully mitigates any impacts to Cedar Creek that may occur as a result of approving the Groundwater Applications, also will provide a net benefit to Cedar Creek by placing up to 4.1 cfs of instream water for fish and wildlife use in that system. Failure to approve the Groundwater Applications would cause an extreme hardship for SUB and its customers and would obviate SUB's need to place water instream in Cedar Creek.

SUB qualifies for an exception to the WBP because the exception is necessary to avoid extreme hardship. ORS 536.295(1)(e). Although "extreme hardship" is not defined by the statute or the Department's rules, or explained in any Oregon case law, the Department and Commission have considered the term to include a situation in which "the failure to allow the use would cause financial or other burdens to a water user that could not be easily overcome." See Exhibit F, OWRD, Memorandum to Water Resources Commission, Request for an Exception to the Willamette Basin Program Due to Extreme Hardship (ORS 536.295(1)(e)) by Pleasant Valley

Golf Club (May 15, 1995). Thus the burden does not require a showing of complete economic unfeasibility or impossibility.

The "other burdens" that may be considered under the extreme hardship analysis include burdens placed on those who depend on the water use but are not themselves the applicant for a basin program exception. This aspect of the analysis is illustrated by the staff report provided to the Commission in connection with the Greenberry Irrigation District's ("GID") request for an exception to the WBP. See OWRD, Memorandum to Water Resources Commission, Request for an Exception to the Willamette Basin Program Due to Extreme Hardship [ORS 536.295(1)(e)] by Greenberry Irrigation District (February 14, 2003). GID requested an exception from the WBP for irrigation use, a non-classified use in that region of the Willamette River, that would act as a "bridge" water right while GID arranged to use stored water, a classified use, under contract with the U.S. Bureau of Reclamation. Failure to grant the exception would have financially impacted GID because without a stable water supply it could not obtain financing to construct the irrigation system necessary to supply its patrons. Equally important, however, was that the farmers who rely on GID water, and the people those farms employ, could all suffer financial hardship if GID did not receive an exception from the WBP. According to the staff report, "failure to allow the exception to the basin program would cause extreme hardship due to loss of the economic viability of farms within GID and the potential loss of jobs." Id. at 4. Thus the Department and the Commission have recognized that the extreme hardship analysis reaches to those affected by the failure to grant an exception even if they are not the applicant for the basin program exception.

To the analysis in these prior Commission decisions SUB adds another element of the test for extreme hardship: the level of hardship that must be shown ought to be related to the level of resource impact that the proposed use might cause. In a situation such as the present one, in which the threat to the Willamette River Basin's values is negligible because SUB is able to fully mitigate for potential impacts to Cedar Creek, the level of hardship required should be correspondingly reduced.

In the present case, the level of financial hardship that would be caused by denial of the Groundwater Applications would be "extreme," because failure to approve them would result in SUB losing its investment of time and money in the well fields, and that failure is certain to require more time and an even greater financial expenditure to replace the lost capacity. As

⁵ SUB notes that its investment to date in the wells that are the subject of the Groundwater Applications easily exceeds \$1 million. If SUB cannot put those wells to use, it will have to develop additional wells or seek water from other sources to meet its customers' needs. Thus

noted above, the Master Plan calls for developing additional water supply to keep pace with growth in SUB's service area. SUB has no choice but to find new water supplies. Moreover, the hardship created by any delay serves to increase the likelihood that SUB will not be able to meet customer demand and will have to pass along to its rate payers the costs of additional water supply development.

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Similar to the GID situation discussed above, denial of the Groundwater Applications also would create an additional type of extreme hardship, namely, an inability to provide a safe, adequate water supply to the residences and businesses that rely on SUB for water. As noted above, the proposed use is not classified for the three-month period from July 1 through September 30. This three-month period is critically important to SUB as a water utility responsible for supplying municipal water to residential and business customers because the period often corresponds with SUB's peak annual demand. An inability to meet that demand would lead to water shortages in the Springfield area and place the local population at risk of not having an adequate water supply. Water shortages would affect SUB's ability to supply clean, safe water to residential and business customers, causing an extreme hardship over which those customers would have little or no control. Water shortages also would cause extreme hardship by degrading water reserves for fire protection. Such shortages could result in loss of property or life. Thus the use during the three-month period not classified under the WBP is necessary to ensure public health, welfare, and safety for Oregonians in the greater Springfield area, and SUB's inability to supply water for those purposes would cause an extreme hardship for SUB and the local population.

SUB will have lost its current investment and still need to invest an equal or greater amount to replace the lost groundwater use.

⁶ The legislature has found as part of the state's water supply policy that "the availability of an adequate water supply is essential to the continued health and safety of all Oregonians." ORS 536.241(1). The legislature's concern over the link between water supply and public health is evident elsewhere in ORS chapter 536. See, e.g., ORS 536.238(1)(d) ("The potential for a future shortage of water poses serious risks to public health, safety and welfare and therefore is a matter of statewide concern."). To the extent that municipal use also includes domestic use or other forms of human consumption, that use also is given priority treatment by the legislature. ORS 536.310(12) (in resolving conflict between uses "preference shall be given to human consumption purposes over all other uses").

After discussion with Department staff, SUB has decided to base this request for exception on ORS 536.295(1)(e). SUB reserves the right to raise other bases for its request for exception, pursuant to ORS 536.295(1), in the event the Commission were to determine that the exception is not warranted under ORS 536.295(1)(e).

IV. Consistency with the Willamette Basin Program's General Policies

The Groundwater Applications also satisfy the exception statute's requirement that the proposed use be consistent with the general policies of the WBP. ORS 536.295(4). The proposed use is not inconsistent with any of the WBP's policies, and it is specifically consistent with at least two of those policies.

A. Groundwater Management

One of the Commission's policies for the Willamette Basin is to "[m]inimize impairment of surface water uses resulting from hydraulic connection between groundwater and surface water." OAR 690-502-0020(2)(d). SUB has repeatedly made every effort to work with the Department to avoid impairing surface water uses. For example, SUB's response to the Department's initial reviews of the Groundwater Applications was to commission a study of the potential hydraulic connection between the proposed groundwater wells and nearby surface water sources. The report that resulted from that study identified a potential for interaction between the aquifer from which the wells appropriate water and Cedar Creek. To alleviate and fully mitigate that potential interaction, SUB filed the Surface Application, which included 3.0 cfs of instream use in Cedar Creek, and as amended will include 4.1 cfs of instream use. Approval of the Surface Application will ensure that approval of the Groundwater Applications will not impair surface water uses from Cedar Creek.

B. Municipal and Domestic Water Systems

Another of the Commission's polices for the Willamette Basin is to "[s]upport coordinated water service planning and consolidation by water purveyors to preserve and protect adequate and safe drinking water supplies for human consumption in the Willamette Basin." OAR 690-502-0020(3). SUB's activities, including the Groundwater Applications, are consistent with this policy. SUB has extensively invested in coordinated water service planning as evidenced by the Master Plan and WCP. Through the Master Plan, SUB has coordinated efficient water system planning and cost-effective water supply development with RWD. Through the WCP, SUB has identified water conservation opportunities within its service territory and has actively pursued implementing those opportunities. Together the Master Plan and WCP represent SUB's substantial investment in water service planning "to preserve and protect adequate and safe drinking water supplies for human consumption in the Willamette Basin." *Id*.

V. Conclusion

In conclusion, SUB requests that, pursuant to ORS 536.295, the Commission allow the Department to consider SUB's year-round Groundwater Applications notwithstanding the WBP classification that Cedar Creek water is available for only nine months of the year. SUB also hereby requests that its Surface Application be amended as described above. Approval of SUB's amended Surface Application will fully mitigate any potential interference between the Groundwater Applications and Cedar Creek.

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Thank you for your attention to this matter. Please do not hesitate to contact me if you have any questions.

Very truly yours,

Greg D. Corbin

cc: Mr. Chuck Arrera, Springfield Utility Board Mr. David E. Filippi, Stoel Rives LLP PST. CLASS



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900 S.W. Fifth Avenue, Suite 2600 Portland, Oregon 97204

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900 S.W. Filth Avenue, Sulte 2600 Portland, Oregon 97204 main 503:224:3380 fax 503:220:2480 www.stoel.com

December 16, 2005

GREG D. CORBIN Direct (503) 294-9632 gdcorbin@stoel.com

VIA U.S. FIRST-CLASS MAIL

Mr. Mike Reynolds Mr. Cory Engel Oregon Water Resources Department 725 Summer Street NE, Suite A Salem, OR 97301-1271

Re: In the Matter of the Proposed Final Orders for Water Right Applications S-85336, G-15241, G-15243, and G-15244

Dear Mr. Reynolds and Mr. Engel:

This firm represents the Springfield Utility Board with respect to the above-referenced matters. Please find enclosed for filing the Springfield Utility Board's Protest and Request for Contested Case Hearing on the four Proposed Final Orders for Water Right Applications referenced above. Because the Springfield Utility Board is the applicant, no protest fee is required or enclosed.

If you have any questions, please do not hesitate to contact me.

Very truly yours,

Enclosures

cc: Mr. Chuck Arrera (w/encls.)

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WATER RESOURCES DEPT SALEM, OREGON

BEFORE THE WATER RESOURCES COMMISSION OF THE STATE OF OREGON

In the Matter of the Proposed Final Order Proposing to Grant Water Right Application No. S-85336 PROTEST AND REQUEST FOR HEARING OF SPRINGFIELD UTILITY BOARD

Springfield Utility Board ("SUB") hereby protests and otherwise appeals the

Proposed Final Order (the "PFO") and draft permit issued by the Oregon Water Resources

Department (the "Department") on November 8, 2005, proposing to approve with conditions

Water Right Application No. S-85336 submitted by SUB on November 8, 2002 (the

"Application"). By way of this protest, SUB also hereby requests a hearing on this matter.

 Protestant's Name, Address, and Telephone Number. Orders, notices, and other correspondence concerning this matter should be sent to:

> Mr. Chuck Arrera Springfield Utility Board 202 S 18th Street Springfield, Oregon 97477 (541) 726-2396

with copies to:

Greg D. Corbin Stoel Rives LLP 900 SW Fifth Avenue, Suite 2600 Portland, Oregon 97204 (503) 294-9632 RECEIVED

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WATER RESOURCES DEPT SALEM, OREGON

2. Springfield Utility Board's Interests. SUB is the named applicant for the Application and a municipal water supplier to the city of Springfield, Oregon. The Application seeks to use 40.0 cubic feet per second ("cfs") from the McKenzie River for municipal use and streamflow augmentation.

Page 1 - PROTEST AND REQUEST FOR HEARING OF SPRINGFIELD UTILITY BOARD IN THE MATTER OF WATER RIGHT APPLICATION NO. S-85336

On May 16, 2003, the Department issued its Initial Review of the Application, determining that "the use of 37.0 cubic feet per second from McKenzie River for municipal use may be allowed year-round. However, 3.0 cubic feet per second for streamflow augmentation in Cedar Creek is not allowable. At this stage of processing, it appears unlikely that a permit approving this application would include streamflow augmentation." (PFO at 1.) On May 20, 2003, the Department gave public notice of the Application. On December 10, 2004, SUB amended the amount and use of water to 35.9 cfs for municipal use and 4.1 cfs for fish life and wildlife uses. The Eugene Water and Electric Board and Cedar Creek Irrigation District submitted written comments in support of the Application.

The Department found that the Willamette Basin Program allows municipal use and streamflow augmentation in Cedar Creek. The Department further determined that the amount of water requested (40 cfs) is an acceptable amount and that the proposed use is allowed under the applicable basin plan, or a preference for this use is granted under the provisions of ORS 536.310(12). (PFO at 3-4.) The Department therefore concluded that water is available in the amount necessary for the proposed use, the proposed use will not result in injury to existing water rights, and the proposed use will not impair or be detrimental to the public interest, as provided in ORS 537.170. Thereafter the Department issued the PFO and Draft Permit.

The Draft Permit includes the following condition, which is the subject of this protest:

Completion of construction and complete application of the water to the use shall be made on or before October 1, 2010. If the water is not completely applied before this date, and the permittee wishes to continue development under the permit, the permittee must submit an application WATER RESOURCES DEPT for extension of time, which may be approved based upon the merit of the application.

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(Draft Permit at 3.) As discussed in more detail in Section 4 below, the foregoing condition is inconsistent with the Oregon legislature's 2005 amendments to ORS 537.230 and 537.630

PROTEST AND REQUEST FOR HEARING OF SPRINGFIELD UTILITY BOARD Page 2 IN THE MATTER OF WATER RIGHT APPLICATION NO. S-85336

and SUB's representations concerning its intent to develop the water right within the time allowed by amended ORS 537.230 and 537.630.

- Standing. Pursuant to ORS 537.621(7), an applicant for a water right permit
 may protest a proposed final order approving or denying a water rights application. ORS
 537.621(7).
- 4. The Completion-of-Construction Provision and Deadline in the Draft Permit Is Improper. The Draft Permit included with the PFO approves the Application subject to a five-year completion-of-construction deadline, as set forth above in Section 2. (Draft Permit at 3.) However, in 2005 the Oregon legislature passed House Bill 3038, amending ORS 537.230 and 537.670 to establish a 20-year deadline to commence and complete construction or perfect a municipal water right. Subsection 2 of ORS 537.230 was amended to provide, in part:
 - (2) The holder of a permit for municipal use shall commence and complete the construction of any proposed works within 20 years from the date on which a permit for municipal use is issued under ORS 537.211. The construction must proceed with reasonable diligence and be completed within the time specified in the permit, not to exceed 20 years. However, the department may order and allow an extension of time to complete construction or to perfect a water right beyond the time specified in the permit under the following conditions:
 - (a) The holder shows good cause * * *; [and]
 - (b) The extension of time is conditioned to provide that the holder may divert water beyond the maximum rate diverted for beneficial use before the extension only upon approval by the department of a water management and conservation plan[.]

Or Laws 2005, ch 410, § 1.

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In addition, ORS 537.630 was amended to provide, in part:

(2) The holder of a permit for municipal use shall commence and complete the construction of any proposed works within 20 years from the date on which the permit

Page 3 - PROTEST AND REQUEST FOR HEARING OF SPRINGFIELD UTILITY BOARD IN THE MATTER OF WATER RIGHT APPLICATION NO. S-85336

for municipal use is issued under ORS 537.625. The construction must proceed with reasonable diligence and be completed within the time specified in the permit, not to exceed 20 years. However, the department may order and allow an extension of time to complete construction or to perfect a water right beyond the time specified in the permit under the following conditions:

- (a) The holder of the permit for municipal use shows good cause * * *; [and]
- (b) The extension of time is conditioned to provide that the holder may divert water beyond the maximum rate diverted for beneficial use before the extension only upon approval by the department of a water management and conservation plan[.]

Or Laws 2005, ch 410, § 2.

HB 3038 and the amendments to ORS 537.230 and 537.630 took effect on June 29, 2005, and apply to water right permits issued after that date. Or Laws 2005, ch 410, § 5. The Department understood as much when it asked SUB to provide additional documentation for the Application file concerning the time in which SUB intended to complete construction of the works. SUB responded to that request on October 12, 2005, stating that SUB intended to complete construction within 20 years from the date the final permit is issued, consistent with amended ORS 537.230(2) and 537.630(2). (A copy of the response letter is attached as Exhibit A.) Consequently, the condition on page 3 of the Draft Permit concerning completion of construction is both inconsistent with SUB's intent and the understanding between SUB and the Department, and is, by virtue of the amendments to ORS 537.230(2) and 537.630(2) by HB 3038, invalid as a matter of law.

5. Relief Requested. SUB respectfully requests the following language be substituted for the completion-of-construction condition on page 3 of the Draft Permit:

> Completion of construction and complete application of the water to the use shall be made within 20 years of the date of this permit. If the water is not completely applied within 20 years, and the permittee wishes to continue development under the permit, the permittee must submit an application for extension of time, which may be approved WATER RESOURCES DEPT based upon the merit of the application.

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SALEM, OREGON

PROTEST AND REQUEST FOR HEARING OF SPRINGFIELD UTILITY BOARD Page 4 IN THE MATTER OF WATER RIGHT APPLICATION NO. S-85336

To the extent the Department will substitute the foregoing for the completion of construction provision in the Draft Permit, and makes no other changes to the PFO or Draft Permit, SUB will withdraw this protest. If the Commission does not grant the relief sought, SUB hereby requests a contested case hearing pursuant to ORS 183.413 and OAR chapter 690, divisions 1 and 2.

 Protest Fee. No protest fee is required because the protestant in this instance is the applicant. OAR 690-310-0160(1)(f).

DATED: December 15, 2005.

STOEL RIVES LLP

Greg D. orbin, OSB No. 00033 Of Attorneys for Springfield Utility Board

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WATER RESOURCES DEPT
SALEM, OREGON

Page 5 - PROTEST AND REQUEST FOR HEARING OF SPRINGFIELD UTILITY BOARD IN THE MATTER OF WATER RIGHT APPLICATION NO. S-85336

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STOEL RIVES LLP

Greg D. Cofbin, OSB No. 00033

Of Attorneys for Springfield Utility Board

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SALEM, OREGON

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202 South 18th Street Springfield, OR 97477-5240 Tel 541.726.2396 -- 541.747.7348 www.subutl com

October 12, 2005

Mr. Cory Engel
Water Right Application Caseworker
Oregon Water Resources Department
725 Summer Street NE, Suite A
Salem, OR 97301-0900

RE: Application Files S-85336, G-15241, G-15242, G-15243, G-15244

Dear Mr. Engel:

The Springfield Utility Board intends to complete construction of proposed works for the above referenced surface and groundwater applications. All construction will be completed within 20 years from the date of permit issue.

In the first quarter of 2006, SUB will be constructing the first phase of transmission mains sized to accommodate the new water source designated in these applications. Due to timing of ODOT paving projects on Highway 126, it is necessary that we install these mains in anticipation of receiving water rights.

Please call me at (541) 726-2396 if you have any questions.

Sincerely,

Charles C. Arrera PE

Director of Water Engineering and Operations

CA:mkm

cc: Greg Corbin, Stoel Rives

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WATER RESOURCES DEPT
SALEM, OREGON

EXHIBIT A

Stoel Rives LLP By io 11-05 dy

CERTIFICATE OF FILING AND SERVICE

I hereby certify that on December 16, 2005 I filed the original of PROTEST AND

REQUEST FOR HEARING OF SPRINGFIELD UTILITY BOARD with

Michael J. Reynolds and Cory Engel, Oregon Water Resources Department, 725 Summer Street NE, Suite A, Salem, OR 97301-1271 by first class mail.

DATED: December 16, 2005.

Greg D. Corbin, OSB No. 00033

Of Attorneys for SPRINGFIELD UTILITY

BOARD

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| GREG D. CORBIN | Direct (503) 294-9632 |
| December 16, 2005 | gdcorbin@stoel.com

VIA U.S. FIRST-CLASS MAIL

Mr. Mike Reynolds Mr. Cory Engel Oregon Water Resources Department 725 Summer Street NE, Suite A Salem, OR 97301-1271

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If you have any questions, please do not hesitate to contact me.

Very truly yours,

Greg D. Coroni

Enclosures

cc: Mr. Chuck Arrera (w/encls.)

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WATER RESOURCES DEPT SALEM, OREGON

BEFORE THE WATER RESOURCES COMMISSION OF THE STATE OF OREGON

In the Matter of the Proposed Final Order Proposing to Grant Water Right Application No. S-85336

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 Protestant's Name, Address, and Telephone Number. Orders, notices, and other correspondence concerning this matter should be sent to:

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with copies to:

Greg D. Corbin Stoel Rives LLP 900 SW Fifth Avenue, Suite 2600 Portland, Oregon 97204 (503) 294-9632 RECEIVED

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Page 2 - PROTEST AND REQUEST FOR HEARING OF SPRINGFIELD UTILITY BOARD IN THE MATTER OF WATER RIGHT APPLICATION NO. S-85336

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Or Laws 2005, ch 410, § 1.

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(2) The holder of a permit for municipal use shall commence and complete the construction of any proposed works within 20 years from the date on which the permit RECEIVED

DEC 1 9 2005

WATER RESOURCES DEPT SALEM, OREGON

Page 3 - PROTEST AND REQUEST FOR HEARING OF SPRINGFIELD UTILITY BOARD IN THE MATTER OF WATER RIGHT APPLICATION NO. S-85336

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WATER RESOURCES DEPT SALEM, OREGON

Page 4 - PROTEST AND REQUEST FOR HEARING OF SPRINGFIELD UTILITY BOARD IN THE MATTER OF WATER RIGHT APPLICATION NO. S-85336

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 Protest Fee. No protest fee is required because the protestant in this instance is the applicant. OAR 690-310-0160(1)(f).

DATED: December 15, 2005.

STOEL RIVES LLP

Greg D. orbin, OSB No. 00033 Of Attorneys for Springfield Utility Board

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WATER RESOURCES DEPT
SALEM, OREGON

Page 5 - PROTEST AND REQUEST FOR HEARING OF SPRINGFIELD UTILITY BOARD IN THE MATTER OF WATER RIGHT APPLICATION NO. S-85336

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DATED: December 16, 2005.

STOEL RIVES LLP

Greg D. Cofbin, OSB No. 00033

Of Attorneys for Springfield Utility Board

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DEC 1 9 2005
WATER RESOURCES DEPT SALEM, OREGON



W M 1 | N 1 | 202 South 18th Street Springfield, OR 97477-5240 Tel 541.726.2396 Fix 541.747.7348 www.subutil.com

October 12, 2005

Mr. Cory Engel Water Right Application Caseworker Oregon Water Resources Department 725 Summer Street NE, Suite A Salem, OR 97301-0900

RE: Application Files S-85336, G-15241, G-15242, G-15243, G-15244

Dear Mr. Engel:

The Springfield Utility Board intends to complete construction of proposed works for the above referenced surface and groundwater applications. All construction will be completed within 20 years from the date of permit issue.

In the first quarter of 2006, SUB will be constructing the first phase of transmission mains sized to accommodate the new water source designated in these applications. Due to timing of ODOT paving projects on Highway 126, it is necessary that we install these mains in anticipation of receiving water rights.

Please call me at (541) 726-2396 if you have any questions.

Sincerely,

Charles C. Arrera PE

Director of Water Engineering and Operations

CA:mkm

cc: Greg Corbin, Stoel Rives

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EXHIBIT A

Stoel Rives LLP By io 11-05 dy

CERTIFICATE OF FILING AND SERVICE

I hereby certify that on December 16, 2005 I filed the original of PROTEST AND

REQUEST FOR HEARING OF SPRINGFIELD UTILITY BOARD with

Michael J. Reynolds and Cory Engel, Oregon Water Resources Department, 725 Summer Street NE, Suite A, Salem, OR 97301-1271 by first class mail.

DATED: December 16, 2005.

Greg D. Corbin, OSB No. 00033

Of Attorneys for SPRINGFIELD UTILITY

BOARD

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SALEM, OREGON

BEFORE THE WATER RESOURCES COMMISSION OF THE STATE OF OREGON

In the Matter of the Proposed Final Order Proposing to Grant Water Right Application No. S-85336

PROTEST AND REQUEST FOR HEARING OF SPRINGFIELD UTILITY BOARD

Springfield Utility Board ("SUB") hereby protests and otherwise appeals the

Proposed Final Order (the "PFO") and draft permit issued by the Oregon Water Resources

Department (the "Department") on November 8, 2005, proposing to approve with conditions

Water Right Application No. S-85336 submitted by SUB on November 8, 2002 (the

"Application"). By way of this protest, SUB also hereby requests a hearing on this matter.

 Protestant's Name, Address, and Telephone Number. Orders, notices, and other correspondence concerning this matter should be sent to:

> Mr. Chuck Arrera Springfield Utility Board 202 S 18th Street Springfield, Oregon 97477 (541) 726-2396

with copies to:

Greg D. Corbin Stoel Rives LLP 900 SW Fifth Avenue, Suite 2600 Portland, Oregon 97204 (503) 294-9632 RECEIVED

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2. Springfield Utility Board's Interests. SUB is the named applicant for the Application and a municipal water supplier to the city of Springfield, Oregon. The Application seeks to use 40.0 cubic feet per second ("cfs") from the McKenzie River for municipal use and streamflow augmentation.

Page 1 - PROTEST AND REQUEST FOR HEARING OF SPRINGFIELD UTILITY BOARD IN THE MATTER OF WATER RIGHT APPLICATION NO. S-85336

On May 16, 2003, the Department issued its Initial Review of the Application, determining that "the use of 37.0 cubic feet per second from McKenzie River for municipal use may be allowed year-round. However, 3.0 cubic feet per second for streamflow augmentation in Cedar Creek is not allowable. At this stage of processing, it appears unlikely that a permit approving this application would include streamflow augmentation." (PFO at 1.) On May 20, 2003, the Department gave public notice of the Application. On December 10, 2004, SUB amended the amount and use of water to 35.9 cfs for municipal use and 4.1 cfs for fish life and wildlife uses. The Eugene Water and Electric Board and Cedar Creek Irrigation District submitted written comments in support of the Application.

The Department found that the Willamette Basin Program allows municipal use and streamflow augmentation in Cedar Creek. The Department further determined that the amount of water requested (40 cfs) is an acceptable amount and that the proposed use is allowed under the applicable basin plan, or a preference for this use is granted under the provisions of ORS 536.310(12). (PFO at 3-4.) The Department therefore concluded that water is available in the amount necessary for the proposed use, the proposed use will not result in injury to existing water rights, and the proposed use will not impair or be detrimental to the public interest, as provided in ORS 537.170. Thereafter the Department issued the PFO and Draft Permit.

The Draft Permit includes the following condition, which is the subject of this protest:

Completion of construction and complete application of the water to the use shall be made on or before October 1, 2010. If the water is not completely applied before this date, and the permittee wishes to continue development under the permit, the permittee must submit an application for extension of time, which may be approved based upon the merit of the application.

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SALEM, OREGON

(Draft Permit at 3.) As discussed in more detail in Section 4 below, the foregoing condition is inconsistent with the Oregon legislature's 2005 amendments to ORS 537.230 and 537.630

Page 2 - PROTEST AND REQUEST FOR HEARING OF SPRINGFIELD UTILITY BOARD IN THE MATTER OF WATER RIGHT APPLICATION NO. S-85336

and SUB's representations concerning its intent to develop the water right within the time allowed by amended ORS 537.230 and 537.630.

- Standing. Pursuant to ORS 537.621(7), an applicant for a water right permit
 may protest a proposed final order approving or denying a water rights application. ORS
 537.621(7).
- 4. The Completion-of-Construction Provision and Deadline in the Draft
 Permit Is Improper. The Draft Permit included with the PFO approves the Application
 subject to a five-year completion-of-construction deadline, as set forth above in Section 2.

 (Draft Permit at 3.) However, in 2005 the Oregon legislature passed House Bill 3038,
 amending ORS 537.230 and 537.670 to establish a 20-year deadline to commence and
 complete construction or perfect a municipal water right. Subsection 2 of ORS 537.230 was
 amended to provide, in part:
 - (2) The holder of a permit for municipal use shall commence and complete the construction of any proposed works within 20 years from the date on which a permit for municipal use is issued under ORS 537.211. The construction must proceed with reasonable diligence and be completed within the time specified in the permit, not to exceed 20 years. However, the department may order and allow an extension of time to complete construction or to perfect a water right beyond the time specified in the permit under the following conditions:
 - (a) The holder shows good cause * * *; [and]
 - (b) The extension of time is conditioned to provide that the holder may divert water beyond the maximum rate diverted for beneficial use before the extension only upon approval by the department of a water management and conservation plan[.]

Or Laws 2005, ch 410, § 1.

In addition, ORS 537.630 was amended to provide, in part:

(2) The holder of a permit for municipal use shall commence and complete the construction of any proposed works within 20 years from the date on which the permit RECEIVED

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SALEM, OREGON

Page 3 - PROTEST AND REQUEST FOR HEARING OF SPRINGFIELD UTILITY BOARD IN THE MATTER OF WATER RIGHT APPLICATION NO. S-85336

for municipal use is issued under ORS 537.625. The construction must proceed with reasonable diligence and be completed within the time specified in the permit, not to exceed 20 years. However, the department may order and allow an extension of time to complete construction or to perfect a water right beyond the time specified in the permit under the following conditions:

- (a) The holder of the permit for municipal use shows good cause * * *; [and]
- (b) The extension of time is conditioned to provide that the holder may divert water beyond the maximum rate diverted for beneficial use before the extension only upon approval by the department of a water management and conservation plan[.]

Or Laws 2005, ch 410, § 2.

HB 3038 and the amendments to ORS 537.230 and 537.630 took effect on June 29, 2005, and apply to water right permits issued after that date. Or Laws 2005, ch 410, § 5. The Department understood as much when it asked SUB to provide additional documentation for the Application file concerning the time in which SUB intended to complete construction of the works. SUB responded to that request on October 12, 2005, stating that SUB intended to complete construction within 20 years from the date the final permit is issued, consistent with amended ORS 537.230(2) and 537.630(2). (A copy of the response letter is attached as Exhibit A.) Consequently, the condition on page 3 of the Draft Permit concerning completion of construction is both inconsistent with SUB's intent and the understanding between SUB and the Department, and is, by virtue of the amendments to ORS 537.230(2) and 537.630(2) by HB 3038, invalid as a matter of law.

Relief Requested. SUB respectfully requests the following language be substituted for the completion-of-construction condition on page 3 of the Draft Permit:

> Completion of construction and complete application of the water to the use shall be made within 20 years of the date of this permit. If the water is not completely applied within 20 years, and the permittee wishes to continue development under the permit, the permittee must represent the permittee must repres submit an application for extension of time, which may be approved based upon the merit of the application.

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SALEM, OREGON

PROTEST AND REQUEST FOR HEARING OF SPRINGFIELD UTILITY BOARD IN THE MATTER OF WATER RIGHT APPLICATION NO. S-85336

To the extent the Department will substitute the foregoing for the completion of construction provision in the Draft Permit, and makes no other changes to the PFO or Draft Permit, SUB will withdraw this protest. If the Commission does not grant the relief sought, SUB hereby requests a contested case hearing pursuant to ORS 183.413 and OAR chapter 690, divisions 1 and 2.

 Protest Fee. No protest fee is required because the protestant in this instance is the applicant. OAR 690-310-0160(1)(f).

DATED: December 15, 2005.

STOEL RIVES LLP

Greg D. orbin, OSB No. 00033 Of Attorneys for Springfield Utility Board

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WATER RESOURCES DEPT
SALEM, OREGON

Page 5 - PROTEST AND REQUEST FOR HEARING OF SPRINGFIELD UTILITY BOARD IN THE MATTER OF WATER RIGHT APPLICATION NO. S-85336

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DATED: December 16, 2005.

STOEL RIVES LLP

Greg D. Cofbin, OSB No. 00033

Of Attorneys for Springfield Utility Board

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PROTEST AND REQUEST FOR HEARING OF SPRINGFIELD UTILITY BOARD IN THE MATTER OF WATER RIGHT APPLICATION NO. S-85336



202 South 18th Street Springfield, OR 97477-5240 Te 541.726.2396 -x 541.747.7348 www.scout

October 12, 2005

Mr. Cory Engel
Water Right Application Caseworker
Oregon Water Resources Department
725 Summer Street NE, Suite A
Salem, OR 97301-0900

RE: Application Files S-85336, G-15241, G-15242, G-15243, G-15244

Dear Mr. Engel:

The Springfield Utility Board intends to complete construction of proposed works for the above referenced surface and groundwater applications. All construction will be completed within 20 years from the date of permit issue.

In the first quarter of 2006, SUB will be constructing the first phase of transmission mains sized to accommodate the new water source designated in these applications. Due to timing of ODOT paving projects on Highway 126, it is necessary that we install these mains in anticipation of receiving water rights.

Please call me at (541) 726-2396 if you have any questions.

Sincerely,

Charles C. Arrera PE

Director of Water Engineering and Operations

CA:mkm

cc: Greg Corbin, Stoel Rives

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WATER RESOURCES DEPT
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EXHIBIT A

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DATED: December 16, 2005.

Greg D. Corbin, OSB No. 00033

Of Attorneys for SPRINGFIELD UTILITY

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DEC 1 9 2005 WATER RESOURCES DEPT SALEM, OREGON

BEFORE THE OREGON WATER RESOURCES DEPARTMENT

| In the Matter of Water Right Applications G-15241,) | |
|--|----------------------|
| G-15243, G-15244, and S-85336 in the name of | AMENDMENT TO |
| Springfield Utility Board) Applicants and Protestants) | SETTLEMENT AGREEMENT |
| | |

On February 24, 2006, the Oregon Water Resources Department ("OWRD") and Springfield Utility Board ("Applicant"), referred to collectively as "the Parties" and each individually a "Party," entered into a "Settlement Agreement" pertaining to Applicant's water right applications G-15241, G-15243, G-15244, and S-85336. This document is an "Amendment" to the Settlement Agreement.

 The Parties agree that Stipulation IV of the Settlement Agreement is amended to read in its entirety as follows:

"OWRD and Applicant agree that all issues raised in Applicant's protests against the PFOs for Applications G-15241, G-15243, G-15244, and S-85336 are resolved solely on the following terms, including any amendment(s) to this Settlement Agreement."

2. The Parties agree that Term #1 of the Settlement Agreement is amended to read in its entirety as follows:

"In signing this Settlement Agreement, and contingent on OWRD performing in accordance with this Settlement Agreement and any Amendment(s) thereto, Applicant withdraws its protests to the PFOs for Applications G-15241, G-15243, G-15244, and S-85336 with prejudice."

3. The Parties agree that Term #2 of the Settlement Agreement is amended to read in its entirety as follows:

"Regarding Applications G-15241, G-15243, G-15244, and S-85336, upon full performance under this Settlement Agreement and any Amendment(s) thereto, Applicant expressly waives all right and opportunity to file a protest or request for contested case hearing, request for reconsideration, exceptions, or to seek judicial review of the Final Orders or Permits, in addition to waiving any right and opportunity to challenge this Settlement Agreement."

4. The Parties agree that Term #4 of the Settlement Agreement is modified to state, in its entirety:

"Except as provided below, no later than January 26, 2007, OWRD will issue Final Orders and Permits that are consistent with the Draft Final Orders and Draft Permits attached to the February 24, 2006 Settlement Agreement. Any Final Orders on water right applications G-15241, G-15243, G-15244, and S-85336 will incorporate the February 24, 2006 Settlement Agreement and any Amendment(s) thereto, by reference and as attachments.

On or before November 27, 2006, the Applicant may submit additional information or proposals to OWRD pertaining to mitigation requirements associated with water right applications G-15241, G-15243, G-15244, and S-85336.

If the Applicant timely submits such information or proposals, OWRD will make a determination, no later than December 27, 2006, as to whether any modification to mitigation requirements associated with water right applications G-15241, G-15243, G-15244, and S-85336 will be approved.

In the event that the Applicant submits information or proposals to OWRD as provided above, but OWRD determines that no modifications will be made to the mitigation requirements associated with water right applications G-15241, G-15243, G-15244, and S-85336, the Parties agree that OWRD will issue, no later than January 26, 2007, final orders and permits consistent with the Draft Final Orders and Draft Permits attached to the February 24, 2006 Settlement Agreement.

If OWRD determines that modification(s) will be made to mitigation requirements associated with water right applications G-15241, G-15243, G-15244, and S-85336, OWRD will issue, no later than January 26, 2007, Final Orders and Permits consistent with the Draft Final Orders and Draft Permits attached to the February 24, 2006 Settlement Agreement, except as modified by OWRD.

In addition to the Applicant's waivers contained in Term #2 of the February 24, 2006 Settlement Agreement including any amendment(s) to Term #2, the Applicant hereby expressly waives all right and opportunity to challenge any determination by OWRD as to whether modifications will or will not be made to the mitigation requirements associated with water right applications G-15241, G-15243, G-15244, and S-85336. Applicant also hereby expressly waives all right and opportunity to challenge any modification(s) made by OWRD to the mitigation requirements associated with water right applications G-15241, G-15243, G-15244, and S-85336.

However, if the Applicant disagrees with modification(s) that OWRD has determined will be made to the mitigation requirements associated with water right applications G-15241, G-15243, G-15244, and S-85336, the Applicant may submit a letter to OWRD on or before January 10, 2007, requesting to retain the mitigation requirements set forth in the February 24, 2006 Settlement Agreement and the attached Draft Final Orders and Draft Permits. If the Applicant timely makes such a request, OWRD will issue, no later than February 8, 2007, Final Orders and Permits consistent with the Draft Final Orders and Draft Permits attached to the February 24, 2006 Settlement Agreement."

- 5. The Parties to this Amendment agree that this Amendment does not allow, and cannot be construed to allow, any challenge whatsoever to the February 24, 2006 Settlement Agreement including the attached Draft Final Orders and Draft Permits, this Amendment, or Final Orders or Permits for water right applications G-15241, G-15243, G-15244, and S-85336.
- Except as provided above, the Parties to this Amendment agree that the Settlement Agreement is unchanged and remains in full effect.
- 7. The Parties to this Amendment acknowledge that the time periods specified in item #4, above, may be extended for a reasonable duration by an additional amendment to the Settlement Agreement. However, neither Party is bound to propose or agree to any such additional amendment, and any additional amendment would require the written agreement of both Parties.
- 8. Each Party to this Amendment represents, warrants, and agrees that the person who executed this Amendment on its behalf has the full right and authority to enter into this Amendment on behalf of that Party and bind that Party to the terms of this Amendment.
- 9. Each Party to this Amendment certifies that they have had a reasonable opportunity to review and request changes to the Amendment, and that they have signed this Amendment of their own free will and accord. Each Party to this Amendment also certifies that it has read the entire Amendment, and understands and fully agrees with the contents thereof.
- 10. This Amendment may be signed in counterparts.

| Dwight French, Administrator, Water Rights and Adjudications Division for Phillip C. Ward, Director Oregon Water Resources Department 725 Summer St. NE, Suite A Salem, OR 97301 | Movel 23, 2000 Date |
|--|------------------------|
| Springfield Utility Board, Applicant | Date |

BEFORE THE OREGON WATER RESOURCES DEPARTMENT

| In the Matter of Water Right Applications G-1524 | 1,) | |
|--|-----|----------------------|
| G-15243, G-15244, and S-85336 in the name of |) | AMENDMENT TO |
| Springfield Utility Board |) | SETTLEMENT AGREEMENT |
| Applicants and Protestants |) | |
| |) | |

On February 24, 2006, the Oregon Water Resources Department ("OWRD") and Springfield Utility Board ("Applicant"), referred to collectively as "the Parties" and each individually a "Party," entered into a "Settlement Agreement" pertaining to Applicant's water right applications G-15241, G-15243, G-15244, and S-85336. This document is an "Amendment" to the Settlement Agreement.

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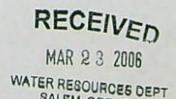
"OWRD and Applicant agree that all issues raised in Applicant's protests against the PFOs for Applications G-15241, G-15243, G-15244, and S-85336 are resolved solely on the following terms, including any amendment(s) to this Settlement Agreement."

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SALEM, OREGON

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- 9. Each Party to this Amendment certifies that they have had a reasonable opportunity to review and request changes to the Amendment, and that they have signed this Amendment of their own free will and accord. Each Party to this Amendment also certifies that it has read the entire Amendment, and understands and fully agrees with the contents thereof.
- This Amendment may be signed in counterparts.

| Dwight French, Administrator, |
|---|
| Water Rights and Adjudications Division |
| for |
| Phillip C. Ward, Director |
| Oregon Water Resources Department |
| 725 Summer St. NE, Suite A |
| Salem OR 97301 |

Date

Springfield Utility Board, Applicant

3/22/06

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MAR 23 2006

WATER RESOURCES DEPT SALEM OREGON Subject: RE: SUB completion of construction language

Date: Tue. 13 Dec 2005 09:35:22 -0800

X-MS-Has-Attach: X-MS-TNEF-Correlator:

Thread-Topic: SUB completion of construction language

Thread-Index: AcXI/oEsz6we7Ze3QmC7VxCJczEwOAAAVJpgAAKQfSAAAEmTIA==

From: "Corbin, Greg" <GDCORBIN@stoel.com>

To: "Dwight French" < Dwight.W.FRENCH@wrd.state.or.us>

Cc: "Cory Engel" <Cory.C.ENGEL@wrd.state.or.us>

X-OriginalArrivalTime: 13 Dec 2005 17:35:21.0654 (UTC) FILETIME=[97B59D60:01C6000B] X-MIME-Autoconverted: from quoted-printable to 8bit by kettle.wrd.state.or.us id jBDHEYn24736

X-Spam-Checker-Version: SpamAssassin 2.63 (2004-01-11) on

kettle.wrd.state.or.us

X-Spam-Status: No, hits=-4.9 required=5.0 tests=BAYES_00 autoleam=ham version=2.63

X-Spam-Level:

Understood. I will prepare appropriate protests. Thanks to both of you for focusing on this issue at this early stage.

Greg

----Original Message----

From: Dwight French [mailto:Dwight.W.FRENCH@wrd.state.or.us]

Sent: Tuesday, December 13, 2005 9:28 AM

To: Corbin, Greg Cc: 'Cory Engel'

Subject: RE: SUB completion of construction language

Greg and Cory,

I think this is on the right track. However, I don't think it is prudent to commit to a language change at this point since we're in the middle of the protest period and we may receive protests from third parties.

After the close of the protest period, we'll look at the information in front of us and decide what to do next.

Dwight

----Original Message----

From: Corbin, Greg [mailto:GDCORBIN@stoel.com]

Sent: Tuesday, December 13, 2005 8:15 AM

To: Cory Engel

Cc: Dwight.W.FRENCH@wrd.state.or.us

Subject: RE: SUB completion of construction language

Cory & Dwight,

Yes, Cory has captured my comments. I expect to talk with Chuck Arrera at SUB this afternoon to discuss this further. Assuming no additional issues come up, I believe this language would work for SUB and could be used to

From: "Dwight French" < Dwight.W.FRENCH@wrd.state.or.us>

To: "'Corbin, Greg" < GDCORBIN@stoel.com>

Cc: "'Cory Engel" <Cory.C.ENGEL@wrd.state.or.us>
Subject: RE: SUB completion of construction language

Date: Tue. 13 Dec 2005 09:28:16 -0800

X-Mailer: Microsoft Office Outlook, Build 11.0.6353

Thread-Index: AcXI/oEsz6we7Ze3QmC7VxCJczEwOAAAVJpgAAKQfSA=

X-Spam-Checker-Version: SpamAssassin 2.63 (2004-01-11) on

kettle.wrd.state.or.us

X-Spam-Status: No, hits=-4.9 required=5.0 tests=BAYES_00 autoleam=ham

version=2.63 X-Spam-Level:

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Greg

----Original Message----

From: Cory Engel [mailto:Cory.C.ENGEL@wrd.state.or.us]

Sent: Tuesday, December 13, 2005 8:02 AM

To: Corbin, Greg

Cc: Dwight.W.FRENCH@wrd.state.or.us

Subject: RE: SUB completion of construction language

Greg,

If I understand you correctly, you would agree to this language:

Subject: RE: SUB completion of construction language

Date: Tue, 13 Dec 2005 08:14:38 -0800

X-MS-Has-Attach: X-MS-TNEF-Correlator:

Thread-Topic: SUB completion of construction language
Thread-Index: AcXI/oEsz6we7Ze3QmC7VxCJczEwOAAAVJpg

From: "Corbin, Greg" <GDCORBIN@stoel.com>
To: "Cory Engel" <Cory.C.ENGEL@wrd.state.or.us>

Cc: <Dwight.W.FRENCH@wrd.state.or.us>

X-OriginalArrivalTime: 13 Dec 2005 16:14:39.0283 (UTC) FILETIME=[516E7030:01C60000] X-MIME-Autoconverted: from quoted-printable to 8bit by kettle.wrd.state.or.us id jBDFrwC12765

X-Spam-Checker-Version: SpamAssassin 2.63 (2004-01-11) on

kettle.wrd.state.or.us

X-Spam-Status: No, hits=-4.9 required=5.0 tests=BAYES_00 autoleam=ham version=2.63

X-Spam-Level:

Cory & Dwight,

Yes, Cory has captured my comments. I expect to talk with Chuck Arrera at SUB this afternoon to discuss this further. Assuming no additional issues come up, I believe this language would work for SUB and could be used to streamline the protests as Cory and I have discussed. Please advise if the Department is comfortable with this language.

Greg

----Original Message----

From: Cory Engel [mailto:Cory.C.ENGEL@wrd.state.or.us]

Sent: Tuesday, December 13, 2005 8:02 AM

To: Corbin, Greg

Cc: Dwight.W.FRENCH@wrd.state.or.us

Subject: RE: SUB completion of construction language

Greg,

If I understand you correctly, you would agree to this language:

"Completion of construction and complete application of the water to the use shall be made within 20 years of the date of this permit. If the water is not completely applied within 20 years, and the permittee wishes to continue development under the permit, the permittee must submit an application for extension of time, which may be approved based upon the merit of the application."

This is identical to the standard language in the PFOs, except that the phrase "on or before October 1, 2010" has been replaced with "within 20 years of the date of this permit". Again, if I understand correctly, you would also agree to simply changing the year from 2010 to 2025.

To: "Corbin, Greg" <GDCORBIN@stoel.com>

From: Cory Engel <Cory.C.ENGEL@wrd.state.or.us>

Subject: RE: SUB completion of construction language

Cc: Dwight French

Bcc: f\Specific applications\SUB

Attached:

Greg,

If I understand you correctly, you would agree to this language:

"Completion of construction and complete application of the water to the use shall be made within 20 years of the date of this permit. If the water is not completely applied within 20 years, and the permittee wishes to continue development under the permit, the permittee must submit an application for extension of time, which may be approved based upon the merit of the application."

This is identical to the standard language in the PFOs, except that the phrase "on or before October 1, 2010" has been replaced with "within 20 years of the date of this permit". Again, if I understand correctly, you would also agree to simply changing the year from 2010 to 2025.

By copy of this reply, I'm referring your proposal to Dwight for his consideration.

Cory Engel
Water Right Application Caseworker
Oregon Water Resources Department
725 Summer St NE Ste A
Salem OR 97301-1266
Phone: 503-986-0813
Fax: 503-986-0901
http://www.wrd.state.or.us/

At 04:17 PM 12/12/2005, you wrote: Cory,

I don't think this is beyond reaching an agreement prior to filing a protest. Note that the second sentence of your proposed new paragraph still states that if the water is not completely applied the permittee can seek an extension. Reading my first sentence together with your second sentence it is clear that complete application of the water is required. My sentence simply separates the activities of completing construction and application of water. If the department is uncomfortable with that separation, SUB would agree to an almost identical repeat of the first sentence in the draft permit:

"Completion of construction and complete application of the water to the use shall be made within 20 years of the date of this permit."

Subject: RE: SUB completion of construction language

Date: Mon. 12 Dec 2005 16:17:02 -0800

X-MS-Has-Attach: X-MS-TNEF-Correlator:

Thread-Topic: SUB completion of construction language Thread-Index: AcX/dr7i2F8dVISORfmLEuXK1y8huAAAmfCg

From: "Corbin, Greg" <GDCORBIN@stoel.com>
To: "Cory Engel" <Cory.C.ENGEL@wrd.state.or.us>

X-OriginalArrivalTime: 13 Dec 2005 00:17:02.0664 (UTC) FILETIME=[8A9E2480:01C5FF7A]
X-MIME-Autoconverted: from quoted-printable to 8bit by kettle.wrd.state.or.us id jBCNulS14259

X-Spam-Checker-Version: SpamAssassin 2.63 (2004-01-11) on

kettle.wrd.state.or.us

X-Spam-Status: No, hits=-4.9 required=5.0 tests=BAYES_00 autoleam=ham

version=2.63 X-Spam-Level:

Cory,

I don't think this is beyond reaching an agreement prior to filing a protest. Note that the second sentence of your proposed new paragraph still states that if the water is not completely applied the permittee can seek an extension. Reading my first sentence together with your second sentence it is clear that complete application of the water is required. My sentence simply separates the activities of completing construction and application of water. If the department is uncomfortable with that separation, SUB would agree to an almost identical repeat of the first sentence in the draft permit:

"Completion of construction and complete application of the water to the use shall be made within 20 years of the date of this permit."

If you prefer to put in the exact date instead of using the phrase "within 20 years of the date of this permit", that also is acceptable.

Please advise if this works for the department.

Greq

----Original Message----

From: Cory Engel [mailto:Cory.C.ENGEL@wrd.state.or.us]

Sent: Monday, December 12, 2005 3:50 PM

To: Corbin, Greg

Subject: RE: SUB completion of construction language

Greg,

I have discussed your proposal with Dwight. The language you provided omits the requirement to completely apply the water to beneficial use by a certain date, an important element of both the language in our PFOs as well as the revised proposed language I provided to you.

To: "Corbin, Greg" <GDCORBIN@stoel.com>
From: Cory Engel <Cory.C.ENGEL@wrd.state.or.us>
Subject: RE: SUB completion of construction language
Cc:
Bcc: f\Specific applications\SUB
Attached:

Greg,

I have discussed your proposal with Dwight. The language you provided omits the requirement to completely apply the water to beneficial use by a certain date, an important element of both the language in our PFOs as well as the revised proposed language I provided to you.

It is unlikely that we will compromise on that point; perhaps it would be best to express your concerns with the PFO language in a protest.

Mr. Cory C. Engel
Water Right Application Caseworker
Oregon Water Resources Department
725 Summer St NE Ste A
Salem OR 97301-1266
Phone: 503-986-0813
Fax: 503-986-0901
http://www.wrd.state.or.us/

At 05:01 PM 12/6/2005, you wrote: Cory,

As we discussed on the telephone earlier today, SUB would prefer that the first sentence of the substituted language more closely track the original, except for the change from 5 to 20 years consistent with HB 3038. SUB suggests the following:

"The permittee shall commence and complete construction and apply the water to the use allowed herein within 20 years of the date of this permit."

Please let me know if this change is acceptable to the Department so I can prepare SUB's protests accordingly.

Greg

Greg D. Corbin Stoel Rives LLP 900 SW Fifth Avenue Portland, OR 97204 503.294.9632 office 503.220.2480 fax www.stoel.com

----Original Message----

From: "Dwight French" < Dwight.W.FRENCH@wrd.state.or.us>

To: "'Cory Engel" <Cory.C.ENGEL@wrd.state.or.us>

Subject: RE: RE: SUB completion of construction language

Date: Fri, 9 Dec 2005 10:43:49 -0800

X-Security: MIME headers sanitized on kettle.wrd.state.or.us See http://www.impsec.org/email-tools/sanitizer-intro.html for details, \$Revision: 1.139 \$Date: 2003-09-07 10:14:23-07

X-Mailer: Microsoft Office Outlook, Build 11.0.6353

Thread-Index: AcX7S2qhBg8Pdi4KT4qT1itdlD0dqgBpM7/Q X-Spam-Checker-Version: SpamAssassin 2.63 (2004-01-11) on

kettle.wrd.state.or.us

X-Spam-Status: No, hits=-4.7 required=5.0 tests=BAYES_00,HTML_FONTCOLOR_BLUE,

HTML MESSAGE autoleam=no version=2.63

X-Spam-Level:

Because we (Corbin has explained to us) think WW will file a protest I'm less inclined to work on language that will work for SUB at this time. Also, it doesn't look like it will be easy to come to an agreement.

I agree with you. Dwight

From: Cory Engel [mailto:Cory.C.ENGEL@wrd.state.or.us]

Sent: Wednesday, December 07, 2005 8:50 AM

To: Dwight.W.FRENCH@wrd.state.or.us

Subject: Fwd: RE: SUB completion of construction language

Dwight,

SUB doesn't like the language we proposed. As you can see below, Greg Corbin (Stoel Rives) has proposed that we issue the permit with language a little closer to the standard language. However, there is a substantial difference between his proposed language and both the standard and our newly proposed language: his language does not require complete application of the water to the use by any certain date. I told him over the phone that such language was a departure not just from our newly proposed language, but from the standard language proposed in the PFO as well, and that it probably wouldn't fly. Prior to our telephone conversation yesterday, he wasn't aware that this has always been a standard permit condition. Based on our conversation, I'm sure he intentionally omitted the "complete application to beneficial use" requirement from his language.

DISCUSSION: Upon first glance, the newly amended ORS 537.230 (
http://www.leg.state.or.us/05orlaws/sess0400.dir/0410ses.pdf) doesn't seem to require beneficial use of water within a certain time line. (Both the municipal and non-municipal portions in subsections (1) and (2) speak specifically only of the beginning and completion of construction.) However, I think subsection (4) makes it clear that the intent of 537.230 is to require full beneficial use within the same "completion of construction" time lines as subsections (1) and (2); it says "...upon completion of beneficial use as required under this section, the permittee shall hire a water right examiner..." Implicit in this language is that the requirement to complete

To: Dwight French
From: Cory Engel <Cory.C.ENGEL@wrd.state.or.us>
Subject: Fwd: RE: SUB completion of construction language
Cc:
Bcc: f\In
Attached:

Dwight,

SUB doesn't like the language we proposed. As you can see below, Greg Corbin (Stoel Rives) has proposed that we issue the permit with language a little closer to the standard language. However, there is a substantial difference between his proposed language and both the standard and our newly proposed language: his language does not require complete application of the water to the use by any certain date. I told him over the phone that such language was a departure not just from our newly proposed language, but from the standard language proposed in the PFO as well, and that it probably wouldn't fly. Prior to our telephone conversation yesterday, he wasn't aware that this has always been a standard permit condition. Based on our conversation, I'm sure he intentionally omitted the "complete application to beneficial use" requirement from his language.

DISCUSSION: Upon first glance, the newly amended ORS 537.230 (http://www.leg.state.or.us/05orlaws/sess0400.dir/0410ses.pdf) doesn't seem to require beneficial use of water within a certain time line. (Both the municipal and non-municipal portions in subsections (1) and (2) speak specifically only of the beginning and completion of construction.) However, I think subsection (4) makes it clear that the intent of 537.230 is to require full beneficial use within the same "completion of construction" time lines as subsections (1) and (2); it says "...upon completion of beneficial use as required under this section, the permittee shall hire a water right examiner..." Implicit in this language is that the requirement to complete construction is also a requirement to use the water; the statute seems to presume that the two events are concurrent. So I believe the completion of beneficial use is a requirement of ORS 537.230, and the time required for beneficial use is the period for completion of construction set forth in subsections (1) and (2).

The same is true for ground water as described in ORS 537.630. (SUB's pending applications are for both surface and ground water.)

Based on this, unless SUB decides to drop the issue, it seems unlikely that we're going to be able to come to an agreement about the language in time for them to properly craft a protest. He has already decided to file a regular protest--as opposed to the conditional one we had discussed--because it's starting to look like WaterWatch is going to protest as well. Perhaps it would be best to just tell Corbin to go ahead and file the protest and we can hash it out later. Do you agree?

Cory

X-Security: MIME headers sanitized on kettle.wrd.state.or.us See http://www.impsec.org/email-tools/sanitizer-intro.html for details, \$Revision: 1.139 \$Date: 2003-09-07 10:14:23-07

Subject: RE: SUB completion of construction language

Date: Tue, 6 Dec 2005 17:01:38 -0800

X-MS-Has-Attach: yes X-MS-TNEF-Correlator:

Thread-Topic: SUB completion of construction language
Thread-Index: AcX51GGpDpvAGSrdSpuQKCzXUcBRQA4dp5w

From: "Corbin, Greg" <GDCORBIN@stoel.com>
To: "Cory Engel" <Cory.C.ENGEL@wrd.state.or.us>

X-OriginalArrivalTime: 07 Dec 2005 01:01:38.0329 (UTC) FILETIME=[C6F5B890:01C5FAC9]

X-Spam-Checker-Version: SpamAssassin 2.63 (2004-01-11) on

kettle.wrd.state.or.us

X-Spam-Status: No, hits=-4.9 required=5.0 tests=BAYES_00 autolearn=ham version=2.63

X-Spam-Level:

Cory,

As we discussed on the telephone earlier today, SUB would prefer that the first sentence of the substituted language more closely track the original, except for the change from 5 to 20 years consistent with HB 3038. SUB suggests the following:

"The permittee shall commence and complete construction and apply the water to the use allowed herein within 20 years of the date of this permit."

Please let me know if this change is acceptable to the Department so I can prepare SUB's protests accordingly.

Greg

Greg D. Corbin Stoel Rives LLP 900 SW Fifth Avenue Portland, OR 97204 503.294.9632 office 503.220.2480 fax www.stoel.com

----Original Message----

From: Cory Engel [mailto:Cory.C.ENGEL@wrd.state.or.us]

Sent: Monday, December 05, 2005 11:46 AM

To: Corbin, Greg

Cc: Dwight.W.FRENCH@wrd.state.or.us; Mike.J.REYNOLDS@wrd.state.or.us

Subject: SUB completion of construction language

Greg,

As promised, here's the language we want to put in the final permits

Subject: RE: SUB completion of construction language

Date: Mon, 5 Dec 2005 11:58:08 -0800

X-MS-Has-Attach: X-MS-TNEF-Correlator:

Thread-Topic: SUB completion of construction language

Thread-Index: AcX51GGpDpvAGSrdSpuQKCzXiUcBRQAAPH7w

From: "Corbin, Greg" <GDCORBIN@stoel.com>
To: "Cory Engel" <Cory.C.ENGEL@wrd.state.or.us>

Cc: <Dwight.W.FRENCH@wrd.state.or.us>, <Mike.J.REYNOLDS@wrd.state.or.us> X-OriginalArrivalTime: 05 Dec 2005 19:58:08.0740 (UTC) FILETIME=[36C93240:01C5F9D6] X-MIME-Autoconverted: from quoted-printable to 8bit by kettle.wrd.state.or.us id jB5Jd4s17469

X-Spam-Checker-Version: SpamAssassin 2.63 (2004-01-11) on

kettle.wrd.state.or.us

X-Spam-Status: No, hits=-4.9 required=5.0 tests=BAYES_00 autolearn=ham version=2.63

X-Spam-Level:

Cory,

Thanks for getting this out. I will review with SUB and get back to you, hopefully this week.

Greg

----Original Message----

From: Cory Engel [mailto:Cory.C.ENGEL@wrd.state.or.us]

Sent: Monday, December 05, 2005 11:46 AM

To: Corbin, Greg

Cc: Dwight.W.FRENCH@wrd.state.or.us; Mike.J.REYNOLDS@wrd.state.or.us

Subject: SUB completion of construction language

Greg,

As promised, here's the language we want to put in the final permits for S-85336, G-15241, G-15243, and G-15244. The following paragraph would replace the second from the last paragraph in the draft permits--the paragraph beginning "Completion of construction..."

The permittee shall commence and complete the construction of any proposed works and execute the full beneficial use of water allowed herein within 20 years of the date of this permit. If the water is not completely applied within 20 years, and the permittee wishes to continue development under the permit, the permittee must submit an application for extension of time, which may be approved based upon the merit of the application.

(The second sentence of this paragraph is standard wording which remains unchanged.)

To: gdcorbin@stoel.com

From: Cory Engel <Cory.C.ENGEL@wrd.state.or.us> Subject: SUB completion of construction language

Cc: Dwight French, Mike Reynolds
Bcc: f\Specific applications\SUB

Attached:

Greg,

As promised, here's the language we want to put in the final permits for S-85336, G-15241, G-15243, and G-15244. The following paragraph would replace the second from the last paragraph in the draft permits--the paragraph beginning "Completion of construction..."

The permittee shall commence and complete the construction of any proposed works and execute the full beneficial use of water allowed herein within 20 years of the date of this permit. If the water is not completely applied within 20 years, and the permittee wishes to continue development under the permit, the permittee must submit an application for extension of time, which

may be approved based upon the merit of the application.

(The second sentence of this paragraph is standard wording which remains unchanged.)

As I understand it, if you are in agreement with this approach, you will send a letter which we will not consider a protest, conditioned upon our use of said language in the final permits for these applications.

If you have any questions, please let me know.

Mr. Cory C. Engel
Water Right Application Caseworker
Oregon Water Resources Department
725 Summer St NE Ste A
Salem OR 97301-1271
Phone: 503-986-0813
Fax: 503-986-0901
http://www.wrd.state.or.us/

This is not a permit.

STATE OF OREGON

COUNTY OF

DRAFT PERMIT TO APPROPRIATE THE PUBLIC WATERS

THIS DRAFT PERMIT IS HEREBY ISSUED TO

SPRINGFIELD UTILITY BOARD 202 S 18TH ST SPRINGFIELD, OR 97477

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

APPLICATION FILE NUMBER: S-85336

SOURCE OF WATER: MCKENZIE RIVER, A TRIBUTARY OF WILLAMETTE RIVER

PURPOSE OR USE: MUNICIPAL USE, FISH LIFE USE, AND WILDLIFE USE

MAXIMUM RATE: 35.9 CUBIC FEET PER SECOND (CFS) FOR MUNICIPAL USE AND 4.1 CFS FOR FISH LIFE AND WILDLIFE USES

PERIOD OF USE: YEAR ROUND

DATE OF PRIORITY: NOVEMBER 8, 2002

POINT OF DIVERSION LOCATIONS:

MUNICIPAL USE: NW 1/4 SW 1/4 SECTION 26, T17S, R2W, W.M.; 250 FEET SOUTH & 972 FEET EAST FROM THE WEST 1/4 CORNER OF SECTION 26

FISH LIFE AND WILDLIFE USES: SE 1/4 SW 1/4 SECTION 29, T17S, R1W, W.M.; 300 FEET NORTH & 2400 FEET EAST FROM THE SW CORNER OF SECTION 29

THE PLACE OF USE IS LOCATED AS FOLLOWS:

MUNICIPAL USE: WITHIN THE SERVICE AREA OF CITY OF SPRINGFIELD

FISH LIFE AND WILDLIFE USES: WITHIN THE CHANNEL OF CEDAR CREEK

Measurement, recording and reporting conditions:

A. Before water use may begin under this permit, the permittee shall install a meter or other suitable measuring device as approved by the Director. The permittee shall maintain the meter or measuring device in good working order, shall keep a complete record of the amount of water used each month and shall submit a report which includes the recorded 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.

B. The permittee shall allow the watermaster access to the meter or measuring device; provided however, where the meter or measuring device is located within a private structure, the watermaster shall request access upon reasonable notice.

The permittee shall not construct, operate or maintain any dam or artificial obstruction to fish passage at the diversion into Cedar Creek 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.

If the Cedar Creek flow monitoring program currently maintained by the U.S. Geological Survey (USGS) in conjunction with the U.S. Army Corps of Engineers and the Eugene Water and Electric Board (EWEB) is discontinued, the permittee shall ensure that a similar flow monitoring program is implemented on Cedar Creek. For the purpose of this condition, such a flow monitoring program must include, at minimum, installation of a calibrated staff gage.

While EWEB's license from Federal Energy Regulatory Energy Commission (FERC) requires EWEB to bypass 1,000 cfs of water past the Walterville Canal diversion, the permittee may divert water into Cedar Creek under this permit only when the flow in the McKenzie River, as measured at USGS gage 14163900, is greater than or equal to 1,000 cfs plus the actual rate of appropriation into Cedar Creek under this permit. In the event that EWEB's license from FERC is modified, the permittee may divert water under this permit only when flow in the McKenzie River, as measured at USGS gage 14163900, is greater than or equal to the FERC-required minimum bypass flow plus the actual rate of appropriation into Cedar Creek under this permit, or 1,400 cfs plus the actual rate of appropriation into Cedar Creek under this permit, whichever is greater. In the event that EWEB's license from FERC is rescinded, the permittee may divert water under this permit only when flow in the McKenzie River, as measured at USGS gage 14163900, is greater than or equal to 1,400 cfs plus the actual rate of appropriation under this permit.

The use may be restricted if the quality of the McKenzie River, Cedar Creek, or downstream waters decrease to the point that those waters no longer meet existing state or federal water quality standards as a result of the use.

Durght - for your approval.

PAGE 3

STANDARD CONDITIONS

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.

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

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

By law, the land use associated with this water use must be in compliance with statewide land-use goals and any local acknowledged land-use plan.

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

The permittee shall commence and complete the construction of any proposed works and execute the full beneficial use of water allowed herein within 20 years of the date of this permit. If the water is not completely applied within 20 years, and the permittee wishes to continue development under the permit, the permittee must submit an application for extension of time, which may be approved based upon the merit of the application.

Within one year after complete application of water to the proposed use, the permittee shall submit a claim of beneficial use, which includes a map and report, prepared by a Certified Water Rights Examiner (CWRE).

Issued _____, 2005

DRAFT - THIS IS NOT A PERMIT

Phillip C. Ward, Director Water Resources Department

Application S-85336 Basin 2 engelcc WEEK 537

Water Resources Department Volume 2 MCKENZIE R MISC

PERMIT DRAFT

2

To: "Dwight French" < Dwight.W.FRENCH@wrd.state.or.us>

From: Cory Engel <Cory.C.ENGEL@wrd.state.or.us>

Subject: RE: SUB

Cc:

Bcc: f\In Attached:

I have placed a draft permit containing the new language in one of your IN boxes.

If I get your approval today, we can probably avert a protest.

Cory

At 01:19 PM 11/29/2005, you wrote:

Because of the way they answered, your quoted language at the bottom of your email should be adequate. (I've pasted it below.) Please use it in this instance.

We need to say something about how an extension will be needed if additional time is needed.

Please send me one of the pfo documents to look at so I can see all of the related language together.

Dwight

"The permittee shall commence and complete the construction of any proposed works and execute the full beneficial use of water allowed herein within 20 years of the date of this permit."

----Original Message----

From: Cory Engel [mailto:Cory.C.ENGEL@wrd.state.or.us]

Sent: Monday, November 28, 2005 8:45 AM

To: Dwight French Subject: RE: SUB

Dwight,

I sent SUB a letter (which you endorsed) in advance of the ones that Kerry sent. Consistent with the law, the letter said "House Bill 3038...[provided] the applicant of a permit for a municipal water use a maximum of 20 years to commence and complete construction of proposed works. In order to comply with HB3038, please submit a statement providing the number of years (not to exceed 20 years) you need to complete construction from the date of permit issuance." In their reply, they said completion of construction will occur within 20 years. Obviously beginning of construction will be less than that.

Therefore, they have provided A and B dates that meet the statutory

From: "Dwight French" < Dwight.W.FRENCH@wrd.state.or.us>

To: "'Cory Engel" < Cory.C.ENGEL@wrd.state.or.us>

Subject: RE: SUB

Date: Tue, 29 Nov 2005 13:19:45 -0800

X-Mailer: Microsoft Office Outlook, Build 11.0.6353

Thread-Index: AcXDOIGfVvjwrCHnSpytmN61loAqQA8a3Pw X-Spam-Checker-Version: SpamAssassin 2.63 (2004-01-11) on

kettle.wrd.state.or.us

X-Spam-Status: No, hits=-4.9 required=5.0 tests=BAYES_00 autoleam=ham

version=2.63 X-Spam-Level:

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Therefore, they have provided A and B dates that meet the statutory requirement. (B<=20, and A<B.) Their reply supersedes the dates in their application that I quoted to you. The law doesn't say anything about a C date, but my understanding is that we will be requiring municipal permittees to make beneficial use within 20 years as well.

To: "Dwight French" <Dwight.W.FRENCH@wrd.state.or.us>
From: Cory Engel <Cory.C.ENGEL@wrd.state.or.us>
Subject: RE: SUB
Cc:
Bcc: f\Specific applications\SUB
Attached:

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Frankly, I don't see why we need to list A, B, and C dates at all. To comply with the law, permits need only say "The permittee shall commence and complete the construction of any proposed works within 20 years of the date of this permit." And if we want, we can include water use in that equation, like this: "The permittee shall commence and complete the construction of any proposed works and execute the full beneficial use of water allowed herein within 20 years of the date of this permit."

My day is free if you want to chat about it.

Cory

At 04:45 PM 11/23/2005, you wrote:

OK
They need to give us new information - if they haven't already.

Did they receive a letter from us on this subject (Kerry prepared for you?)
?
See me if necessary and we'll talk it over.

Dwight
----Original Message---From: Cory Engel [mailto:Cory.C.ENGEL@wrd.state.or.us]
Sent: Wednesday, November 23, 2005 3:40 PM

To: Dwight French Subject: RE: SUB

At 01:52 PM 11/23/2005, you wrote: >1. What does their application materials say about "beginning

```
From: "Dwight French" < Dwight. W. FRENCH@wrd.state.or.us>
To: "'Cory Engel" < Cory.C.ENGEL@wrd.state.or.us>
Subject: RE: SUB
Date: Wed, 23 Nov 2005 16:45:02 -0800
X-Mailer: Microsoft Office Outlook, Build 11.0.6353
Thread-Index: AcXwhMC+IWaBtUvoQKWx6SBfDCMNogAC2VWA
X-Spam-Checker-Version: SpamAssassin 2.63 (2004-01-11) on
   kettle.wrd.state.or.us
X-Spam-Status: No, hits=-4.9 required=5.0 tests=BAYES_00 autolearn=ham
   version=2.63
X-Spam-Level:
They need to give us new information - if they haven't already.
Did they receive a letter from us on this subject (Kerry prepared for you?)
See me if necessary and we'll talk it over.
Dwight
----Original Message--
From: Cory Engel [mailto:Cory.C.ENGEL@wrd.state.or.us]
Sent: Wednesday, November 23, 2005 3:40 PM
To: Dwight French
Subject: RE: SUB
At 01:52 PM 11/23/2005, you wrote:
>1. What does their application materials say about "beginning
construction"?
G-15241: 2000
G-15243: 12/00
G-15244: 2001
S-85536: 2003
>2. ....completing construction?
G-15241: 2006
G-15243: 12/01
G-15244: 2005
8-85536: 2010
```

Water Right Application Caseworker

Cory Engel

503-986-0813

From: "Dwight French" < Dwight.W.FRENCH@wrd.state.or.us>

To: "'Cory Engel" < Cory.C.ENGEL@wrd.state.or.us>

Subject: RE: SUB

Date: Wed, 23 Nov 2005 13:52:50 -0800

X-Mailer: Microsoft Office Outlook, Build 11.0.6353

Thread-Index: AcXwBJRnoBRG+LxQEywXxd+BMLFfQAt8h+w X-Spam-Checker-Version: SpamAssassin 2.63 (2004-01-11) on

kettle.wrd.state.or.us

X-Spam-Status: No, hits=-4.9 required=5.0 tests=BAYES_00 autoleam=ham

version=2.63 X-Spam-Level:

We can do it. We need to develop the new language anyway - might as well do it now. I'll put something together and run it past a couple people and see if we can get it done next week.

1. What does their application materials say about "beginning construction"?

2.completing construction?

We will need these two items to give to Corbin.

Dwight

----Original Message----

From: Cory Engel [mailto:Cory.C.ENGEL@wrd.state.or.us]

Sent: Tuesday, November 22, 2005 4:12 PM

To: Dwight.W.FRENCH@wrd.state.or.us

Subject: SUB

Dwight,

Regarding the previously discussed SUB date issue, Greg Corbin said he would like, if possible, to see the revised language for the SUB PFOs before filing a protest. If he doesn't have a problem with the language, he would like to craft a protest that is worded something like "unless WRD replaces the current development schedule paragraph with this paragraph [quoted], we protest the PFO". That way, we can simply fix the problem without going through all that a protest would entail. If he can't get access to the language in time (around December 16, he thought) then we'll have to engage in a more time-consuming communication with them to resolve the problem.

Do you think it is feasible to have the language settled within that time frame? Corbin is going to call me early next week to find out whether that is likely. If it is not likely, then he's going to go ahead and file a protest without waiting. I'd prefer to resolve the matter without a formal protest, if possible.

Cory Engel Water Right Application Caseworker 503-986-0813 To: Dwight French

From: Cory Engel <Cory.C.ENGEL@wrd.state.or.us>

Subject: SUB

Cc:

Bcc: f\In Attached:

Dwight,

Regarding the previously discussed SUB date issue, Greg Corbin said he would like, if possible, to see the revised language for the SUB PFOs before filing a protest. If he doesn't have a problem with the language, he would like to craft a protest that is worded something like "unless WRD replaces the current development schedule paragraph with this paragraph [quoted], we protest the PFO". That way, we can simply fix the problem without going through all that a protest would entail. If he can't get access to the language in time (around December 16, he thought) then we'll have to engage in a more time-consuming communication with them to resolve the problem.

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Cory Engel Water Right Application Caseworker 503-986-0813

Oregon Water Resources Department Water Rights Division

Water Rights Application Number S-85336

Prior to the issuance of a permit, the Department must receive permit recording fees in the amount of \$250.00. Please include your application number on your check made out to the Oregon Water Resources Department. If this fee is not paid prior to December 23, 2005, issuance of a permit may be delayed.

Proposed Final Order

Summary of Recommendation: The Department recommends that the attached draft permit be issued with conditions.

Application History

On November 8, 2002, SPRINGFIELD UTILITY BOARD submitted an application to the Department for the following water use permit:

- Amount and Use of Water: 40.0 CUBIC FEET PER SECOND (CFS), BEING 37.0 CFS FOR MUNICIPAL USE AND 3.0 CFS FOR STREAMFLOW AUGMENTATION
- Source of Water: MCKENZIE RIVER, A TRIBUTARY OF WILLAMETTE RIVER
- Area of Proposed Use: Streamflow augmentation: within the channel of Cedar Creek; Municipal: within the service area of City of Springfield

On May 16, 2003, the Department mailed the applicant notice of its Initial Review, determining that "The use of 37.0 CUBIC FEET PER SECOND from MCKENZIE RIVER for MUNICIPAL USE may be allowed year-round. However, 3.0 CUBIC FEET PER SECOND FOR STREAMFLOW AUGMENTATION IN CEDAR CREEK is not allowable. At this stage of processing, it appears unlikely that a permit approving this application would include streamflow augmentation." The applicant did not notify the Department to stop processing the application within 14 days of that date.

On May 20, 2003, the Department gave public notice of the application in its weekly notice. The public notice included a request for comments, and information for interested persons about both obtaining future notices and a copy of the proposed final order.

On December 10, 2004, the applicant amended the amount and use of water to 35.9 CFS for municipal use and 4.1 CFS for fish life and wildlife uses.

Written comments in support of the application have been received from the applicant, Cedar Creek Irrigation District, and Eugene Water and Electric Board.

In reviewing applications, the Department may consider any relevant sources of information, including the following:

- comments by or consultation with another state agency
- any applicable basin program
- any applicable comprehensive plan or zoning ordinance
- the amount of water available
- the rate and duty for the proposed use
- pending senior applications and existing water rights of record
- the Scenic Waterway requirements of ORS 390.835
- applicable statutes, administrative rules, and case law
- any comments received

Findings of Fact

The Willamette Basin Program allows MUNICIPAL USE AND STREAMFLOW AUGMENTATION IN CEDAR CREEK.

Senior water rights exist on MCKENZIE RIVER, A TRIBUTARY OF WILLAMETTE RIVER, or on downstream waters.

MCKENZIE RIVER, A TRIBUTARY OF WILLAMETTE RIVER is not within or above a State Scenic Waterway.

An assessment of water availability has been completed. This assessment compared a calculation of natural streamflow minus the consumption portion of all relevant rights of record. A copy of this assessment is in the file. This assessment determined that water is available for further appropriation (at an 80 percent exceedance probability) during the full season requested.

The Department finds that the amount of water requested, 40.0 CFS, is an acceptable amount.

In accordance with OAR 690-33-330, an interagency team reviewed this proposed use for potential adverse impacts on sensitive, threatened and endangered fish populations. This team consisted of representatives from the Oregon Departments of Water Resources (WRD), Environmental Quality, Fish and Wildlife (DFW), and Agriculture. WRD and DFW representatives included both technical and field staff. The interagency team recommended

that additional limitations or conditions of use be imposed on this application as follows:

The permittee shall not construct, operate or maintain any dam or artificial obstruction to fish passage at the diversion into Cedar Creek 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.

If the Cedar Creek flow monitoring program currently maintained by the U.S. Geological Survey (USGS) in conjunction with the U.S. Army Corps of Engineers and the Eugene Water and Electric Board (EWEB) is discontinued, the permittee shall ensure that a similar flow monitoring program is implemented on Cedar Creek. For the purpose of this condition, such a flow monitoring program must include, at minimum, installation of a calibrated staff gage.

While EWEB's license from Federal Energy Regulatory Energy Commission (FERC) requires EWEB to bypass 1,000 cfs of water past the Walterville Canal diversion, the permittee may divert water into Cedar Creek under this permit only when the flow in the McKenzie River, as measured at USGS gage 14163900, is greater than or equal to 1,000 cfs plus the actual rate of appropriation into Cedar Creek under this permit. In the event that EWEB's license from FERC is modified, the permittee may divert water under this permit only when flow in the McKenzie River, as measured at USGS gage 14163900, is greater than or equal to the FERC-required minimum bypass flow plus the actual rate of appropriation into Cedar Creek under this permit, or 1,400 cfs plus the actual rate of appropriation into Cedar Creek under this permit, whichever is greater. In the event that EWEB's license from FERC is rescinded, the permittee may divert water under this permit only when flow in the McKenzie River, as measured at USGS gage 14163900, is greater than or equal to 1,400 cfs plus the actual rate of appropriation under this permit.

The use may be restricted if the quality of the McKenzie River, Cedar Creek, or downstream waters decrease to the point that those waters no longer meet existing state or federal water quality standards as a result of the use.

Conclusions of Law

Under the provisions of ORS 537.153, the Department must presume that a proposed use will not impair or be detrimental to the public interest if the proposed use is allowed in the applicable basin program established

pursuant to ORS 536.300 and 536.340 or given a preference under ORS 536.310(12), if water is available, if the proposed use will not injure other water rights and if the proposed use complies with rules of the Water Resources Commission.

The proposed use requested in this application is allowed in the Willamette Basin Plan, or a preference for this use is granted under the provisions of ORS 536.310(12).

Water is available for the proposed use.

The proposed use will not injure other water rights.

The proposed use complies with other rules of the Water Resources Commission not otherwise described above.

The proposed use complies with the State Agency Agreement for land use.

For these reasons, the required presumption has been established.

Once the required presumption has been established, under the provisions of ORS 537.153(2) it may be overcome by a preponderance of evidence that either:

- (a) One or more of the criteria for establishing the presumption are not satisfied; or
- (b) The proposed use will impair or be detrimental to the public interest as demonstrated in comments, in a protest . . . or in a finding of the department that shows:
 - (A) The specific public interest under ORS 537.170(8) that would be impaired or detrimentally affected; and
 - (B) Specifically how the identified public interest would be impaired or detrimentally affected.

In this application, all criteria for establishing the presumption have been satisfied, as noted above. The presumption has not been overcome by a preponderance of evidence that the proposed use will impair or be detrimental to the public interest.

The Department therefore concludes that water is available in the amount necessary for the proposed use; the proposed use will not result in injury to existing water rights; and the proposed use will not impair or be detrimental to the public interest as provided in ORS 537.170.

When issuing permits, ORS 537.211(1) authorizes the Department to include limitations and conditions which have been determined necessary to protect the public interest. The attached draft permit is conditioned accordingly.

Recommendation

The Department recommends that the attached draft permit be issued with conditions.

DATED November 8, 2005

Owight French Administrator

Water Rights & Adjudication Division

If you have any questions, please check the information box on the last page for the appropriate names and phone numbers.

Protest Rights and Standing

Under the provisions of 537.621(7), you have the right to protest this proposed final order. Your protest must be in writing, and must include the following:

- Your name, address, and telephone number;
- A description of your interest in the proposed final order, and, if you claim to represent the public interest, a precise statement of the public interest represented;
- A detailed description of how the action proposed in this proposed final order would impair or be detrimental to your interest;
- A detailed description of how the proposed final order is in error or deficient, and how to correct the alleged error or deficiency;
- Any citation of legal authority to support your protest, if known; and
- If you are not the applicant, the protest fee of \$250 required by ORS 536.050 and proof of service of the protest upon the applicant.
- If you are the applicant, a statement of whether or not you are requesting a contested case hearing. If you do not request a hearing, the Department will presume that you do not wish to contest the findings of the proposed final order.
- If you do not protest this Proposed Final Order and if no substantive changes are made in the final order, you will not have an opportunity for judicial review, protest or appeal of the final order when it is issued.

Requests for Standing

Under the provisions of 537.153(5), persons other than the applicant who support a proposed final order may request standing for purposes of participating in any contested case proceeding on the proposed final order or for judicial review of a final order. A request for standing shall be in writing, include a statement that the requester supports the proposed final order, and a statement of how the requester would be harmed if the proposed final order is modified. The fee required at the time of submitting this request is \$50.00. If a hearing is scheduled, an additional fee of \$200.00 must be submitted along with a request for intervention. Forms to request standing are available from the Department.

Your protest or request for standing must be received in the Water Resources Department no later than December 23, 2005.

After the protest period has ended, the Director will either issue a final order or schedule a contested case hearing. The contested case hearing will be scheduled only if a protest has been submitted and if

- upon review of the issues, the director finds that there are significant disputes related to the proposed use of water, or
- the applicant requests a contested case hearing within 30 days after the close of the protest period.

This document was prepared by Cory Engel. If you have any questions about any of the statements contained in this document I am most likely the best person to answer your questions. You can reach me at 503-986-0813.

If you have questions about how to file a protest or if you have previously filed a protest and want to know the status, please contact Mike Reynolds at 503-986-0820.

If you have other questions about the Department or any of its programs please contact our Customer Service Group at 503-986-0801. Address all other correspondence to:

Water Rights Section, Oregon Water Resources Department, 725 Summer St NE Ste A, Salem OR 97301-1271, Fax: 503-986-0901.

engelcc-WEEK 537

STATE OF OREGON

COUNTY OF

DRAFT PERMIT TO APPROPRIATE THE PUBLIC WATERS

THIS DRAFT PERMIT IS HEREBY ISSUED TO

SPRINGFIELD UTILITY BOARD 202 S 18TH ST SPRINGFIELD, OR 97477

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

APPLICATION FILE NUMBER: S-85336

SOURCE OF WATER: MCKENZIE RIVER, A TRIBUTARY OF WILLAMETTE RIVER

PURPOSE OR USE: MUNICIPAL USE, FISH LIFE USE, AND WILDLIFE USE

MAXIMUM RATE: 35.9 CUBIC FEET PER SECOND (CFS) FOR MUNICIPAL USE AND 4.1 CFS FOR FISH LIFE AND WILDLIFE USES

PERIOD OF USE: YEAR ROUND

DATE OF PRIORITY: NOVEMBER 8, 2002

POINT OF DIVERSION LOCATIONS:

MUNICIPAL USE: NW 4 SW 4 SECTION 26, T17S, R2W, W.M.; 250 FEET SOUTH & 972 FEET EAST FROM THE WEST 1/4 CORNER OF SECTION 26

FISH LIFE AND WILDLIFE USES: SE & SW & SECTION 29, T17S, R1W, W.M.; 300 FEET NORTH & 2400 FEET EAST FROM THE SW CORNER OF SECTION 29

THE PLACE OF USE IS LOCATED AS FOLLOWS:

MUNICIPAL USE: WITHIN THE SERVICE AREA OF CITY OF SPRINGFIELD

FISH LIFE AND WILDLIFE USES: WITHIN THE CHANNEL OF CEDAR CREEK

Measurement, recording and reporting conditions:

A. Before water use may begin under this permit, the permittee shall install a meter or other suitable measuring device as approved by the Director. The permittee shall maintain the meter or measuring device in good working order, shall keep a complete record of the amount of water used each month and shall submit a report which includes the recorded 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.

B. The permittee shall allow the watermaster access to the meter or measuring device; provided however, where the meter or measuring device is located within a private structure, the watermaster shall request access upon reasonable notice.

The permittee shall not construct, operate or maintain any dam or artificial obstruction to fish passage at the diversion into Cedar Creek 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.

If the Cedar Creek flow monitoring program currently maintained by the U.S. Geological Survey (USGS) in conjunction with the U.S. Army Corps of Engineers and the Eugene Water and Electric Board (EWEB) is discontinued, the permittee shall ensure that a similar flow monitoring program is implemented on Cedar Creek. For the purpose of this condition, such a flow monitoring program must include, at minimum, installation of a calibrated staff gage.

While EWEB's license from Federal Energy Regulatory Energy Commission (FERC) requires EWEB to bypass 1,000 cfs of water past the Walterville Canal diversion, the permittee may divert water into Cedar Creek under this permit only when the flow in the McKenzie River, as measured at USGS gage 14163900, is greater than or equal to 1,000 cfs plus the actual rate of appropriation into Cedar Creek under this permit. In the event that EWEB's license from FERC is modified, the permittee may divert water under this permit only when flow in the McKenzie River, as measured at USGS gage 14163900, is greater than or equal to the FERC-required minimum bypass flow plus the actual rate of appropriation into Cedar Creek under this permit, or 1,400 cfs plus the actual rate of appropriation into Cedar Creek under this permit, whichever is greater. In the event that EWEB's license from FERC is rescinded, the permittee may divert water under this permit only when flow in the McKenzie River, as measured at USGS gage 14163900, is greater than or equal to 1,400 cfs plus the actual rate of appropriation under this permit.

The use may be restricted if the quality of the McKenzie River, Cedar Creek, or downstream waters decrease to the point that those waters no longer meet existing state or federal water quality standards as a result of the use.

STANDARD CONDITIONS

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.

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

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

By law, the land use associated with this water use must be in compliance with statewide land-use goals and any local acknowledged land-use plan.

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

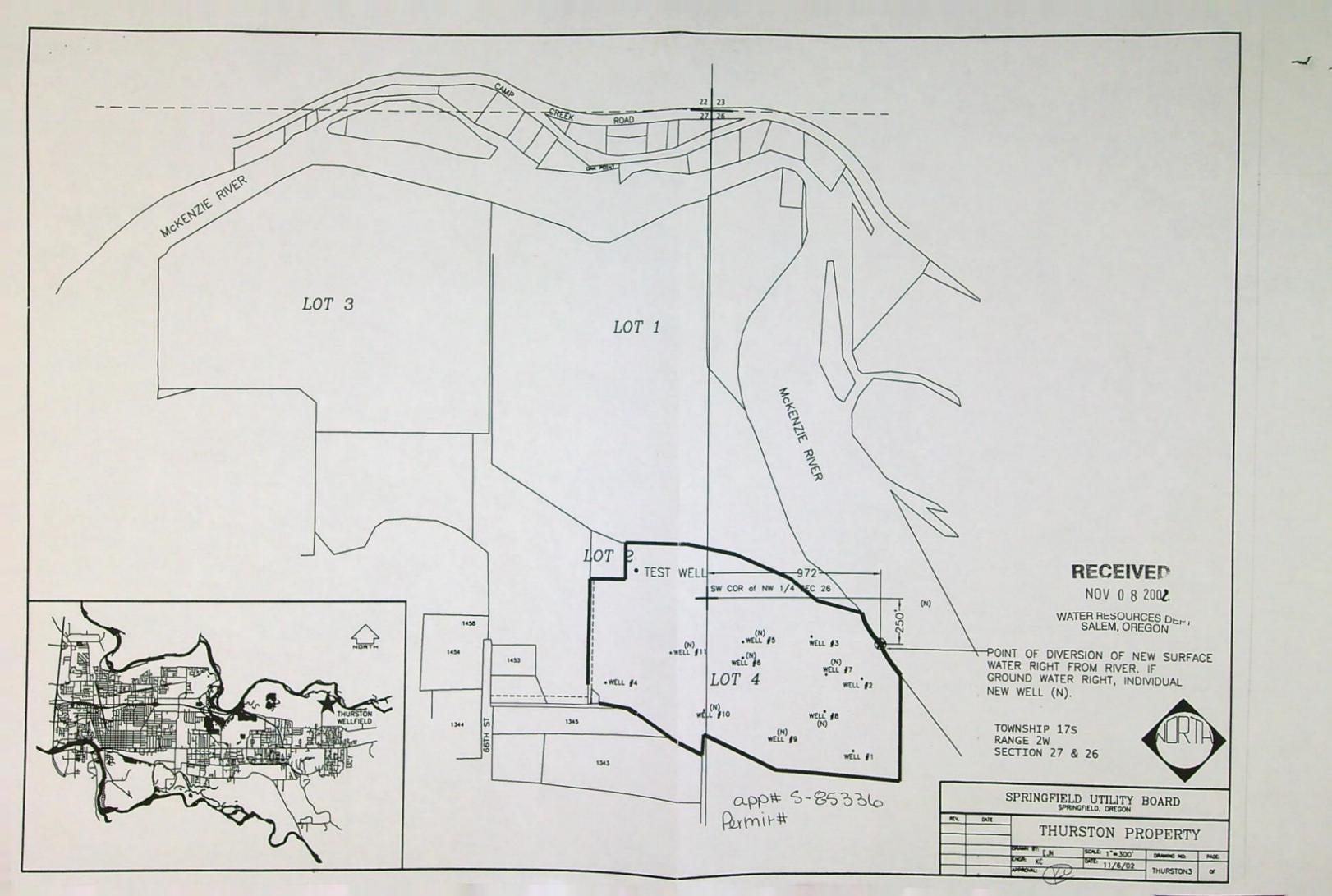
Completion of construction and complete application of the water to the use shall be made on or before October 1, 2010. If the water is not completely applied before this date, and the permittee wishes to continue development under the permit, the permittee must submit an application for extension of time, which may be approved based upon the merit of the application.

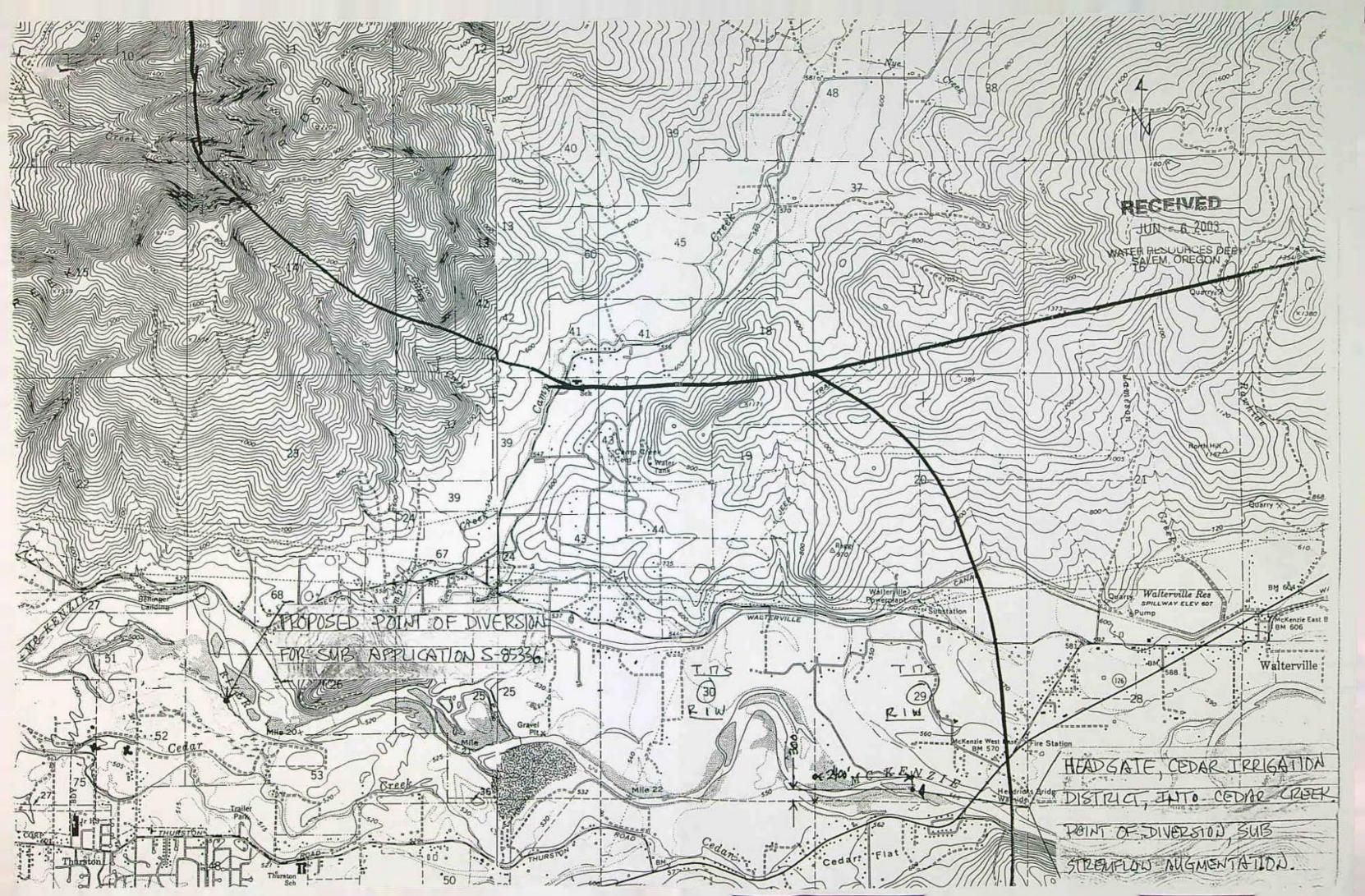
Within one year after complete application of water to the proposed use, the permittee shall submit a claim of beneficial use, which includes a map and report, prepared by a Certified Water Rights Examiner (CWRE).

Issued , 2005

DRAFT - THIS IS NOT A PERMIT

Phillip C. Ward, Director Water Resources Department





To: "DAVIS Chuck" < ChuckD@subutil.com>

From: Cory Engel <Cory.C.ENGEL@wrd.state.or.us>

Subject: Re: SUB Water Rights application processing fees

Cc:

Bcc: f\Specific applications\SUB

Attached:

At 04:05 PM 12/1/2005, you wrote:

I am having difficulty determining if SUB has paid all of the fees needed to finalize the four applications that you have prepared draft orders for. Would you be able to check for me? If there are any payments due I will process them ASAP.

Thanks for you help.

Chuck,

Thanks for your message. Outstanding permit recording fees for the four applications are as follows:

S-85336: \$250.00 G-15241: \$250.00 G-15243: \$175.00 G-15244: \$250.00

Total: \$925.00

If you have any other questions please do not hesitate to ask.

Mr. Cory C. Engel
Water Right Application Caseworker
Oregon Water Resources Department
725 Summer St NE Ste A
Salem OR 97301-1271

Phone: 503-986-0813 Fax: 503-986-0901

http://www.wrd.state.or.us/

STATE OF OREGON WATER RESOURCES DEPARTMENT

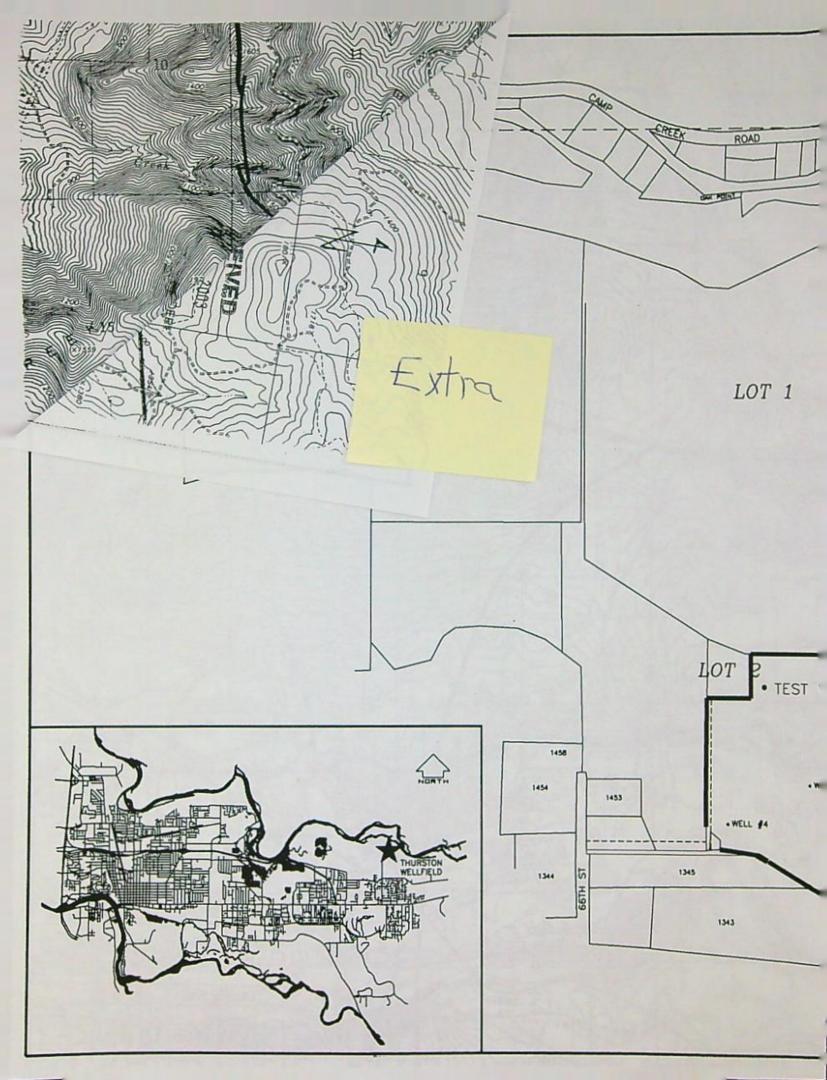
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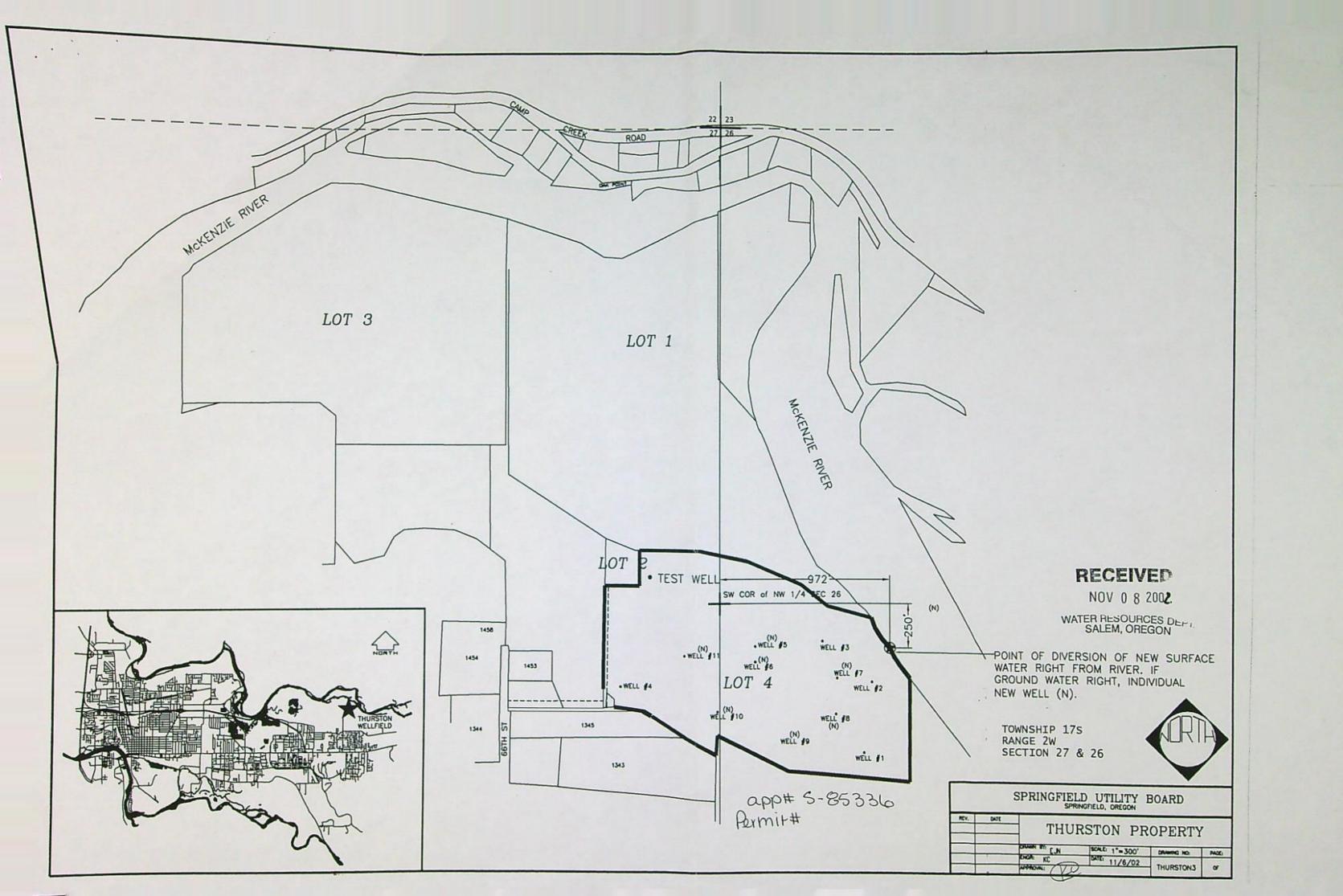
725 Summer St. N.E. Ste. A SALEM, OR 97301-4172

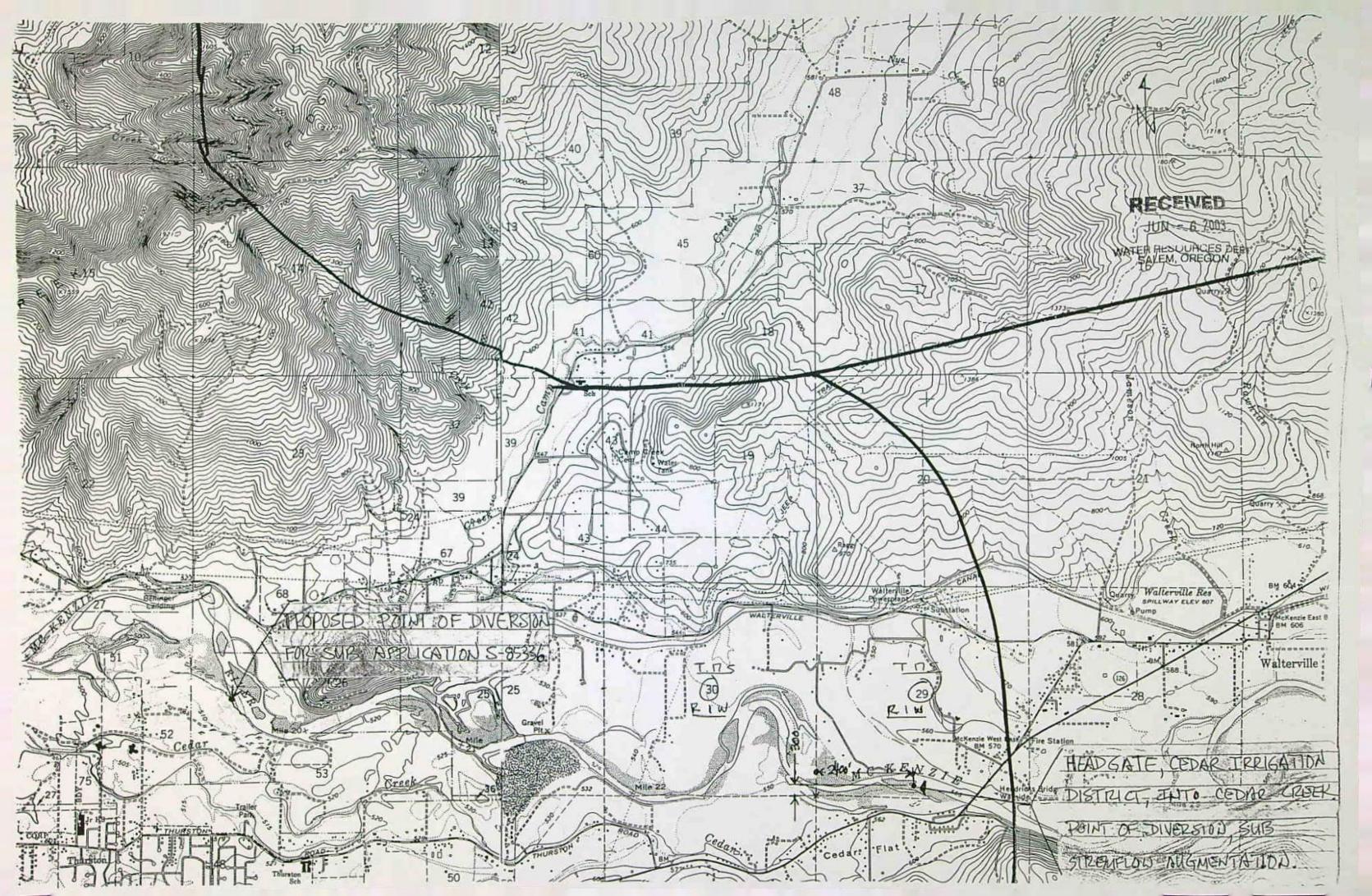
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WATER SERVICE CENTER 202 South 18th Street Springfield, OR 97477-5240 Tel 541.726.2396 Fax 541.747.7348 www.subutil.com

December 5, 2005

Mr. Cory C. Engel Water Right Application Caseworker Oregon Water Resources Department 725 Summer St NE, Ste A Salem, OR 97301-1271

RE: Water Right Recording Fees for S-85336, G-15241, G-15243, and G-15244

Dear Mr. Engle:

Please find enclosed Springfield Utility Board Check # 153094 for \$925.00 as payment for the following water right recording fees:

S-85336: \$250.00 G-15241: \$250.00 G-15243: \$175.00 G-15244: \$250.00

Thank you for your assistance in processing these applications. Please call if there is any additional information needed.

Sincerely,

Chuck Arrera, P.E.

Director of Water Operations and Engineering

Chuck arrera Juli

CA:mkm

Enclosure

RECEIVED

DEC 0 6 2005

X-Security: MIME headers sanitized on kettle.wrd.state.or.us See http://www.impsec.org/email-tools/sanitizer-intro.html for details, \$Revision: 1.139 \$Date: 2003-09-07 10:14:23-07

Subject: SUB Water Rights application processing fees

Date: Thu, 1 Dec 2005 16:05:02 -0800

X-MS-Has-Attach: X-MS-TNEF-Correlator:

Thread-Topic: SUB Water Rights application processing fees

Thread-Index: AcX21Ay9WFrLRle5Sl6GtYo/az7fiQ==
From: "DAVIS Chuck" < ChuckD@subutil.com>
To: "Cory Engel" < Cory.C.ENGEL@wrd.state.or.us>

X-Spam-Checker-Version: SpamAssassin 2.63 (2004-01-11) on

kettle.wrd.state.or.us

X-Spam-Status: No, hits=-4.7 required=5.0 tests=BAYES_00,HTML_50_60, HTML_MESSAGE autoleam=no version=2.63

X-Spam-Level:

Hi Cory,

I am having difficulty determining if SUB has paid all of the fees needed to finalize the four applications that you have prepared draft orders for. Would you be able to check for me? If there are any payments due I will process them ASAP.

Thanks for you help.

Charles Davis

Water Quality Manager

Springfield Utility Board

202 S. 18th St.

Springfield, OR 97477

Phone: (541) 726-2396

Fax: (541) 747-7348

Mailing List for PFO Copies

Application #S-85336

PFO Date November 8, 2005

Original mailed to:

Applicant: SPRINGFIELD UTILITY BOARD, 202 S 18TH ST, SPRINGFIELD, OR 97477

Copies sent to:

1. WRD - File # S-85336

2. Water Availability: Ken Stahr

PFO and Map Sheet Copies sent to:

3. WRD - Watermaster # 2

4. Regional Manager: NWR

on: MS\QS (DATE)

Copies Mailed

(SUPPORT STAFF)

By: TOB

Copies sent to Other Interested Persons (CWRE, Agent, Well Driller, Commenter, etc.)

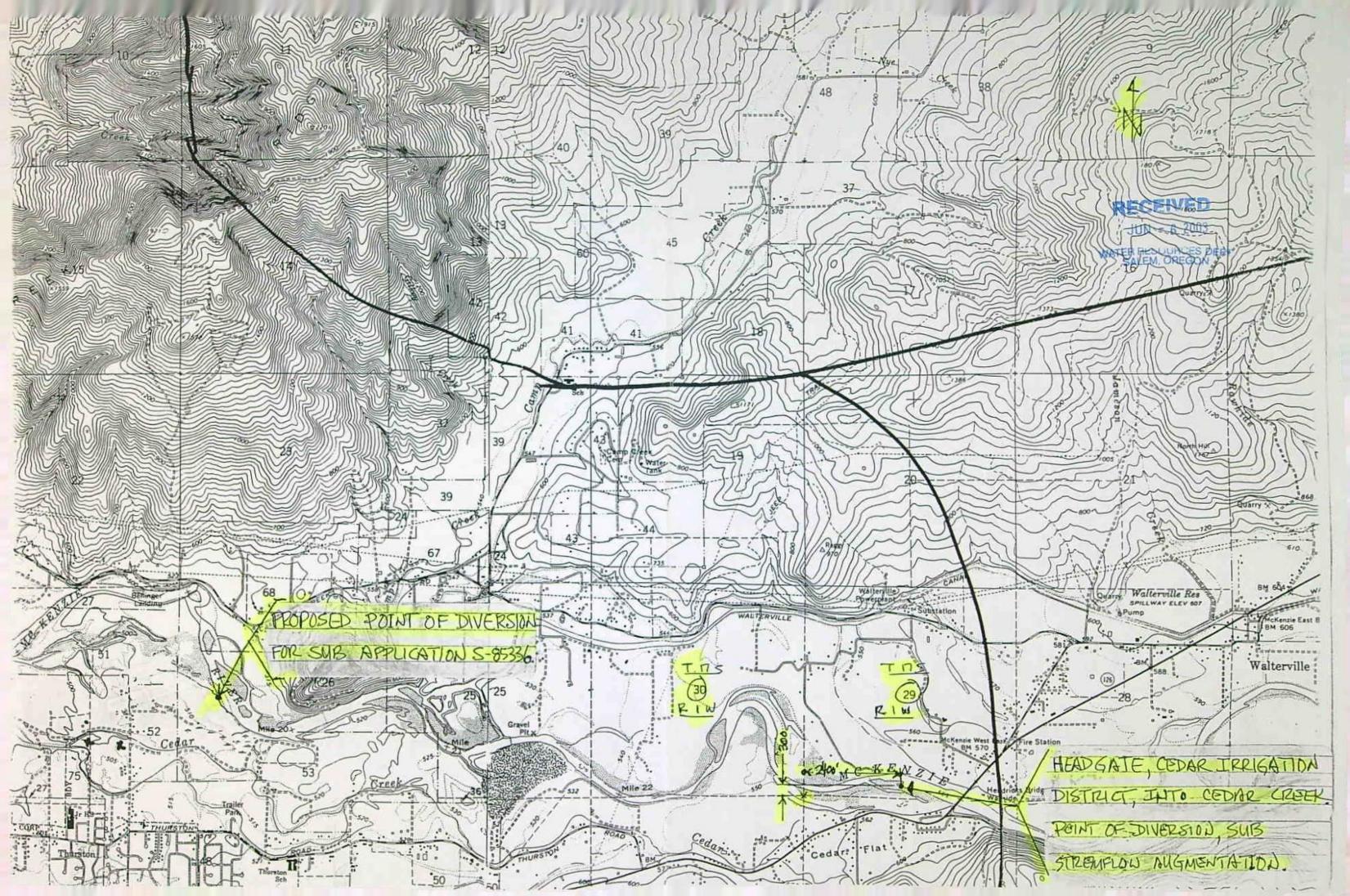
5. Thomas Buckhouse, Eugene Water & Electric Board, PO Box 10148, Eugene OR 97440-2148

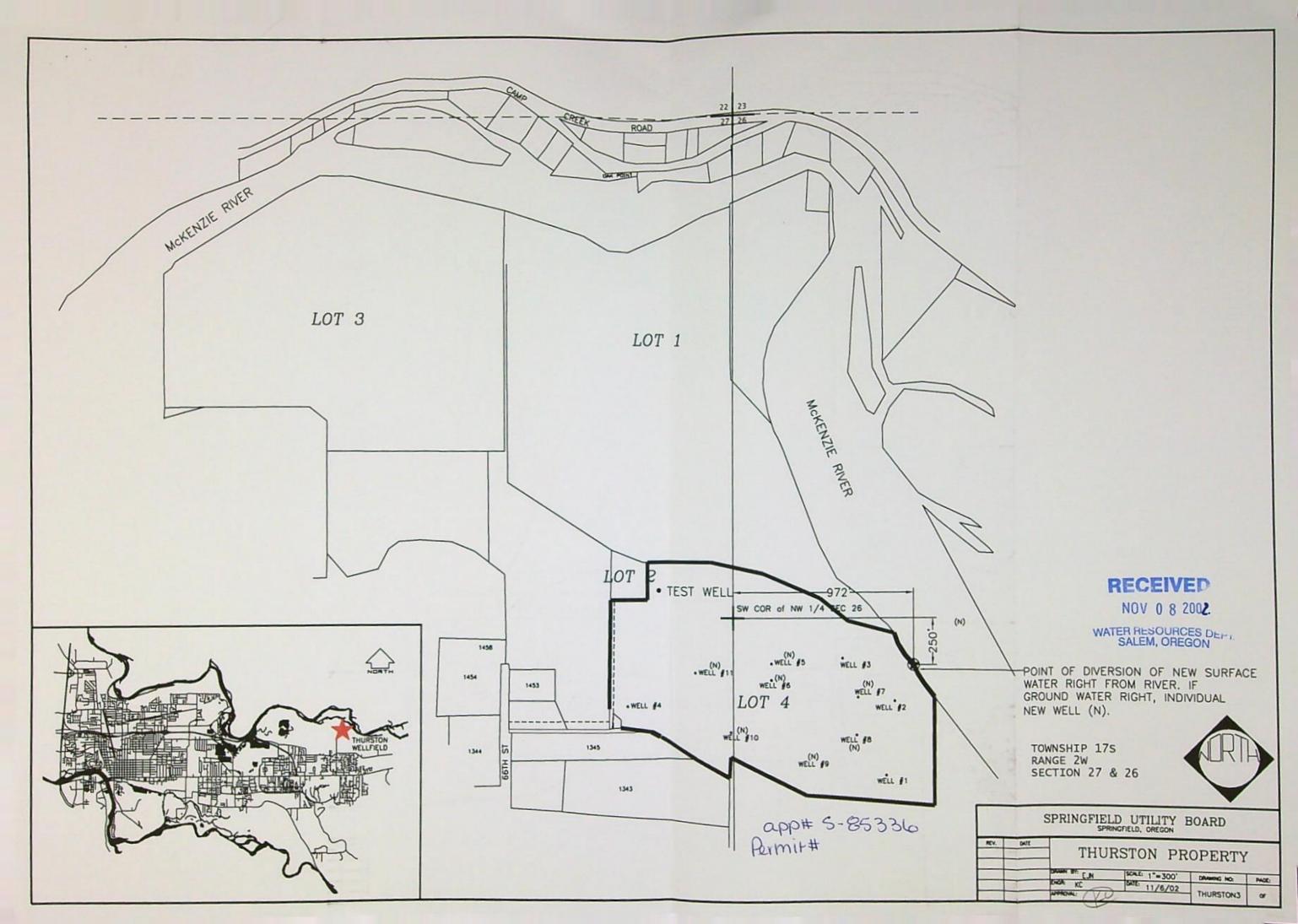
6. Greg D. Corbin, Stoel Rives LLP, 900 SW 5th Ave Ste 2600, Portland OR 97204

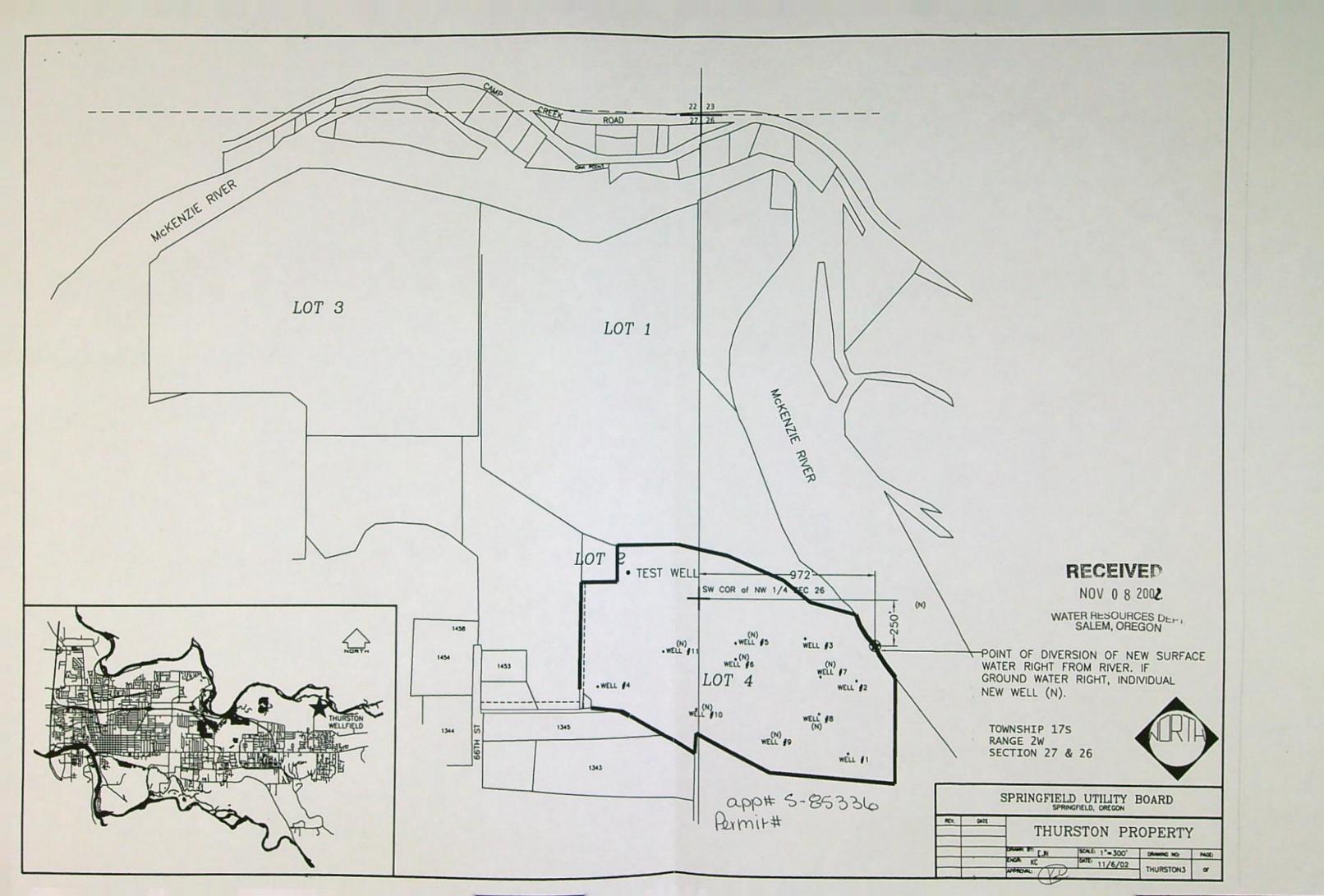
"\$10 LETTER" sent to Interested Persons who have not protested or paid for copies

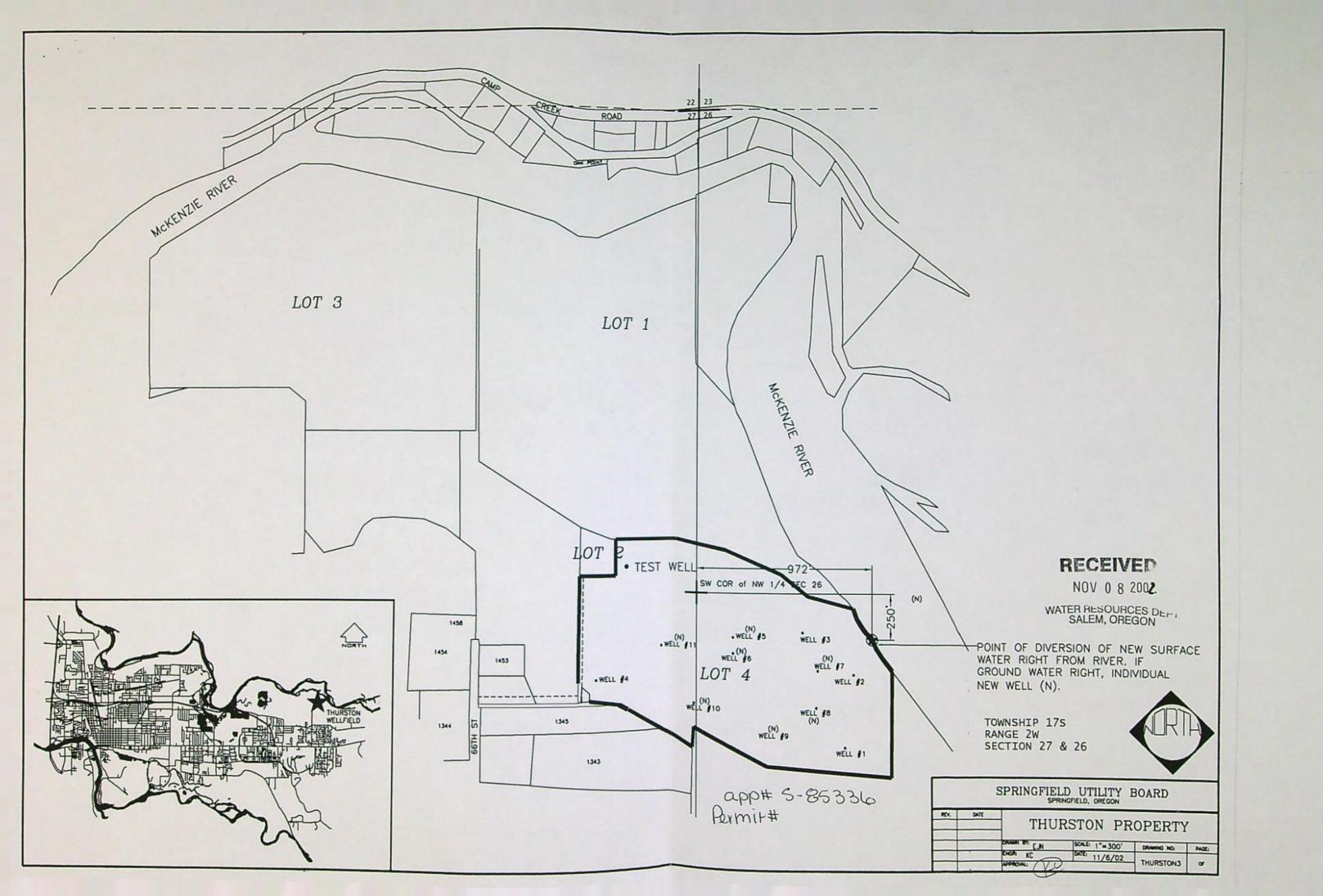
Eric Gossler, Cedar Creek Irrigation District, 1200 Weaver Rd, Springfield OR 97478-9691

CASEWORKER: engelcc WEEK 537









X-Security: MIME headers sanitized on kettle.wrd.state.or.us See http://www.impsec.org/email-tools/sanitizer-intro.html for details. \$Revision: 1.139 \$Date: 2003-09-07 10:14:23-07

Subject: RE: draft language for PFO for S-85336, Fish and Wildlife comments

Date: Thu, 3 Nov 2005 14:44:26 -0800

X-MS-Has-Attach:

X-MS-TNEF-Correlator: <FE53FA3C54DA46498AEEA98BB3C3A43901CD04DB@fwhqeb.odfw.int>

Thread-Topic: draft language for PFO for S-85336, Fish and Wildlife comments

Thread-Index: AcXgv/qYbBvgT5VgSgeoSGkYv8KzEwAB2trw

From: "Jeffrey Ziller" < Jeffrey.S.Ziller@state.or.us>
To: "ENGEL Cory C" < Cory.C.ENGEL@state.or.us>

Cc: "FRENCH Dwight W" < Dwight.W.FRENCH@state.or.us>,

"ARRERA Chuck" < ChuckA@subutil.com>, "Corbin, Greg" < GDCORBIN@stoel.com>,

"DAVIS Chuck" < ChuckD@subutil.com>

X-Spam-Checker-Version: SpamAssassin 2.63 (2004-01-11) on

kettle.wrd.state.or.us

X-Spam-Status: No, hits=-4.9 required=5.0 tests=BAYES_00 autolearn=ham version=2.63

X-Spam-Level:

Cory:

The language appears follow a clear logic path and is acceptable from my view. Thanks for the wordsmithing.

Jeff Ziller

District Fish Biologist

South Willamette Watershed District

Oregon Department of Fish and Wildlife

541-726-3515 x26

Jeffrey.S.Ziller@state.or.us

http://www.dfw.state.or.us/ODFWhtml/springfield/springfield.html

From: Cory Engel [mailto:Cory.C.ENGEL@state.or.us]

Sent: Thursday, November 03, 2005 1:47 PM

To: Jeffrey Ziller; DAVIS Chuck

Cc: FRENCH Dwight W; ARRERA Chuck; Corbin, Greg

Subject: RE: draft language for PFO for S-85336, Fish and Wildlife

X-Security: MIME headers sanitized on kettle.wrd.state.or.us See http://www.impsec.org/email-tools/sanitizer-intro.html for details. \$Revision: 1.139 \$Date: 2003-09-07 10:14:23-07

Subject: RE: draft language for PFO for S-85336, Fish and Wildlife comments

Date: Thu, 3 Nov 2005 15:12:34 -0800

X-MS-Has-Attach: X-MS-TNEF-Correlator:

Thread-Topic: draft language for PFO for S-85336, Fish and Wildlife comments Thread-Index: AcXgv/qYbBvgT5VgSgeoSGkYv8KzEwAB2trwAAEA0QA=

From: "DAVIS Chuck" < ChuckD@subutil.com>
To: "ENGEL Cory C" < Cory.C.ENGEL@state.or.us>

Cc: "FRENCH Dwight W" < Dwight.W.FRENCH@state.or.us>,

"ARRERA Chuck" < ChuckA@subutil.com>, "Corbin, Greg" < GDCORBIN@stoel.com>,

"Jeffrey Ziller" < Jeffrey.S.Ziller@state.or.us>

X-Spam-Checker-Version: SpamAssassin 2.63 (2004-01-11) on

kettle.wrd.state.or.us

X-Spam-Status: No, hits=-4.7 required=5.0 tests=BAYES_00,

HTML_FONTCOLOR_UNKNOWN,HTML_MESSAGE autoleam=no version=2.63

X-Spam-Level:

-->

Cory, thank you for the wordsmithing. You have captured the issue. Please proceed.

Charles Davis

Water Quality Manager

Springfield Utility Board

202 S. 18th St.

Springfield, OR 97477

Phone: (541) 726-2396

Fax: (541) 747-7348

From: Jeffrey Ziller [mailto:Jeffrey.S.Ziller@state.or.us] Sent: Thursday, November 03, 2005 2:44 PM

To: ENGEL Cory C

Cc: FRENCH Dwight W; ARRERA Chuck; Corbin, Greg; DAVIS Chuck

Subject: RE: draft language for PFO for S-85336, Fish and Wildlife comments

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The language appears follow a clear logic path and is acceptable from my view. Thanks

To: "Jeffrey Ziller" <Jeffrey.S.Ziller@state.or.us>, "DAVIS Chuck" <ChuckD@subutil.com>

From: Cory Engel <Cory.C.ENGEL@wrd.state.or.us>

Subject: RE: draft language for PFO for S-85336, Fish and Wildlife comments

Cc: "FRENCH Dwight W" < Dwight.W.FRENCH@state.or.us>, "ARRERA Chuck"

<ChuckA@subutil.com>, "Corbin, Greg" <GDCORBIN@stoel.com>

Bcc: f\Specific applications\SUB

Attached:

Jeff and Chuck,

It sounds like we're all on the same page here.

Jeff, your suggestion that there be two different sentences--one covering modification, the other covering rescission, of EWEB's FERC licence--is essentially what Chuck sent me last night. It was the second (rescission) part that confused me.

With the exception of the phrase "whichever is greater" at the end (which appears to be an appendage left over from the previous version of the condition), both Jeff and Chuck's revised language is identical, and much more clear to me.

So, to sum up, the PFO and draft permit will contain the following paragraph, exactly as it appears below:

While EWEB's license from Federal Energy Regulatory Energy Commission (FERC) requires EWEB to bypass 1,000 cfs of water past the Walterville Canal diversion, the permittee may divert water into Cedar Creek under this permit only when the flow in the McKenzie River, as measured at USGS gage 14163900, is greater than or equal to 1,000 cfs plus the actual rate of appropriation into Cedar Creek under this permit. In the event that EWEB's license from FERC is modified, the permittee may divert water under this permit only when flow in the McKenzie River, as measured at USGS gage 14163900, is greater than or equal to the FERC-required minimum bypass flow plus the actual rate of appropriation into Cedar Creek under this permit, or 1,400 cfs plus the actual rate of appropriation into Cedar Creek under this permit, whichever is greater. In the event that EWEB's license from FERC is rescinded, the permittee may divert water under this permit only when flow in the McKenzie River, as measured at USGS gage 14163900, is greater than or equal to 1,400 cfs plus the actual rate of appropriation under this permit.

Good news--we got this wrapped up fast enough that we will still be able to mail the PFOs on Tuesday, November 8, despite the combined efficiency of three government agencies.

If anyone has any further questions or concerns, please feel free to contact me. (But if you do, do it quickly because this is going to be prepared for mailing right away.)

Mr. Cory C. Engel

Water Right Application Caseworker Oregon Water Resources Department 725 Summer St NE Ste A Salem OR 97301-1271

Phone: 503-986-0813 Fax: 503-986-0901

http://www.wrd.state.or.us/

At 12:24 PM 11/3/2005, Jeffrey Ziller wrote:

Cory:

Perhaps having two lines that cover both a rescind order and a modification order would be appropriate. The modification statement might be as follows:

In the event that EWEB's license from FERC is modified, the permittee may divert water under this permit only when flow in the McKenzie River, as measured at USGS gage 14163900, is greater than or equal to EWEB's required minimum flow plus the actual rate of appropriation under this permit.

The rescind statement would be (I couldn't figure out the "whichever is greater" statement):

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I believe this would cover our concerns. Am I missing anything?

From: DAVIS Chuck [mailto:ChuckD@subutil.com]
Sent: Thursday, November 03, 2005 11:37 AM

To: ENGEL Cory C; Jeffrey Ziller

Cc: FRENCH Dwight W; ARRERA Chuck; Corbin, Greg

Subject: RE: draft language for PFO for S-85336, Fish and Wildlife comments

Dear Cory.

I am sincerely sorry for any problem my attempt for clarification has caused.

The intent of the added sentence you referred to in #2 below is that we address ODFW's 1400 cfs water right in the unlikely event that EWEB's FERC license is rescinded. This language was intended to clarify the draft language. Will the following change accomplish the clarification?

, whichever is greater.

Charles Davis

Water Quality Manager

Springfield Utility Board

202 S. 18th St.

Springfield, OR 97477

Phone: (541) 726-2396

Fax: (541) 747-7348

From: Cory Engel [mailto:Cory.C.ENGEL@wrd.state.or.us]

Sent: Thursday, November 03, 2005 10:46 AM

To: DAVIS Chuck; Jeffrey Ziller

Cc: Dwight.W.FRENCH@wrd.state.or.us

Subject: Re: draft language for PFO for S-85336, Fish and Wildlife comments

Chuck and Jeff,

This is in response to Chuck's e-mail of yesterday evening, in which he requested that we make modifications to ODFW's bypass flow condition. This request raises two sets of issues:

1. Administrative procedures.

These changes are substantive, and will therefore require Jeff Ziller's concurrence prior to implementation.

I've removed the Proposed Final Orders for these applications from the "PFO issuance machine" wherein administrative tasks occur such as signature, data entry, copying, envelope stuffing, and mailing. Because "the machine" runs on a weekly cycle, this will delay issuance of the PFOs until November 15, or a later Tuesday depending on when the condition is finalized.

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The new sentence at the end of the condition doesn't make sense to me. Paraphrased, it says "if EWEB's FERC license goes away, then SUB's bypass flow is the FERC license bypass flow plus up to 40 cfs, or 1400 cfs." How could there be a bypass flow of "FERC plus 40" if there is no FERC bypass flow (which would be the case if EWEB's FERC license is rescinded? By referring to the FERC license, is the intent to refer to the rate of the FERC bypass immediately prior to its rescission? If so, I think we should craft more concise language. Please clarify the intent of this sentence.

Thank you.

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Water Right Application Caseworker
Oregon Water Resources Department
725 Summer St NE Ste A
Salem OR 97301-1271
Phone: 503-986-0813
Fax: 503-986-0901
http://www.wrd.state.or.us/

At 06:29 PM 11/2/2005, you wrote:

Dear Cory,

Greg Corbin forwarded the draft for this application that you are working on for us. I would like to offer some clarifying language to paragraph three. Jeff Ziller and I discussed this today and it is my intent to clarify that the minimum flows of 1000 cfs at (USGS) gage 14163900 near Walterville are related to the Cedar Creek 4.1 cfs diversion portion of our application. I suggest that the language be modified to read as follows (the inserted language is bold, underlined, and italics):

While Eugene Water and Electric Board's (EWEB) license from Federal Energy Regulatory Energy Commission (FERC) requires EWEB to bypass 1,000 cfs of water past the Walterville Canal diversion, the permittee may divert water into Cedar Creek under this permit only when the flow in the McKenzie River, as measured at U.S. Geological Survey (USGS) gage 14163900, is greater than or equal to 1,000 cfs plus the actual rate of appropriation into Cedar Creek under this permit. In the event that EWEB's license from FERC is modified (delete - "or rescinded"), the permittee may divert water under this permit only when flow in the McKenzie River, as measured at USGS gage 14163900, is greater than or equal to the FERC-required minimum bypass flow plus the actual rate of appropriation into Cedar Creek under this permit, or 1,400 cfs plus the actual rate of appropriation under this permit, whichever is greater. In the event that EWEB's license from FERC is rescinded, the permittee may divert water under this permit only when flow in the McKenzie River, as measured at USGS gage 14163900, is greater than or equal to the FERC-required minimum bypass flow plus the actual rate of appropriation for both diversions under this permit, or 1,400 cfs plus the actual rate of appropriation under this permit, whichever is greater.

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approximately 1000 cfs plus our Cedar Creek diversion, while the dam remains, between the Cedar Creek diversion and where the Walterville tailrace flow returns to the river one mile upstream from SUB's Thurston Wellfield .

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Cory Engel

Water Right Application Caseworker

503-986-0813

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Subject: RE: draft language for PFO for S-85336, Fish and Wildlife comments

Date: Thu, 3 Nov 2005 12:24:58 -0800

X-MS-Has-Attach: X-MS-TNEF-Correlator:

Thread-Topic: draft language for PFO for S-85336, Fish and Wildlife comments Thread-Index: AcXgptAwphcoZVzoQWehQno3l80dfqABVSTQAAGK8rA=

From: "Jeffrey Ziller" < Jeffrey.S.Ziller@state.or.us>
To: "DAVIS Chuck" < ChuckD@subutil.com>,
"ENGEL Cory C" < Cory.C.ENGEL@state.or.us>

Cc: "FRENCH Dwight W" < Dwight.W.FRENCH@state.or.us>.

"ARRERA Chuck" < ChuckA@subutil.com>, "Corbin, Greg" < GDCORBIN@stoel.com>

X-Spam-Checker-Version: SpamAssassin 2.63 (2004-01-11) on

kettle.wrd.state.or.us

X-Spam-Status: No, hits=-4.6 required=5.0 tests=BAYES_00,HTML_50_60, HTML_FONTCOLOR_UNKNOWN,HTML_MESSAGE autolearn=no version=2.63 X-Spam-Level:

-->

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Water Quality Manager

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Sent: Thursday, November 03, 2005 10:46 AM

To: DAVIS Chuck; Jeffrey Ziller

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Subject: Re: draft language for PFO for S-85336, Fish and Wildlife comments

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Water Right Application Caseworker
Oregon Water Resources Department
725 Summer St NE Ste A
Salem OR 97301-1271
Phone: 503-986-0813
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http://www.wrd.state.or.us/

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From: "DAVIS Chuck" < ChuckD@subutil.com>
To: "Cory Engel" < Cory.C.ENGEL@wrd.state.or.us>,
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Cc: <Dwight.W.FRENCH@wrd.state.or.us>, "ARRERA Chuck" <ChuckA@subutil.com>,

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While Eugene Water and Electric Board's (EWEB) license from Federal Energy Regulatory Energy Commission (FERC) requires EWEB to bypass 1,000 cfs of water past the Walterville Canal diversion, the permittee may divert water into Cedar Creek under this permit only when the flow in the McKenzie River, as measured at U.S. Geological Survey (USGS) gage 14163900, is greater than or equal to 1,000 cfs plus the actual rate of appropriation into Cedar Creek under this permit. In the event that EWEB's license from FERC is modified (delete - "or rescinded"), the permittee may divert water under this permit only when flow in the McKenzie River, as measured at USGS gage 14163900, is greater than or equal to the FERC-required minimum bypass flow plus the actual rate of appropriation into Cedar Creek under this permit, or 1,400 cfs plus the actual rate of appropriation under this permit, whichever is greater. In the event that EWEB's license from FERC is rescinded, the permittee may divert water under this permit only when flow in the McKenzie River, as measured at USGS gage 14163900, is greater than or equal to the FERC-required minimum bypass flow plus the actual rate of appropriation for both diversions under this permit, or 1,400 cfs plus the actual rate of appropriation under this permit, whichever is greater.

I believe the proposed changes capture that ODF wants their 1400 cfs instream right through this section of the river if the Walterville Dam goes away and that there is approximately 1000 cfs plus our Cedar Creek diversion, while the dam remains, between the Cedar Creek diversion and where the Walterville tailrace flow returns to the river one mile upstream from SUB's Thurston Wellfield .

Charles Davis

Water Quality Manager

Springfield Utility Board

202 S. 18th St.

Springfield, OR 97477

Phone: (541) 726-2396

Fax: (541) 747-7348

To: "DAVIS Chuck" <ChuckD@subutil.com>, "Jeffrey Ziller"

<Jeffrey.S.Ziller@state.or.us>

From: Cory Engel <Cory.C.ENGEL@wrd.state.or.us>

Subject: Re: draft language for PFO for S-85336, Fish and Wildlife comments

Cc: Dwight French

Bcc: f\Specific applications\SUB

Attached:

Chuck and Jeff,

This is in response to Chuck's e-mail of yesterday evening, in which he requested that we make modifications to ODFW's bypass flow condition. This request raises two sets of issues:

1. Administrative procedures.

These changes are substantive, and will therefore require Jeff Ziller's concurrence prior to implementation.

I've removed the Proposed Final Orders for these applications from the "PFO issuance machine" wherein administrative tasks occur such as signature, data entry, copying, envelope stuffing, and mailing. Because "the machine" runs on a weekly cycle, this will delay issuance of the PFOs until November 15, or a later Tuesday depending on when the condition is finalized.

To ensure that they are issued no later than November 15, the condition language must be finalized no later than Tuesday, November 8. My hope is that we can meet that date.

2. Condition language.

The new sentence at the end of the condition doesn't make sense to me. Paraphrased, it says "if EWEB's FERC license goes away, then SUB's bypass flow is the FERC license bypass flow plus up to 40 cfs, or 1400 cfs." How could there be a bypass flow of "FERC plus 40" if there is no FERC bypass flow (which would be the case if EWEB's FERC license is rescinded? By referring to the FERC license, is the intent to refer to the rate of the FERC bypass immediately prior to its rescission? If so, I think we should craft more concise language. Please clarify the intent of this sentence.

Thank you.

Mr. Cory C. Engel Water Right Application Caseworker Oregon Water Resources Department 725 Summer St NE Ste A Salem OR 97301-1271 Phone: 503-986-0813

Fax: 503-986-0901

http://www.wrd.state.or.us/

At 06:29 PM 11/2/2005, you wrote:

Dear Cory,

Greg Corbin forwarded the draft for this application that you are working on for us. I would like to offer some clarifying language to paragraph three. Jeff Ziller and I discussed this today and it is my intent to clarify that the minimum flows of 1000 cfs at (USGS) gage 14163900 near Walterville are related to the Cedar Creek 4.1 cfs diversion portion of our application. I suggest that the language be modified to read as follows (the inserted language is bold, underlined, and italics):

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I believe the proposed changes capture that ODF wants their 1400 cfs instream right through this section of the river if the Walterville Dam goes away and that there is approximately 1000 cfs plus our Cedar Creek diversion, while the dam remains, between the Cedar Creek diversion and where the Walterville tailrace flow returns to the river one mile upstream from SUB's Thurston Wellfield .

Charles Davis

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Phone: (541) 726-2396

Fax: (541) 747-7348

X-Security: MIME headers sanitized on kettle.wrd.state.or.us See http://www.impsec.org/email-tools/sanitizer-intro.html for details. \$Revision: 1.139 \$Date: 2003-09-07 10:14:23-07

Subject: draft language for PFO for S-85336, Fish and Wildlife comments

Date: Wed, 2 Nov 2005 18:29:19 -0800

X-MS-Has-Attach: X-MS-TNEF-Correlator:

Thread-Topic: draft language for PFO for S-85336, Fish and Wildlife comments

Thread-Index: AcXgHmTPXdw9gig7Qwm92nDrFnG5WA==

From: "DAVIS Chuck" < ChuckD@subutil.com>

To: <Cory.C.ENGEL@wrd.state.or.us>

Cc: "Corbin, Greg" <GDCORBIN@stoel.com>, "ARRERA Chuck" <ChuckA@subutil.com>,

<Jeffrey.S.Ziller@state.or.us>

X-Spam-Checker-Version: SpamAssassin 2.63 (2004-01-11) on

kettle.wrd.state.or.us

X-Spam-Status: No, hits=-0.7 required=5.0 tests=BAYES 10,HTML 60 70,

HTML MESSAGE autoleam=no version=2.63

X-Spam-Level:

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Charles Davis

Water Quality Manager

Springfield Utility Board

202 S. 18th St.

Springfield, OR 97477

Phone: (541) 726-2396

Fax: (541) 747-7348



ROGER GOSSLER ERIC GOSSLER MARJORY GOSSLER

SPECIALIZING IN MAGNOLIAS AND COMPANION PLANTS

PHONE (541) 746-3922 • FAX (541) 744-7924

March 31, 2005

Oregon Water Resources Department 725 Summer Street NE, Suite A Salem, OR 97301

RE: Cedar Creek Water rights application

As a representative for the Cedar Creek Irrigation District, I am writing to you in support of the application for 4.1 CFS from the McKenzie River. This will aid in maintaining the creek for all parties involved. This is an important waterway and this application will help insure its long-term survival. The creek contains roughly 8 miles of riparian habitat, supporting many species of wildlife. Therefore this application is critical to assist in maintaining flows year round.

The irrigation district is also looking forward to partnering with Springfield Utility Board in the operation of Cedar Creek. We feel this will help increase community awareness on the importance of this waterway.

If you need to contact me, I would be open to discuss any of the issues surrounding the creek.

Sineerely,

Eric Gossler

Cedar Creek Irrigation District

(541)746-3922

RECEIVED

APR 0 5 2005 WATER RESOURCES DEPT. SALEM, OREGON



WATER SERVICE CENTER 202 South 18th Street Springfield, OR 97477-5240 Tel 541.726.2396 Fax 541.747.7348 www.subutil.com

October 25, 2005

Mr. Cory Engel Water Right Application Caseworker Oregon Water Resources Department 725 Summer Street NE, Suite A Salem, OR 97301-0900

RE: Application File G-15242

Dear Mr. Engel:

Thank you for your phone call regarding the 16th and Q Street Well application G-15242. SUB hereby requests that the Department extend the administrative hold period for this application for six months to allow sufficient time to resolve the pending applications for S-85336, G-15241, G-15243 and G-15244. Our approach to the 16th and Q Street Well will be dependant on final action by the Department on these applications.

If we are successful with these four applications, please consider this letter, as notification of SUB's intent to withdraw our Application G-15242 for the 16th and Q Well site. Effective date of the withdrawal will be the issue date of the new permits.

Please call me at (541) 726-2396 if you have any questions.

Sincerely,

Charles C. Arrera P.E.

Director of Water Engineering and Operations

CA: cjc

cc: Greg Corbin, Stoel Rives, LLP, 900 SW Fifth Avenue, Suite 2600,

Portland, OR 97204

ela-

RECEIVED

OCT 2 6 2005

PFO CHECKLIST

| Application #: S | -85336 Applicant: SPR | NGFIELD UTILITY B | OARD PFO week: 536 | |
|------------------|------------------------------|--------------------------|--|------------------|
| Shortcoming | s preventing PFO? Y / 🔕 | Should process contin | nue? (Y) / N | APPLEAT |
| IR Date | 16/03 Public No | otice Date 5/20/2 | Comments received? | N ENGS |
| | | | so, do we now have enough info to do the | |
| Was the appli | cation filed after 10/23/99? | Y / O(If not, add A | A date requirement) | |
| B.O.R. or Do | oug Co. project Y / OCo | ntract in file? N contra | act# | |
| ✓ IR identifies | as DEQ 303d? Y / NA | Comments received? | Y / N | |
| Is second gw | review necessary? Y / N / | Complete? Y / | N | |
| Water Avail | ability OR/ REDONE / N | A g/n | | |
| Have conflict | ts been addressed? Y / N/ | <u>NA</u> | | |
| Changes from | n IR determinations | | | |
| 41 | 11111 | 7-01- | TO 35.9/4.1 + FL/WE | |
| | STATE OF STATE | SHARON | | |
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| \$10 | THOMAS BUCK HOUS | 5, WUSB, POP | 10148, EUGENE OR974 | 440-2148 |
| - | | | | |
| Fees | Base Fee | Water Amount (| 0) | |
| | \$100 / \$150 | 1st CFS/AF | _120 | |
| | \$250 \$300 | 39 Addl @ | \$75 + 2925 | |
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| | (base) + | | $\frac{3025}{(Q)} =$ | (total exam fee) |
| | | | | |
| EXAM | FEE REQUIRED | 3325 | RECORDING FEE REQUIRED | \$175 / \$250 |
| EXAM | FEE PAID | 3325 | RECORDING FEE PAID | |
| STILL | OWED . | 0 | STILL OWED | 250 |
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| Name: Cory Eng | el Date: _10/19/2005 | n n | eviewer: | |

The purpose of this checklist is to be used as a working document by Department staff to aid in the production of the related Initial Review, Proposed Final Order, or Final Order. It is not intended to be a complete record of all factors which were considered to produce the document, nor is it intended to serve any purpose other than that stated above. The related Initial Review, Proposed Final Order, or Final Order is intended to stand alone as the record of factors considered in its production.

Peer Reviewer: __

IR CHECKLIST

Application # S-85336

| Diversi | ion Info: County: Lane Basin: 2 WID#: 528 Township 17 South, Range 2 West, Section 26 NW ¹ / ₄ SW ¹ / ₄ |
|----------------|--|
| √ 5. | Prohibited by ORS 538? Y OIf so, do not do an IR; return app & fees to applicant. |
| V (No. | Groundwater Reviewa. PSI A B C D River/Stream Nameb. Groundwater Availability A B Cc. Is the well located in a GWLA or CGWA or T1N R3E Sec 20, 21, 28, 29 ? Y / N (If in an area include map showing POD) |
| 1 20. | Are there conflicting rights? Y NA MU. |
| (1 30.) | Allowed under Basin Program T/N Limitations? T/N Spreamer Allowed under Basin Program T/N Limitations Allowed Under Basin Pr |
| 1 40. | Withdrawn? Y / Season allowed |
| <u></u> | SWW Y / Oif Y notify state parks) |
| ₹60. | Surface Water Availability (1996) we flow / 50% storage) NAO\C |
| V79. | DIVISION 35 Y) / N / NA Above Bonn Y / N (7/17/92) Below Bonz O / N (4/8/94) Statewid Y N (6/3/94) map date |
| ∠80. | Rate/Duty/Season Requested 40 CFS 4/12 Allowable OK W (PANTAGON'S CONSESSIONES) |
| <u></u> | B.O.R. or Doug Co. project Y / Ocontract # |
| √ 100. | M&R Condition $S(\le 0.1 \le 9.2)$, $M(\ge 0.1 \text{ or } \le 1.5 \text{ CFS}, \text{ or } \ge 9.2 \text{ or } \le 100 \text{AF})$ L(2) $1.5 \ge 100$) If the use is Municipal or involves temperature control (such as Nursery Use) use Large condition. |
| | Land use approval OK'd needs approval county notified NA |
| √ 120. | Watermaster Dist: (126 18 20 - WR) (3 4 5 21 - NCR) (6 8 9 10 - ER) (11 12 17 - SCR) (13 14 15 19 - SWR) |
| 130. | DOA 1010 (4d) N 303D Y / O IN GEOGRAPHIC UMATILLA Y / N (cc: DEQ Regional, Manager) IN GEOGRAPHIC UMATILLA Y / N (cc: DOA Food Safety Division) |
| _140. | Is the use located within Oregon Streamflow Restoration Area? Y / NA |
| <u>√</u> 150. | Letter format = Bad==Bad w/ IRshort==Bad w/ HC Opportunity |
| (16). | Conditions necessary 555 PARROW'S 5-MATL |
| <u></u> | CWRE, representative, etc. to notify N 006W: Jeff 25UM |
| | DEQ: Jan Brangmo |
| - | DUA: PINC MERGECES |
| | 949 |
| | |

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Name: Cory Engel

Date: May 7, 2003

PFO CHECKLIST

| <u></u> | IR Date: 5/16/03 | Public Notice Date | 5/20/63 Com | ments Received (V)N (DC) | 33 ond) |
|--------------------------|------------------|--|-----------------------|----------------------------------|-------------|
| _ / 2. | | | | we now have enough info to do | - street |
| √ 3. | | | | (If so, add A date requirement.) | |
| ∠ 4. | Changes from IR: | DEV 32 con | DOTES PE | r Burer (DFG) a Zd | en (ODAN) |
| | | THICKNI & AFT | END METER SPEC | excersions (BC7)(\$ | ter) |
| / | 1 - 1 | error terroration | CHARLES TO | | |
| <u>V</u> 5. | Copy to: | | | | |
| | | | | | |
| <u>/</u> 6. | Fees: | Base Fee: Water Am | nount | | |
| | | \$100 or 1st CFS/A \$250 39 Addl @ | AF: 150 25: + 2925 | | |
| | | | 3075/ | = 3325 | |
| | | | | | |
| | EVAM | FEE REQUIRED: | 3375 | RECORDING FEE REQUI | RED: \$475- |
| | | FEE PAID: | 75325 | RECORDING FEE PAID: | 0 |
| | | OWED: | 0 | STILL OWED: | (250) |
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Name: Cory Engel

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Date: 6/24

From: "Doug Parrow" <Douglas.M.Parrow@state.or.us>
To: "Cory Engel" <Cory.C.ENGEL@wrd.state.or.us>
Subject: Springfield Utility Board App #85336

Date: Fri, 5 Sep 2003 10:57:34 -0700

X-Mailer: Microsoft Outlook IMO, Build 9.0.6604 (9.0.2911.0)

Importance: Normal

Cory,

I've reviewed the additional information provided by SUB to support the quantity of water requested in their application. The demand projections provided extent to 2070. In previous cases, we have identified 50 years as a reasonable planning horizon upon which to base applications for municipal permits.

The information indicates that a municipal water supplier's maximum allowable rate of diversion should be somewhere between their peak day demand and their peak hour demand. SUB uses a factor of 1.8 to convert peak day to peak hour demand—and then uses peak hour demand to demonstrate the need for water (not a figure between peak day and peak hour). SUB also appears to use historic per capita consumption to calculate future demands, an approach that doesn't address conservation alternatives particulary well.

That notwithstanding, based on the information provided I think an appropriation of 37 to 40 cfs is reasonable. Using the 2053 maximum daily demand projection (Table 2) and applying a peak day to peak hour factor of 1.5 yields a need for that quantity of water. While use of the requested quantity of water is reasonable over a 50-year timeframe, SUB does not currently have sufficient demand to justify the diversion of that quantity of water. Thus, I continue to recommend the following condition:

• The permittee shall not divert or pump more than 450 million gallons of water during any month under this permit, in combination with any other water right held by the permittee, prior to Department authorization of the diversion of more water through approval of an updated water management and conservation plan.

Doug

* Doug Parrow Douglas.M.PARROW@state.or.us *
* Field Services Division Voice: 503-378-8455, ext. 235 *
* Water Resources Department FAX: 503-378-8130 *
* 158 12th St NE *
* Salem, OR 97301-4172 http://www.wrd.state.or.us *

X-Sender: engelcc@mailhub.wrd.state.or.us

X-Mailer: QUALCOMM Windows Eudora Version 5.2.1

Date: Fri, 27 Jun 2003 09:15:23 -0700

To: Douglas.M.PARROW@wrd.state.or.us, Dwight.W.FRENCH@wrd.state.or.us,

Adam.P.SUSSMAN@wrd.state.or.us

From: Cory Engel <Cory.C.ENGEL@wrd.state.or.us>

Subject: UPDATE: Springfield Utility Board - 85336

Cc: Cory.C.ENGEL@wrd.state.or.us

Per our previous discussions, earlier this month, I sent a letter to Ken Cerotsky at SUB to inform him that unless they can provide more information to document the need for 40 cfs, we're likely to limit their application to 9.35 cfs.

I got a call from him the other day. He said that, where the application indicates that it is intended to satisfy municipal needs until "2017+", that was intended to mean "some year after 2017", rather than "2017", thus the high rate. He will be sending information to document exactly how long this rate is intended to last them, with new population/need projections.

Doug, I expect I'll be running this by you again after the new information comes in.

Cory Engel Water Right Specialist 503-378-8455 x324 From: "Doug Parrow" <Douglas.M.PARROW@state.or.us>
To: "Cory Engel" <Cory.C.ENGEL@wrd.state.or.us>
Subject: RE: Springfield Utility Board, S-85336
Date: Wed, 7 May 2003 14:10:11 -0700
X-Mailer: Microsoft Outlook IMO, Build 9.0.6604 (9.0.2911.0)
Importance: Normal

Cory,

The Springfield Utility Board has an approved water management and conservation plan. An update of the plan is required by June 20, 2005.

The form M indicates that SUB expects the requested permit to satisfy demands until 2017. However, the plan indicates that, with the existing water rights, the 2017 deficit would be 6.04 mgd (9.35 cfs)--far less than the 37 cfs dedicated to municipal use under the application. Additionally, the demand forcasts in the plan include those of the Rainbow Water District which has also recently applied for new permits. While the plan does not identify the McKenzie River diversions as a preferred supply option, the plan does identify the need for additional supply.

I do not recommend a condition requiring a water management and conservation plan. However, I do recommend a condition such as the following:

·The permittee shall not divert or pump more than 450 million gallons of water during any month under this permit, in combination with any other water right held by the permittee, prior to Department authorization of the diversion of more water through approval of an updated water management and conservation plan.

The 450 million gallons is based on the form M peak season demand with a 17 percent increase described in the plan as needed by 2017.

Doug

```
> ----Original Message----
> From: Cory Engel [mailto:Cory.C.ENGEL@wrd.state.or.us]
> Sent: Wednesday, May 07, 2003 9:24 AM
> To: Douglas.M.PARROW@wrd.state.or.us
> Cc: Cory.C.ENGEL@wrd.state.or.us
> Subject: Springfield Utility Board, S-85336
>
> Doug,
>
> I put a copy of this application in (what I think is) your "in"
> box in your
> office. It needs to be looked at for a determination of whether
> modification to their existing management/conservation plan are
> necessary,
> and whether the 37 CFS of the application dedicated to municipal use is
```

X-Sender: engelcc@mailhub.wrd.state.or.us

X-Mailer: QUALCOMM Windows Eudora Version 5.2.1

Date: Wed, 07 May 2003 09:23:31 -0700 To: Douglas.M.PARROW@wrd.state.or.us

From: Cory Engel <Cory.C.ENGEL@wrd.state.or.us> Subject: Springfield Utility Board, S-85336

Cc: Cory.C.ENGEL@wrd.state.or.us

Doug,

I put a copy of this application in (what I think is) your "in" box in your office. It needs to be looked at for a determination of whether modification to their existing management/conservation plan are necessary, and whether the 37 CFS of the application dedicated to municipal use is reasonable. (An additional 3 CFS are intended to serve as mitigation for a group of groundwater applications for uses which would have PFSI.)

Sometime in the intermediate future (probably next month), Marc Norton will be doing some additional work involving SUB- and EWEB-related files, presumably including making a determination as to whether the 3-CFS portion of S-85336 will be adequate to mitigate for the impacts of SUB's groundwater applications.

I hope to proceed with an IR of S-85336 within the next couple of weeks, so that all of SUB's applications are at the same level of processing.

Thanks.

Cory Engel Water Right Specialist 503-378-8455 x324

WATER RESOURCES DEPARTMENT

DIVISION 502

WILLAMETTE BASIN PROGRAM

690-502-0080

McKenzie River Subbasin

The McKenzie River Subbasin includes the McKenzie River and tributaries above confluence with the Willamette River:

- (1) Surface water classification:
 - (e) Except as specified in subsection (a) of this section, the McKenzie River main stem down-stream from Paradise Campground near river mile 73 (Sec 9, T16S, R6E) is classified only for domestic, livestock, municipal, industrial, agricultural, commercial, power, mining, fish life, wildlife, recreation, pollution abatement, wetland enhancement, off-channel power development in conjunction with storage and public instream uses;

690-502-0010

Definitions

- (15) "Municipal Use" means the delivery and use of water through the water service system of an incorporated municipality or a nonprofit corporation and includes quasi-municipal uses as defined in OAR 690-011.
- (18) "Public Instream Use" means the public use of water where there is no diversion or other means of physical control over the water. Public instream uses include, but are not limited to, recreation, conservation, maintenance and enhancement of aquatic and fish life, wildlife, fish and wildlife habitat, wetlands other than those referred to in section (21) of this rule and any other ecological values, pollution abatement or navigation.

X-Sender: frenchdw@mailhub.wrd.state.or.us

X-Mailer: QUALCOMM Windows Eudora Version 5.2.0.9

Date: Thu, 29 May 2003 16:19:09 -0700

To: Cory Engel <Cory.C.ENGEL@wrd.state.or.us>

From: Dwight W French < Dwight.W.FRENCH@wrd.state.or.us>

Subject: Re: SUB sw mitigation for gw

X-Security: MIME headers sanitized on funnel

See http://www.impsec.org/email-tools/sanitizer-intro.html for details. SRevision: 1.133 SDate: 2002-01-05 17:09:21-08

I agree with you that some investigation of the ...170(8) is appropriate. We may or may not choose to go this route however but the background on this will be helpful no matter what.

Dwight

At 03:22 PM 5/29/2003, you wrote: Dwight,

I checked the application and confirmed that I did originally consult Parrow on this application and incorporated his suggested conditioning; I just forgot. (How unlike me.)

I went ahead and got his opinion on the question of whether the proposed mitigation is "municipal use", and whether SUB's ownership of the Cedar Creek headgate has a bearing on that.

He said that he did not like the idea of calling this municipal use. The definition says municipal use is "the delivery and use of water through the water service system of an incorporated municipality". Doug found relevance in the fact that the definition says "the water service system" as opposed to "a water service system". He says that the singular reference strongly suggests that it refers to the one water service system, or at least the primary water service system of the municipality; therefore, the intent of the rule only deals with a municipality's potable water delivery system, and that it excludes uses such as this one.

I think his reasoning is sound, and would add that I think the word "service" in the definition is relevant. The placement of this word is easily understood in the context of a municipality's potable water system, which is used to provide water "service" to individual customers. I think we would be hard-pressed to say that the "water system" that SUB proposes to use is in fact a "water service system", even if they own the diversion works, because water is not being "served" to anyone.

He preferred the ORS 537.170(8) route. I agree, and I think we can examine the application under those criteria, but until I do that review, I'm not prepared to say I think it would be in the public interest to issue a permit.

What do you think about all this?

Cory Engel

Sections

| TOWNSHIP | TWP_CHAR | RANGE | RNG_CHAR | SECTION | LINK1 |
|----------|----------|-------|----------|---------|-----------|
| 17 | S | 2 | W | 26 | Well Logs |

Records Found: 1

County

COUNTY FIPS Lane 41039

Records Found: 1

Basins

BASIN_NUM BASIN_NAME Willamette

Records Found: 1

WaterMaster Districts

| WATERDIST | REGION | ACRES | | | | | | PHONE |
|-----------|--------|---------|------|--------------|---|-------------|-------|-------------|
| 2 | NW | 4068592 | 6357 | Mike Mattick | Central Lane Justice Court, 220 North Fifth | Springfield | 97477 | 541-687-362 |

Records Found: 1

WAB

| BASIN | WID | LINK1 | LINK2 |
|-------|-----|-----------------------------|--------------------------|
| 2 | 528 | Water Availability: 50% 80% | Flood Frequency Analysis |

Records Found: 1

Groundwater Restricted Records Found: 0

Divison 33 Area

DIV33 In a Div33 area

Records Found: 1

Rule 4D

RULE4D In a Rule4D Area

Records Found: 1

Place of Use (Willamette)

| APPLICATIO | CERTIFICAT | PERMIT | PRIORITY | CERT_PERM | USE | PERMIT_CHA | CATEGORY | P_A_S_ | STATUS | CERT_NU |
|------------|------------|---------|----------|---------------|-----|------------|----------|--------|--------|---------|
| S 45647 | 45769 | S 33411 | 19681213 | 45769 S 33411 | IR | S | 3 | P | V | 45769 |

Records Found: 1

NO 3030

Date: 05/07/2003



Water Availability for WID 528

WATER AVAILABILITY TABLE

Water Availability as of 5/ 7/2003 for MCKENZIE R > WILLAMETTE R - AB-HOUTH I-5 BRIDGE

Watershed ID #: 528 Basin: WILLAMETTE Exceedance Level: 80

Time: 15:18 Select an Item Number for More Details

| Item # | Watershed ID # | Jan | Feb | Mar | Apr | May | Jun | Jul | Aug | Sep | Oct | Nov | Dec | Sto |
|--------|----------------|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|
| | | | | | | | | | | | | | | |
| 1 | 181 | YES |
| 2 | 182 | YES |
| 3 | 183 | YES |
| 4 | 30200321 | YES |
| 5 | 528 | YES |

STREAM NAMES

Water Availability as of 5/ 7/2003 for MCKENZIE R > WILLAMETTE R - AB MOUTH

| Time: | | 528 | oge. | | Basin: WI | | | | E Exceedance Level: 80 Date: 05/07/2003 |
|--------|-------------|-------------|------|---|-----------|---|---|----|---|
| Item W | atershed ID | Stream Name | | | | | | | |
| 1 | 181 | WILLAMETTE | R | > | COLUMBIA | R | - | AT | MOUTH |
| 2 | 182 | WILLAMETTE | R | > | COLUMBIA | R | - | AB | MOLALLA R |
| 3 | 183 | WILLAMETTE | R | > | COLUMBIA | R | - | AB | MILL CR AT GAGE 14191000 |
| 4 | 30200321 | WILLAMETTE | R | > | COLUMBIA | R | - | AB | PERIWINKLE CR AT GAGE 14174 |
| 5 | 528 | MCKENZIE R | > | W | ILLAMETTE | R | - | AB | MOUTH |
| | | | | | | | | | |

LIMITING WATERSHEDS Water Availability as of 5/ 7/2003 for MCKENZIE R > WILLAMETTE R - AB MOUTH

Watershed ID #: 528 Basin: WILLAMETTE Exceedance Level: 80 Time: 15:18 Date: 05/07/2003 Mnth Limiting Stream Name Water Net Water Watershed Avail? Available 528 MCKENZIE R > WILLAMETTE R - AB MOUTH YES 3500.0 528 MCKENZIE R > WILLAMETTE R - AB MOUTH YES 3610.0 3 528 MCKENZIE R > WILLAMETTE R - AB MOUTH YES 3390.0 528 MCKENZIE R > WILLAMETTE R - AB MOUTH YES 2730.0 528 MCKENZIE R > WILLAMETTE R - AB MOUTH YES 2200.0 528 MCKENZIE R > WILLAMETTE R - AB MOUTH YES 1610.0 528 MCKENZIE R > WILLAMETTE R - AB MOUTH YES 796.0 528 MCKENZIE R > WILLAMETTE R - AB MOUTH YES 437.0 528 MCKENZIE R > WILLAMETTE R - AB MOUTH YES 396.0 10 528 MCKENZIE R > WILLAMETTE R - AB MOUTH YES 513.0 11 528 MCKENZIE R > WILLAMETTE R - AB MOUTH YES 12 528 MCKENZIE R > WILLAMETTE R - AB MOUTH YES 3140.0 528 MCKENZIE R > WILLAMETTE R - AB MOUTH YES 2380000.0

jump to:

commission

- water law
- · water rights
- surface water
- · ground water
- · maps
- programs
- publications
- links
- · staff
- · file pickup
- intranet
- · about
- search
- · oregon online
- comments

DETAILED REPORT ON THE WATER AVAILABILITY CALCULATION Water Availability as of 5/7/2003 for WILLAMETTE R > COLUMBIA R - AT MOUTH

| Watershed ID #: | 181 | Basin: | WILLAMETTE | Exceedance Level: 80 |
|-----------------|-----|--------|------------|----------------------|
| Time: 15:18 | | | | Date: 05/07/2003 |

| Month | Natural Stream Flow | CU + Stor Prior to 1/1/93 | CU + Stor After 1/1/93 | Expected Stream Flow | Reserved Stream Flow | Instream Water Rights | Net Water Available |
|-------|-----------------------------|---------------------------------|------------------------------|----------------------------|------------------------------|---------------------------------|-----------------------------|
| | | | | | | | |
| 1 | 27500.00 | 1960.00 | 336.00 | 25200.00 | 0.00 | 1500.00 | 23700.00 |
| 2 | 30000.00 | 7250.00 | 332.00 | 22400.00 | 0.00 | 1500.00 | 20900.00 |
| 3 | 28500.00 | 6880.00 | 322.00 | 21300.00 | 0.00 | 1500.00 | 19800.00 |
| 4 | 25400.00 | 6590.00 | 310.00 | 18500.00 | 0.00 | 1500.00 | 17000.00 |
| 5 | 20700.00 | 3940.00 | 269.00 | 16500.00 | 0.00 | 1500.00 | 15000.00 |
| 6 | 11000.00 | 1690.00 | 460.00 | 8850.00 | 0.00 | 1500.00 | 7350.00 |
| 7 | 6280.00 | 1660.00 | 434.00 | 4190.00 | 0.00 | 1500.00 | 2690.00 |
| 8 | 4890.00 | 1460.00 | 403.00 | 3030.00 | 0.00 | 1500.00 | 1530.00 |
| 9 | 4930.00 | 1090.00 | 394.00 | 3450.00 | 0.00 | 1500.00 | 1950.00 |
| 10 | 5990.00 | 355.00 | 221.00 | 5410.00 | 0.00 | 1500.00 | 3910.00 |
| 11 | 12700.00 | 502.00 | 273.00 | 11900.00 | 0.00 | 1500.00 | 10400.00 |
| 12 | 24800.00 | 640.00 | 334.00 | 23800.00 | 0.00 | 1500.00 | 22300.00 |
| Stor | 19700000 | 2030000 | 247000 | 17500000 | 0 | 1090000 | 16400000 |

DETAILED REPORT OF CONSUMPTIVE USES AND STORAGES Water Availability as of 5/7/2003 for WILLAMETTE R > COLUMBIA R - AT MOUTH

Watershed ID #: 181 Basin: WILLAMETTE Exceedance Level: 80 Date: 05/07/2003

| 10 | Storage | Irrig | Munic | Ind/Man C | commer | Domest | Agricul | Other | Total |
|----|---------|--------|--------|-------------|--------|--------|---------|-------|--------|
| | | | | | | | | | |
| 1 | 1699.38 | 0.00 | 334.78 | 100.31 | 7.20 | 23.73 | 91.63 | 38.92 | 2300.0 |
| 2 | 6986.07 | 0.00 | 334.78 | 100.31 | 7.20 | 23.73 | 91.63 | 38.92 | 7580.0 |
| 3 | 6593.24 | 6.39 | 334.79 | 100.31 | 7.20 | 23.73 | 94.02 | 41.90 | 7200.0 |
| 4 | 6261.38 | 42.40 | 334.79 | 100.31 | 7.20 | 23.73 | 90.58 | 41.90 | 6900.0 |
| 5 | 3373.72 | 290.42 | 330.93 | 100.30 | 7.05 | 23.72 | 65.26 | 21.36 | 4210.0 |
| 6 | 442.09 | 581.23 | 911.32 | 100.30 | 6.90 | 23.73 | 64.93 | 20.85 | 2150.0 |
| 7 | 13.92 | 994.63 | 891.98 | 95.02 | 6.90 | 23.72 | 43.08 | 20.57 | 2090.0 |
| 8 | 2.01 | 780.13 | 891.98 | 95.02 | 6.90 | 22.32 | 41.68 | 20.57 | 1860.0 |
| 9 | 0.72 | 385.22 | 890.73 | 100.25 | 6.90 | 22.32 | 55.14 | 20.83 | 1480.0 |
| 0 | 0.38 | 27.52 | 327.82 | 100.30 | 6.90 | 22.33 | 55.78 | 34.58 | 576.0 |
| 1 | 194.59 | 0.00 | 334.78 | 100.30 | 7.20 | 23.73 | 76.59 | 38.01 | 775.0 |
| 2 | 377.39 | 0.00 | 334.78 | 100.31 | 7.20 | 23.73 | 91.24 | 38.92 | 974.0 |

DETAILED REPORT OF RESERVATIONS FOR CONSUMPTIVE USE Water Availability as of 5/7/2003 for WILLAMETTE R > COLUMBIA R - AT MOUTH

| Watershed Time: 15 | I ID #: | 181 | | n: WILLAM | | | dance Le | vel: 80 07/2003 |
|-----------------------|---------|------|------|-----------|------|------|----------|--------------------|
| | | | Res | ervations | | | | |
| APP # | 0 | 0 | 0 | 0 | 0 | 0 | 0 | TOTAL |
| Status Use | | | | | | | | |
| 1 | 0.00 | 0.00 | 0.00 | 0.00 | 0.00 | 0.00 | 0.00 | 0.00 |
| 2 | 0.00 | 0.00 | 0.00 | 0.00 | 0.00 | 0.00 | 0.00 | 0.00 |

| 3/// | | | | | | | | The state of the s |
|-------|-------|-------|------|------|------|------|------|--|
| 1 3 1 | 0.001 | 0.001 | 0.00 | 0.00 | 0.00 | 0.00 | 0.00 | 0.00 |
| 4 | 0.00 | 0.00 | 0.00 | 0.00 | 0.00 | 0.00 | 0.00 | 0.00 |
| 5 | 0.00 | 0.00 | 0.00 | 0.00 | 0.00 | 0.00 | 0.00 | 0.00 |
| 6 | 0.00 | 0.00 | 0.00 | 0.00 | 0.00 | 0.00 | 0.00 | 0.00 |
| 7 | 0.00 | 0.00 | 0.00 | 0.00 | 0.00 | 0.00 | 0.00 | 0.00 |
| 8 | 0.00 | 0.00 | 0.00 | 0.00 | 0.00 | 0.00 | 0.00 | 0.00 |
| 9 1 | 0.00 | 0.00 | 0.00 | 0.00 | 0.00 | 0.00 | 0.00 | 0.00 |
| 10 | 0.00 | 0.00 | 0.00 | 0.00 | 0.00 | 0.00 | 0.00 | 0.00 |
| 111 | 0.00 | 0.00 | 0.00 | 0.00 | 0.00 | 0.00 | 0.00 | 0.00 |
| 12 | 0.00 | 0.00 | 0.00 | 0.00 | 0.00 | 0.00 | 0.00 | 0.00 |
| | | | | | | | | |

DETAILED REPORT OF INSTREAM REQUIREMENTS Water Availability as of 5/7/2003 for WILLAMETTE R > COLUMBIA R - AT MOUTH

| | 15:18 | | | -ISWRs | | | | |
|--------|---------|-------|------|--------|------|------|------|---------|
| APP # | 181A | 0 | 0 | 0 | 0 | 0 | 0 | MAXIMUN |
| Status | Cert. | 1 | 1 | 1 | 1 | 1 | | |
| 1 | 1500.00 | 0.00 | 0.00 | 0.00 | 0.00 | 0.00 | 0.00 | 1500.00 |
| 2 | 1500.00 | 0.00 | 0.00 | 0.00 | 0.00 | 0.00 | 0.00 | 1500.00 |
| 3 | 1500.00 | 0.00 | 0.00 | 0.00 | 0.00 | 0.00 | 0.00 | 1500.00 |
| 4 | 1500.00 | 0.00 | 0.00 | 0.00 | 0.00 | 0.00 | 0.00 | 1500.00 |
| 5 | 1500.00 | 0.00 | 0.00 | 0.00 | 0.00 | 0.00 | 0.00 | 1500.00 |
| 6 | 1500.00 | 0.00 | 0.00 | 0.00 | 0.00 | 0.00 | 0.00 | 1500.00 |
| 7 | 1500.00 | 0.00 | 0.00 | 0.00 | 0.00 | 0.00 | 0.00 | 1500.00 |
| 8 | 1500.00 | 0.00 | 0.00 | 0.00 | 0.00 | 0.00 | 0.00 | 1500.00 |
| 9 | 1500.00 | 0.00 | 0.00 | 0.00 | 0.00 | 0.00 | 0.00 | 1500.00 |
| 10 | 1500.00 | 0.00 | 0.00 | 0.00 | 0.00 | 0.00 | 0.00 | 1500.00 |
| 11 | 1500.00 | 0.00 | 0.00 | 0.00 | 0.00 | 0.00 | 0.00 | 1500.00 |
| 12 | 1500.00 | 0.001 | 0.00 | 0.00 | 0.00 | 0.00 | 0.00 | 1500.00 |

DETAILED REPORT ON THE WATER AVAILABILITY CALCULATION Water Availability as of 5/7/2003 for WILLAMETTE R > COLUMBIA R - AB MOLALLA R

| | ed ID #: 15:18 | 182 | Basin | WILLAMET | ΓE | Date: | 05/07/200 |
|-------|-----------------------------|----------|--------------------------------|----------------------------|------------------------------|-------------------------------|-----------------------------|
| Month | Natural Stream Flow | Prior to | CU + Stor After 1/1/93 | Expected Stream Flow | Reserved Stream Flow | Instream Water Rights | Net Water Available |
| 1 | 21400.00 | 1720.00 | 240.00 | 19400.00 | 0.00 | 1500.00 | 17900.00 |
| 2 | 23200.00 | 6910.00 | 237.00 | 16100.00 | 0.00 | 1500.00 | 14600.0 |
| 3 | 22400.00 | 6700.00 | 234.00 | 15500.00 | 0.00 | 1500.00 | 14000.0 |
| 4 | 19900.00 | 6360.00 | 228.00 | 13300.00 | 0.00 | 1500.00 | 11800.0 |
| 5 | 16600.00 | 3700.00 | 216.00 | 12700.00 | 0.00 | 1500.00 | 11200.0 |
| 6 | 8740.00 | 1260.00 | 388.00 | 7090.00 | 0.00 | 1500.00 | 5590.0 |
| 7 | 4980.00 | 1110.00 | 355.00 | 3520.00 | 0.00 | 1500.00 | 2020.0 |
| 8 | 3830.00 | 979.00 | 329.00 | 2520.00 | 0.00 | 1500.00 | 1020.0 |
| 9 | 3890.00 | 729.00 | 334.00 | 2830.00 | 0.00 | 1500.00 | 1330.0 |
| 10 | 4850.00 | 251.00 | 188.00 | 4410.00 | 0.00 | 1500.00 | 2910.0 |
| 11 | 10200.00 | 349.00 | 219.00 | 9630.00 | 0.00 | 1500.00 | 8130.0 |
| 12 | 19300.00 | 395.00 | 240.00 | 18700.00 | 0.00 | 1500.00 | 17200.0 |
| Stor | 15200000 | 1820000 | 194000 | 13200000 | 0 | 1090000 | 1210000 |

DETAILED REPORT OF CONSUMPTIVE USES AND STORAGES Water Availability as of 5/7/2003 for WILLAMETTE R > COLUMBIA R - AB MOLALLA R

| Watershed II |) #: | 182 | Basin: WILLAM | ETTE | Exceedance | e Level: 80 |
|--------------|-------|-------|----------------|--------|----------------|-------------|
| Time: 15:18 | | | | | Date: | 05/07/2003 |
| | | | | | | |
| MolStorage | Trria | Munic | Ind/Man Commer | Domest | Agricul Other | r Total |

| Mo | Storage | Irrig | Munic | Ind/Man | Commer | Domest | Agricul | Other | Total |
|----|---------|--------|--------|---------|--------|--------|---------|-------|---------|
| 11 | 1520.00 | 0.001 | 250.00 | 85.70 | 6.46 | 18.00 | 64.60 | 21.30 | 1970.00 |
| 2 | 6702.85 | 0.00 | 249.78 | 85.66 | 6.46 | 17.96 | 64.61 | 21.26 | 7150.00 |
| 3 | 6479.23 | 4.32 | 249.78 | 85.66 | 6.46 | 17.96 | 66.56 | 21.26 | 6930.00 |
| 4 | 6116.16 | 28.52 | 249.78 | 85.66 | 6.46 | 17.96 | 63.12 | 21.26 | 6590.00 |
| 5 | 3297.07 | 198.41 | 245.93 | 85.65 | 6.46 | 17.96 | 56.26 | 6.01 | 3910.00 |
| 6 | 419.86 | 397.81 | 656.31 | 85.65 | 6.46 | 17.97 | 56.26 | 6.01 | 1650.00 |
| 7 | 3.79 | 676.19 | 636.97 | 80.37 | 6.46 | 17.97 | 34.50 | 5.73 | 1460.00 |
| 8 | 1.96 | 527.45 | 636.97 | 80.37 | 6.46 | 16.56 | 33.10 | 5.73 | 1310.0 |
| 9 | 0.66 | 261.55 | 640.22 | 85.60 | 6.46 | 16.56 | 46.56 | 5.99 | 1060.0 |
| 10 | 0.20 | 18.70 | 244.32 | 85.65 | 6.46 | 16.56 | 48.01 | 19.74 | 440.0 |
| 11 | 123.78 | 0.00 | 249.78 | 85.65 | 6.46 | 17.97 | 63.43 | 21.26 | 568.0 |
| 12 | 188.68 | 0.00 | 249.78 | 85.66 | 6.46 | 17.96 | 64.61 | 21.26 | 634.0 |

DETAILED REPORT OF RESERVATIONS FOR CONSUMPTIVE USE Water Availability as of 5/7/2003 for WILLAMETTE R > COLUMBIA R - AB MOLALLA R

| vel: 80 07/2003 | | | | | Basi | 182 | d ID #: 5:18 | Watershe Time: 1 |
|--------------------|------|------|------|-----------|------|------|-----------------|---------------------|
| | | | | ervations | Res | | | |
| TOTAL | 0 | 0 | 0 | 0 | 0 | 0 | 0 | APP # |
| | | | | | | | | |
| | 1 | 1 | | | | | | Status |
| | 1 | | | | | 1 | | Use |
| | | | | | | | | |
| 0.00 | 0.00 | 0.00 | 0.00 | 0.00 | 0.00 | 0.00 | 0.00 | 1 |
| 0.00 | 0.00 | 0.00 | 0.00 | 0.00 | 0.00 | 0.00 | 0.00 | 2 |
| 0.00 | 0.00 | 0.00 | 0.00 | 0.00 | 0.00 | 0.00 | 0.00 | 3 |
| 0.00 | 0.00 | 0.00 | 0.00 | 0.00 | 0.00 | 0.00 | 0.00 | 4 |
| 0.00 | 0.00 | 0.00 | 0.00 | 0.00 | 0.00 | 0.00 | 0.00 | 5 |
| 0.00 | 0.00 | 0.00 | 0.00 | 0.00 | 0.00 | 0.00 | 0.00 | 6 |
| 0.00 | 0.00 | 0.00 | 0.00 | 0.00 | 0.00 | 0.00 | 0.00 | 7 |
| 0.00 | 0.00 | 0.00 | 0.00 | 0.00 | 0.00 | 0.00 | 0.00 | 8 |
| 0.00 | 0.00 | 0.00 | 0.00 | 0.00 | 0.00 | 0.00 | 0.00 | 9 |
| 0.00 | 0.00 | 0.00 | 0.00 | 0.00 | 0.00 | 0.00 | 0.00 | 10 |
| 0.00 | 0.00 | 0.00 | 0.00 | 0.00 | 0.00 | 0.00 | 0.00 | 11 |
| 0.00 | 0.00 | 0.00 | 0.00 | 0.00 | 0.00 | 0.00 | 0.00 | 12 |

DETAILED REPORT OF INSTREAM REQUIREMENTS Water Availability as of 5/7/2003 for WILLAMETTE R > COLUMBIA R - AB MOLALLA R

| APP # 182A 0 0 0 0 0 N | 7/2003 | | Date: | E | | ETTE | | | Basin: | | 182 | | Time: |
|------------------------------------|--------|---|-------|---|---|------|---|------|--------|-------|-----|------|-------|
| | AXIMUM | 0 | 1 | 0 | 1 | 0 | 1 | 15WR | | 1 | 0 | 182A | APP # |
| Status Cert. | | | 1 | | 1 | | 1 | | 1 | 1 | | | |

| 1 7 | 1 1500.001 | 0.001 | 0.001 | 0.001 | 0.001 | 0.001 | 0.001 | 1500.00 |
|-----|------------|-------|----------|-------|-------|-------|-------|---------|
| 1 | | | 0.00 | 0.00 | 0.00 | 0.00 | 0.00 | 1500.00 |
| 2 | 1500.00 | 0.00 | 12970777 | | 0.00 | 0.00 | 0.00 | 1500.00 |
| 3 | 1500.00 | 0.00 | 0.00 | 0.00 | | | | |
| 4 | 1500.00 | 0.00 | 0.00 | 0.00 | 0.00 | 0.00 | 0.00 | 1500.00 |
| 5 | 1500.00 | 0.00 | 0.00 | 0.00 | 0.00 | 0.00 | 0.00 | 1500.00 |
| 6 | 1500.00 | 0.00 | 0.00 | 0.00 | 0.00 | 0.00 | 0.00 | 1500.00 |
| 7 | 1500.00 | 0.00 | 0.00 | 0.00 | 0.00 | 0.00 | 0.00 | 1500.00 |
| 8 | 1500.00 | 0.00 | 0.00 | 0.00 | 0.00 | 0.00 | 0.00 | 1500.00 |
| 9 | 1500.00 | 0.00 | 0.00 | 0.00 | 0.00 | 0.00 | 0.00 | 1500.00 |
| 10 | 1500.00 | 0.00 | 0.00 | 0.00 | 0.00 | 0.00 | 0.00 | 1500.00 |
| 11 | 1500.00 | 0.00 | 0.00 | 0.00 | 0.00 | 0.00 | 0.00 | 1500.00 |
| 12 | 1500.00 | 0.00 | 0.00 | 0.00 | 0.00 | 0.00 | 0.00 | 1500.00 |
| | | | | | | | | |

DETAILED REPORT ON THE WATER AVAILABILITY CALCULATION Water Availability as of 5/7/2003 for

WILLAMETTE R > COLUMBIA R - AB MILL CR AT GAGE 14191000

ID #. 183 Basin: WILLAMETTE Exceedance Level: 80

| Month | Natural Stream Flow | Prior to | CU + Stor After 1/1/93 | Expected Stream Flow | Reserved Stream Flow | Instream Water Rights | Net Water Available |
|-------|-----------------------------|----------|--------------------------------|------------------------------|------------------------------|-------------------------------|-----------------------------|
| 1 | 18400.00 | 1880.00 | 72.00 | 16400.00 | 0.00 | 1300.00 | 15100.00 |
| 2 | 20100.00 | 7070.00 | 69.90 | 13000.00 | 0.00 | 1300.00 | 11700.0 |
| 3 | 19600.00 | 6860.00 | 67.90 | 12700.00 | 0.00 | 1300.00 | 11400.0 |
| 4 | 18000.00 | 6520.00 | 64.70 | 11400.00 | 0.00 | 1300.00 | 10100.0 |
| 5 | 15500.00 | 3810.00 | 58.10 | 11600.00 | 0.00 | 1300.00 | 10300.0 |
| 6 | 8310.00 | 1330.00 | 93.20 | 6890.00 | 0.00 | 1300.00 | 5590.0 |
| 7 | 4710.00 | 1100.00 | 85.20 | 3530.00 | 0.00 | 1300.00 | 2230.0 |
| 8 | 3620.00 | 1010.00 | 65.50 | 2550.00 | 0.00 | 1300.00 | 1250.0 |
| 9 | 3680.00 | 834.00 | 70.90 | 2780.00 | 0.00 | 1300.00 | 1480.0 |
| 10 | 4650.00 | 413.00 | 53.10 | 4180.00 | 0.00 | 1300.00 | 2880.0 |
| 11 | 9400.00 | 513.00 | 60.20 | 8830.00 | 0.00 | 1300.00 | 7530.0 |
| 12 | 16700.00 | 553.00 | 71.90 | 16100.00 | 0.00 | 1300.00 | 14800.0 |
| Stor | 13500000 | 1900000 | 50200 | 11500000 | 0 | 942000 | 1060000 |

DETAILED REPORT OF CONSUMPTIVE USES AND STORAGES Water Availability as of 5/7/2003 for WILLAMETTE R > COLUMBIA R - AB MILL CR AT GAGE 14191000

Watershed ID #: 183 Basin: WILLAMETTE Exceedance Level: 80 Time: 15:18 Date: 05/07/2003

| Mo | Storage | Irrig | Munic | Ind/Man | Commer | Domest | Agricul | Other | Total |
|----|---------|--------|--------|---------|--------|--------|---------|-------|---------|
| 11 | 1500.00 | 0.001 | 341.00 | 59.20 | 3.39 | 12.60 | 20.30 | 19.40 | 1960.00 |
| 2 | 6683.24 | 0.00 | 341.48 | 59.15 | 3.39 | 12.62 | 20.32 | 19.43 | 7140.00 |
| 3 | 6470.39 | 3.05 | 341.48 | 59.15 | 3.39 | 12.62 | 21.42 | 19.43 | 6930.00 |
| 4 | 6111.12 | 18.93 | 341.56 | 59.15 | 3.39 | 12.62 | 18.87 | 19.43 | 6590.00 |
| 5 | 3295.56 | 139.52 | 337.66 | 59.15 | 3.39 | 12.62 | 17.77 | 4.68 | 3870.00 |
| 6 | 419.27 | 281.48 | 623.55 | 59.15 | 3.39 | 12.62 | 17.77 | 4.68 | 1420.00 |
| 7 | 3.78 | 478.84 | 621.28 | 55.55 | 3.39 | 12.62 | 4.87 | 4.45 | 1180.0 |
| 8 | 1.96 | 370.81 | 621.24 | 55.55 | 3.39 | 12.62 | 4.87 | 4.45 | 1070.0 |
| 9 | 0.66 | 184.35 | 622.99 | 59.11 | 3.39 | 12.62 | 16.93 | 4.65 | 905.0 |
| 10 | 0.18 | 13.22 | 341.24 | 59.15 | 3.39 | 12.62 | 17.72 | 18.40 | 466.00 |
| 11 | 118.12 | 0.00 | 341.48 | 59.15 | 3.39 | 12.62 | 19.22 | 19.43 | 573.0 |
| 12 | 168.18 | 0.00 | 341.48 | 59.15 | 3.39 | 12.62 | 20.32 | 19.43 | 625.00 |

DETAILED REPORT OF RESERVATIONS FOR CONSUMPTIVE USE Water Availability as of 5/7/2003 for

WILLAMETTE R > COLUMBIA R - AB MILL CR AT GAGE 14191000

| vel: 80 | dance Le | | ETTE | n: WILLAM | Basi | 183 | d ID #: 5:18 | Watersher Time: 1 |
|---------|----------|------|------|--------------|------|------|-----------------|----------------------|
| | | | | Reservations | | | | |
| TOTAL | 0 | 0 | 0 | 0 | 0 | 0 | 0 | APP # |
| | | | | | | | | Status Use |
| 0.00 | 0.00 | 0.00 | 0.00 | 0.00 | 0.00 | 0.00 | 0.00 | 1 |
| 0.00 | 0.00 | 0.00 | 0.00 | 0.00 | 0.00 | 0.00 | 0.00 | 2 |
| 0.00 | 0.00 | 0.00 | 0.00 | 0.00 | 0.00 | 0.00 | 0.00 | 3 |
| 0.00 | 0.00 | 0.00 | 0.00 | 0.00 | 0.00 | 0.00 | 0.00 | 4 |
| 0.00 | 0.00 | 0.00 | 0.00 | 0.00 | 0.00 | 0.00 | 0.00 | 5 |
| 0.00 | 0.00 | 0.00 | 0.00 | 0.00 | 0.00 | 0.00 | 0.00 | 6 |
| 0.00 | 0.00 | 0.00 | 0.00 | 0.00 | 0.00 | 0.00 | 0.00 | 7 |
| 0.00 | 0.00 | 0.00 | 0.00 | 0.00 | 0.00 | 0.00 | 0.00 | 8 |
| 0.00 | 0.00 | 0.00 | 0.00 | 0.00 | 0.00 | 0.00 | 0.00 | 9 |
| 0.00 | 0.00 | 0.00 | 0.00 | 0.00 | 0.00 | 0.00 | 0.00 | 10 |
| 0.00 | 0.00 | 0.00 | 0.00 | 0.00 | 0.00 | 0.00 | 0.00 | 11 |
| 0.00 | 0.00 | 0.00 | 0.00 | 0.00 | 0.00 | 0.00 | 0.00 | 12 |

DETAILED REPORT OF INSTREAM REQUIREMENTS Water Availability as of 5/7/2003 for

WILLAMETTE R > COLUMBIA R - AB MILL CR AT GAGE 14191000

| 05/07/ | edance I ate: 05 | | ETTE | n: WILLAM | Basi | 183 | ed ID #: 15:18 | |
|----------|---------------------|------|------|-----------|------|------|-------------------|--------|
| | | | | -ISWRs | | | | |
| 0 MAX | 0 | 0 | 0 | 0 | 0 | 0 | 183A | APP # |
| | | Ī | 1 | 1 | 1 | 1 | Cert. | Status |
| 00 130 | 0.00 | 0.00 | 0.00 | 0.00 | 0.00 | 0.00 | 1300.00 | 1 |
| 00 130 | 0.00 | 0.00 | 0.00 | 0.00 | 0.00 | 0.00 | 1300.00 | 2 |
| 00 130 | 0.00 | 0.00 | 0.00 | 0.00 | 0.00 | 0.00 | 1300.00 | 3 |
| 00 130 | 0.00 | 0.00 | 0.00 | 0.00 | 0.00 | 0.00 | 1300.00 | 4 |
| 00 130 | 0.00 | 0.00 | 0.00 | 0.00 | 0.00 | 0.00 | 1300.00 | 5 |
| 00 130 | 0.00 | 0.00 | 0.00 | 0.00 | 0.00 | 0.00 | 1300.00 | 6 |
| 00 130 | 0.00 | 0.00 | 0.00 | 0.00 | 0.00 | 0.00 | 1300.00 | 7 |
| 00 130 | 0.00 | 0.00 | 0.00 | 0.00 | 0.00 | 0.00 | 1300.00 | 8 |
| 00 130 | 0.00 | 0.00 | 0.00 | 0.00 | 0.00 | 0.00 | 1300.00 | 9 |
| 00 130 | 0.00 | 0.00 | 0.00 | 0.00 | 0.00 | 0.00 | 1300.00 | 10 |
| 00 130 | 0.00 | 0.00 | 0.00 | 0.00 | 0.00 | 0.00 | 1300.00 | 11 |
| 00 130 | 0.00 | 0.00 | 0.00 | 0.00 | 0.00 | 0.00 | 1300.00 | 12 |

DETAILED REPORT ON THE WATER AVAILABILITY CALCULATION Water Availability as of 5/7/2003 for

WILLAMETTE R > COLUMBIA R - AB PERIWINKLE CR AT GAGE 14174

Watershed ID #: 30200321 Basin: WILLAMETTE Exceedance Level: 80 Date: 05/07/2003

| Month Natural | CU + Stor | CU + Stor | Expected | Reserved | Instream | Net |
|-----------------|-----------|-----------|----------|----------|----------|-------|
| Stream | Prior to | After | Stream | Stream | Water | Water |

| | Flow | 1/1/93 | 1/1/93 | Flow | Flow | Rights | Available |
|------|----------|---------|--------|----------|------|---------|-----------|
| 1 | 17300.00 | 1260.00 | 24.20 | 16000.00 | 0.00 | 1750.00 | 14300.00 |
| 2 | 17400.00 | 4180.00 | 23.60 | 13200.00 | 0.00 | 1750.00 | 11400.00 |
| 3 | 15800.00 | 4450.00 | 23.50 | 11300.00 | 0.00 | 1750.00 | 9570.00 |
| 4 | 13800.00 | 4150.00 | 23.50 | 9620.00 | 0.00 | 1750.00 | 7870.00 |
| 5 | 11400.00 | 2420.00 | 27.30 | 8950.00 | 0.00 | 1750.00 | 7200.00 |
| 6 | 7350.00 | 792.00 | 36.30 | 6520.00 | 0.00 | 1750.00 | 4770.00 |
| 7 | 4100.00 | 607.00 | 24.30 | 3470.00 | 0.00 | 1750.00 | 1720.00 |
| 8 | 2960.00 | 560.00 | 19.50 | 2380.00 | 0.00 | 1750.00 | 630.00 |
| 9 | 2960.00 | 470.00 | 29.00 | 2460.00 | 0.00 | 1750.00 | 711.00 |
| 10 | 3550.00 | 166.00 | 19.80 | 3360.00 | 0.00 | 1750.00 | 1610.00 |
| 11 | 8170.00 | 251.00 | 19.60 | 7900.00 | 0.00 | 1750.00 | 6150.00 |
| 12 | 19100.00 | | 23.90 | 18800.00 | 0.00 | 1750.00 | 17100.00 |
| Stor | 7460000 | 1170000 | 17800 | 6270000 | 0 | 1270000 | 5000000 |

DETAILED REPORT OF CONSUMPTIVE USES AND STORAGES Water Availability as of 5/7/2003 for

WILLAMETTE R > COLUMBIA R - AB PERIWINKLE CR AT GAGE 14174

Watershed ID #: 30200321 Basin: WILLAMETTE Exceedance Level: 80 Time: 15:18 Date: 05/07/2003

| ON | Storage | Irrig | Munic | Ind/Man | Commer | Domest | Agricul | Other | Total |
|----|---------|--------|--------|---------|--------|--------|---------|-------|---------|
| 1 | 1110.00 | 0.00 | 115.00 | 45.70 | 0.01 | 5.83 | 13.50 | 0.19 | 1290.00 |
| 2 | 4020.78 | 0.00 | 114.59 | 45.66 | 0.01 | 5.83 | 13.46 | 0.20 | 4200.0 |
| 3 | 4295.95 | 1.49 | 114.59 | 45.66 | 0.01 | 5.83 | 14.56 | 0.20 | 4480.0 |
| 4 | 3985.63 | 9.23 | 114.67 | 45.66 | 0.01 | 5.83 | 14.56 | 0.20 | 4180.0 |
| 5 | 2203.05 | 68.47 | 114.61 | 45.66 | 0.01 | 5.83 | 13.46 | 0.20 | 2450.0 |
| 6 | 283.14 | 138.17 | 342.21 | 45.66 | 0.01 | 5.83 | 13.46 | 0.20 | 829.0 |
| 7 | 3.50 | 236.13 | 341.91 | 42.99 | 0.01 | 5.83 | 1.34 | 0.00 | 632.0 |
| 8 | 1.39 | 186.14 | 341.92 | 42.99 | 0.01 | 5.83 | 1.34 | 0.00 | 580.0 |
| 9 | 0.61 | 91.68 | 341.65 | 45.66 | 0.01 | 5.83 | 13.40 | 0.20 | 499.0 |
| 0 | 0.07 | 6.56 | 114.42 | 45.66 | 0.01 | 5.83 | 13.40 | 0.20 | 186.0 |
| 1 | 91.93 | 0.00 | 114.59 | 45.66 | 0.01 | 5.83 | 12.36 | 0.20 | 271.0 |
| 12 | 112.01 | 0.00 | 114.59 | 45.66 | 0.01 | 5.83 | 13.46 | 0.20 | 292.0 |

DETAILED REPORT OF RESERVATIONS FOR CONSUMPTIVE USE Water Availability as of 5/7/2003 for

WILLAMETTE R > COLUMBIA R - AB PERIWINKLE CR AT GAGE 14174

Watershed ID #: 30200321 Basin: WILLAMETTE Exceedance Level: 80 Time: 15:18 Date: 05/07/2003

| APP # | 0 | 0 | 0 | 0 | 0 | 0 | 0 | TOTAL |
|---------------|------|------|------|------|------|------|------|-------|
| Status Use | | | | | | | | |
| 1 | 0.00 | 0.00 | 0.00 | 0.00 | 0.00 | 0.00 | 0.00 | 0.00 |
| 2 | 0.00 | 0.00 | 0.00 | 0.00 | 0.00 | 0.00 | 0.00 | 0.00 |
| 3 | 0.00 | 0.00 | 0.00 | 0.00 | 0.00 | 0.00 | 0.00 | 0.00 |
| 4 | 0.00 | 0.00 | 0.00 | 0.00 | 0.00 | 0.00 | 0.00 | 0.00 |
| 5 | 0.00 | 0.00 | 0.00 | 0.00 | 0.00 | 0.00 | 0.00 | 0.00 |
| 6 | 0.00 | 0.00 | 0.00 | 0.00 | 0.00 | 0.00 | 0.00 | 0.00 |
| 7 | 0.00 | 0.00 | 0.00 | 0.00 | 0.00 | 0.00 | 0.00 | 0.00 |
| 8 | 0.00 | 0.00 | 0.00 | 0.00 | 0.00 | 0.00 | 0.00 | 0.00 |
| 9 | 0.00 | 0.00 | 0.00 | 0.00 | 0.00 | 0.00 | 0.00 | 0.00 |
| 10 | 0.00 | 0.00 | 0.00 | 0.00 | 0.00 | 0.00 | 0.00 | 0.00 |

11 | 0.00 | 0.00 | 0.00 | 0.00 | 0.00 | 0.00 | 0.00 | 0.00 | 12 | 0.00 | 0.00 | 0.00 | 0.00 | 0.00 | 0.00 | 0.00 0.00

DETAILED REPORT OF INSTREAM REQUIREMENTS Water Availability as of 5/ 7/2003 for

WILLAMETTE R > COLUMBIA R - AB PERIWINKLE CR AT GAGE 14174

| Watersh Time: | ed ID #: 15:18 | 30200321 | Basi | Basin: WILLAMETTE Exceedance Le Date: 05/ | | | | | |
|------------------|-------------------|----------|-------|---|------|------|------|---------|--|
| APP # | 183B | 184A | 0 | -ISWRs | 0 | 0 | 0 | MAXIMUM | |
| Status | Cert. | App. | 1 | 1 | 1 | 1 | | | |
| 1 | 1300.00 | 1750.00 | 0.001 | 0.001 | 0.00 | 0.00 | 0.00 | 1750.00 | |
| 2 | 1300.00 | 1750.00 | 0.00 | 0.00 | 0.00 | 0.00 | 0.00 | 1750.00 | |
| 3 | 1300.00 | 1750.00 | 0.00 | 0.00 | 0.00 | 0.00 | 0.00 | 1750.00 | |
| 4 | 1300.00 | 1750.00 | 0.00 | 0.00 | 0.00 | 0.00 | 0.00 | 1750.00 | |
| 5 | 1300.00 | 1750.00 | 0.00 | 0.00 | 0.00 | 0.00 | 0.00 | 1750.00 | |
| 6 | 1300.00 | 1750.00 | 0.00 | 0.00 | 0.00 | 0.00 | 0.00 | 1750.00 | |
| 7 | 1300.00 | 1750.00 | 0.00 | 0.00 | 0.00 | 0.00 | 0.00 | 1750.00 | |
| 8 | 1300.00 | 1750.00 | 0.00 | 0.00 | 0.00 | 0.00 | 0.00 | 1750.00 | |
| 9 | 1300.00 | 1750.00 | 0.00 | 0.00 | 0.00 | 0.00 | 0.00 | 1750.00 | |
| 10 | 1300.00 | 1750.00 | 0.00 | 0.00 | 0.00 | 0.00 | 0.00 | 1750.00 | |
| 11 | 1300.00 | 1750.00 | 0.00 | 0.00 | 0.00 | 0.00 | 0.00 | 1750.00 | |
| 12 | 1300.00 | 1750.00 | 0.00 | 0.00 | 0.00 | 0.00 | 0.00 | 1750.00 | |

DETAILED REPORT ON THE WATER AVAILABILITY CALCULATION Water Availability as of 5/ 7/2003 for MCKENZIE R > WILLAMETTE R - AB MOUTH

| Month | Natural Stream Flow | Prior to | CU + Stor After 1/1/93 | Expected Stream Flow | Reserved Stream Flow | Instream Water Rights | Net Water Available |
|-------|-----------------------------|----------|--------------------------------|------------------------------|------------------------------|-------------------------------|-----------------------------|
| 1 | 5040.00 | 512.00 | 2.77 | 4520.00 | 0.00 | 1030.00 | 3500.00 |
| 2 | 5850.00 | 1210.00 | 2.76 | 4640.00 | 0.00 | 1030.00 | 3610.00 |
| 3 | 5630.00 | 1210.00 | 2.82 | 4420.00 | 0.00 | 1030.00 | 3390.00 |
| 4 | 5020.00 | 1270.00 | 2.84 | 3750.00 | 0.00 | 1030.00 | 2730.00 |
| 5 | 4000.00 | 769.00 | 3.06 | 3230.00 | 0.00 | 1030.00 | 2200.00 |
| 6 | 2990.00 | 353.00 | 4.53 | 2630.00 | 0.00 | 1030.00 | 1610.00 |
| 7 | 2160.00 | 335.00 | 4.55 | 1820.00 | 0.00 | 1030.00 | 796.00 |
| 8 | 1790.00 | 324.00 | 4.40 | 1460.00 | 0.00 | 1030.00 | 437.00 |
| 9 | 1730.00 | 305.00 | 4.15 | 1420.00 | 0.00 | 1030.00 | 396.00 |
| 10 | 1830.00 | 289.00 | 2.72 | 1540.00 | 0.00 | 1030.00 | 513.00 |
| 11 | 2850.00 | 286.00 | 2.73 | 2560.00 | 0.00 | 1030.00 | 1540.00 |
| 12 | 4450.00 | 286.00 | 2.76 | 4160.00 | 0.00 | 1030.00 | 3140.00 |
| Stor | 3560000 | 428000 | 2420 | 3120000 | 0 | 743000 | 238000 |

DETAILED REPORT OF CONSUMPTIVE USES AND STORAGES Water Availability as of 5/ 7/2003 for MCKENZIE R > WILLAMETTE R - AB MOUTH

Watershed ID #: Time: 15:18

528 Basin: WILLAMETTE

Exceedance Level: 80 Date: 05/07/2003

| 10 5 | Storage | Irrig | Munic | Ind/Man | Commer | Domest | Agricul | Other | Total |
|--------|---------|-------|--------|---------|--------|--------|---------|-------|---------|
| 11 | 226.001 | 0.001 | 277.00 | 10.10 | 0.00 | 0.89 | 0.56 | 0.00 | 515.00 |
| 2 | 921.27 | 0.00 | 277.44 | 10.12 | 0.00 | 0.89 | 0.56 | 0.00 | 1210.00 |
| 3 | 924.87 | 0.28 | 277.44 | 10.12 | 0.00 | 0.89 | 0.62 | 0.00 | 1210.0 |
| 4 | 976.81 | 1.72 | 279.14 | 10.12 | 0.00 | 0.89 | 0.62 | 0.00 | 1270.0 |
| 5 | 468.82 | 12.80 | 278.84 | 10.12 | 0.00 | 0.89 | 0.62 | 0.00 | 772.0 |
| 6 | 41.09 | 25.87 | 279.25 | 10.12 | 0.00 | 0.89 | 0.62 | 0.00 | 358.0 |
| 7 | 3.47 | 44.91 | 279.35 | 10.12 | 0.00 | 0.89 | 0.56 | 0.00 | 339.0 |
| 8 | 1.39 | 35.63 | 279.35 | 10.12 | 0.00 | 0.89 | 0.56 | 0.00 | 328.0 |
| 9 | 0.59 | 17.41 | 279.25 | 10.12 | 0.00 | 0.89 | 0.56 | 0.00 | 309.0 |
| 10 | 0.00 | 1.24 | 278.84 | 10.12 | 0.00 | 0.89 | 0.56 | 0.00 | 292.0 |
| 11 | 0.10 | 0.00 | 277.44 | 10.12 | 0.00 | 0.89 | 0.56 | 0.00 | 289.0 |
| 12 | 0.16 | 0.00 | 277.44 | 10.12 | 0.00 | 0.89 | 0.56 | 0.00 | 289.0 |

DETAILED REPORT OF RESERVATIONS FOR CONSUMPTIVE USE Water Availability as of 5/7/2003 for MCKENZIE R > WILLAMETTE R - AB MOUTH

| vel: 8 | dance Le | | ETTE | n: WILLAM | Basi | 528 | ed ID #: 15:18 | |
|--------|----------|------|------|-----------|------|------|-------------------|--------|
| | | | | ervations | Res | | | |
| TOTA | 0 | 0 | 0 | 0 | 0 | 0 | 0 | APP # |
| | | | | 1 | 1 | 1 | | Status |
| | i | i | | i | | i | i | Use |
| 0.0 | 0.00 | 0.00 | 0.00 | 0.00 | 0.00 | 0.00 | 0.00 | 1 |
| 0.0 | 0.00 | 0.00 | 0.00 | 0.00 | 0.00 | 0.00 | 0.00 | 2 |
| 0.0 | 0.00 | 0.00 | 0.00 | 0.00 | 0.00 | 0.00 | 0.00 | 3 |
| 0.0 | 0.00 | 0.00 | 0.00 | 0.00 | 0.00 | 0.00 | 0.00 | 4 |
| 0.0 | 0.00 | 0.00 | 0.00 | 0.00 | 0.00 | 0.00 | 0.00 | 5 |
| 0.0 | 0.00 | 0.00 | 0.00 | 0.00 | 0.00 | 0.00 | 0.00 | 6 |
| 0.0 | 0.00 | 0.00 | 0.00 | 0.00 | 0.00 | 0.00 | 0.00 | 7 |
| 0.0 | 0.00 | 0.00 | 0.00 | 0.00 | 0.00 | 0.00 | 0.00 | 8 |
| 0.0 | 0.00 | 0.00 | 0.00 | 0.00 | 0.00 | 0.00 | 0.00 | 9 |
| 0.0 | 0.00 | 0.00 | 0.00 | 0.00 | 0.00 | 0.00 | 0.00 | 10 |
| 0.0 | 0.00 | 0.00 | 0.00 | 0.00 | 0.00 | 0.00 | 0.00 | 11 |
| 0.0 | 0.00 | 0.00 | 0.00 | 0.00 | 0.00 | 0.00 | 0.00 | 12 |

DETAILED REPORT OF INSTREAM REQUIREMENTS Water Availability as of 5/7/2003 for MCKENZIE R > WILLAMETTE R - AB MOUTH

| | ned ID #: 15:18 | 528 | Basi | n: WILLAM | ETTE | | | evel: 80 /07/2003 |
|--------|--------------------|---------|------|-----------|------|------|------|----------------------|
| | | ISWRs | | | | | | |
| APP # | 126A | 528A | 0 | 0 | 0 | 0 | 0 | MAXIMUM |
| Status | App. | Cert. | 1 | 1 | 1 | 1 | | |
| 1 | 1025.00 | 1025.00 | 0.00 | 0.00 | 0.00 | 0.00 | 0.00 | 1025.00 |
| 2 | 1025.00 | 1025.00 | 0.00 | 0.00 | 0.00 | 0.00 | 0.00 | 1025.00 |
| 3 | 1025.00 | 1025.00 | 0.00 | 0.00 | 0.00 | 0.00 | 0.00 | 1025.00 |
| 4 | 1025.00 | 1025.00 | 0.00 | 0.00 | 0.00 | 0.00 | 0.00 | 1025.00 |
| 5 | 1025.00 | 1025.00 | 0.00 | 0.00 | 0.00 | 0.00 | 0.00 | 1025.00 |
| 6 | 1025.00 | 1025.00 | 0.00 | 0.00 | 0.00 | 0.00 | 0.00 | 1025.00 |
| 7 | 1025.00 | 1025.00 | 0.00 | 0.00 | 0.00 | 0.00 | 0.00 | 1025.00 |
| 8 | 1025.00 | 1025.00 | 0.00 | 0.00 | 0.00 | 0.00 | 0.00 | 1025.00 |

| 9 | 1 1025.00 | 1025.00 | 0.00 | 0.00 | 0.00 | 0.00 | 0.00 | 1025.00 |
|----|--|---------|------|------|------|------|------|---------|
| 10 | | 1025.00 | 0.00 | 0.00 | 0.00 | 0.00 | 0.00 | 1025.00 |
| 11 | | 1025.00 | 0.00 | 0.00 | 0.00 | 0.00 | 0.00 | 1025.00 |
| 12 | The state of the s | 1025.00 | 0.00 | 0.00 | 0.00 | 0.00 | 0.00 | 1025.00 |

1

Paul R. Cleary, Director
Oregon Water Resources Department • 158 12th ST. NE • Salem, OR 97310 • Phone: (503)378-8455 • Fax: (503)378-2496

X-Sender: stahrkl@mailhub.wrd.state.or.us X-Mailer: QUALCOMM Windows Eudora Version 5.1

Date: Thu, 08 Apr 2004 08:45:16 -0700

To: Cory Engel <Cory.C.ENGEL@wrd.state.or.us> From: Ken Stahr <Kenneth.L.STAHR@wrd.state.or.us>

Subject: Re: question about a certificate

Cory,

. ..

The right in question is not reflected in the WARS program. Power rights are considered non-consumptive. The only exception would be when the diversion and place of use (power plant) are in different water availability basins. An example of this exists in the lower Hood River Basin.

Ken

At 08:08 AM 4/7/2004 -0700, you wrote: Ken,

Certificate 27662

(http://stamp.wrd.state.or.us/apps/misc/vault/vault.php?cert nbr=27662&submit= Search) was issued to EWEB for a McKenzie River diversion for hydroelectric power generation. It incorporates a special order

(http://stamp.wrd.state.or.us/apps/misc/vault/vault.php?spor volnbr=8&spor pagenbr=264&submit=Search) which incorporates the terms of a protest settlement agreement requiring certain minimum flows to be maintained at EWEB's POD.

I don't think the minimum flows should have any bearing on WARS, since they are a condition of use, not an instream water right. (In other words, no streamflow is technically protected anywhere except at the point of diversion, and even then they are only protected from a single user; other water right holders are not obligated to honor the minimum flows. It seems to me that new proposals to use water with POD's at other points on the McKenzie should not be affected by the conditions on EWEB's water right.) Do the water availability tables in WARS reflect these minimum flows in any way? It doesn't look to me like they do, but I want to double-check.

Thanks.

Cory Engel Water Right Application Caseworker 503-986-0813 X-Sender: matticmj@mailhub.wrd.state.or.us

X-Mailer: QUALCOMM Windows Eudora Version 6.0.2.0

Date: Wed, 28 Apr 2004 17:12:21 -0700

To: "Megan Finnessy" <mckenziewc@callatg.com>,

<Richard.H.Hayes@nwp01.usace.army.mil>, <cgottfried@ci.springfield.or.us>,
<ChuckD@subutil.com>, <ggrier@efn.org>, <Jeffrey.S.Ziller@state.or.us>,

<jwelsh@pacinfo.com>, <Karl.Morgenstern@EWEB.Eugene.OR.US>

From: Michael Mattick <Michael.J.MATTICK@wrd.state.or.us>

Subject: SUBs 40 cfs application Cc: Cory.C.ENGEL@wrd.state.or.us

Greetings to all,

1 .

The application is S-85336.

There were a few things about this application that didn't make sense to me. I now see why, I was misunderstanding where the water would be diverted from the McKenzie River and at what rate.

The application is for 40 cfs, with 37 for municipal use and 3 for streamflow augmentation, to mitigate the impact proposed wells would have on the Creek. The 3 cfs would flow through the diversion structures and Cedar Creek. The 37 cfs would be diverted from the McKenzie directly to a (yet to be built) treatment plant in the SW of Section 26, T 17 S, R 2 W.

This site is still above the mouth of Cedar Creek. It is also about 3/4 of a mile below the Walterville Canal out flow. It would not exacerbate the dewatering of the McKenzie as it would take place after the EWEB hydropower water has come back in. This water would NOT flow down Cedar Creek.

The 3 cfs would come into the system and that would "help", but: 1) it is still only 3 cfs (yesterday I measured 5.8 cfs in the canal and Eric later removed an obstruction in the channel that may have been impeding the flow some); 2) at this point, the Water Resources Department is not inclined to issue this part of the permit on the technical grounds that Streamflow Augmentation is not a classified use. Bart MCKee at SUB told me he thought their lawyers had addressed that, but Water Rights Specialist in Salem with the file said he had not received anything. I will alert SUB.

Thats all for now. Thanks Everyone, MM

My main message is don't count on the SUB application as they may not be asking for enough water there anyway and they may not get that.

FYI, the classified uses in this section of the McKenzie are: only for domestic, livestock, municipal, industrial, agricultural, commercial, power, mining, fish life, wildlife, recreation, pollution abatement, wetland enhancement, off-channel power development in conjunction with storage and public instream uses.

X-Sender: matticmj@mailhub.wrd.state.or.us

X-Mailer: QUALCOMM Windows Eudora Version 6.0.2.0

Date: Wed, 31 Mar 2004 18:37:35 -0800

To: Cory Engel <Cory.C.ENGEL@wrd.state.or.us>

From: Michael Mattick <Michael.J.MATTICK@wrd.state.or.us>

Subject: Re: S-85336, Springfield Utility Board

Hey Cory,

I love this application. But I can't find it. I think I gave my copy to Marc Norton when he and I went out there last August. Yeah, thats it, I gave it to Marc.

Re your questions:

- 1. Jeff Z is right. The Cedar Creek Diversion is in the dewatered stretch, about 2 + miles above the return flow.
- /2. Hmmn, lets see. The IWR cert.59757 is a one of those with funny language, it protects 1025 cfs at the I-5 bridge and some flow throughout the basin but it does not say what that ought to be further up. The 1025 is gonna always be met.
- ✓Then there is an IWR further up, cert 59758, that protects flows of 1400 cfs in the river above Vida, so that does not apply here.
- The question is a bit complicated. The WRD issued EWEB a water right cert 27662 for 975 cfs for hydropower, but subject to the conditions in a special order issued Sept 17, 1954, which I can't put my hands on right now. I presume that that has some minimum bypass flows.

Then this project just went through a FERC relicnesing process, which may have additional federal min bypass requirements. I guess I need to see what is required by the WRD right. and if ther4 are any new FERC conditions which ODFW could assert under the the nebulous IWR

Fortunately, there is a gage on the River below Waterville and we should be able to see what the bypass flows have been.

My position, There is water available, but it bears further scrutiny.

3. The Mitigation idea, probably a hard egg for EWEB to swallow with some mitigation for lost power production to them. That probably won't go anywhere, but Jeff works with SUB and EWEB staff regularly so maybe he knows something.

On top of all this, I know that someone has been putting 10 to 25 cfs into Cedar Creek through this diversion for years. I have put my foot down and said no more without a water right and given everyone until June 30 to show me some progress. Right now, Rick Hayes from the COR and Megan Finnessey from the Watershed Council are trying to evaluate options (no one wants me to shut down "Cedar Creek") they may get a Limited License app together to carry them through some planning phases, right now I think SUB will want a time out on the app to allow the CORPs to carry out a planning effort.

I'll be in Salem Thursday so maybe we can chat, and I could use another copy of the app/map/IR.

See Ya,

STATE OF OREGON

COUNTY OF LAKE

CERTIFICATE OF WATER RIGHT

This Is to Certify, That EUGENE WATER & ELECTRIC BOARD

of 500 East 4th Ave., Bugene , 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 McKenzie R., Jameson Cr., and Storage Pond constructed under Permit No. R-1640 a tributary of Willamette River for the purpose of hydro-electric power

under Permit No. 23041 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 June 2, 1947 for 500 cfs., August 14, 1950 for 100 cfs., August 24, 1951 for 2.0 cfs., and June 25, 1953 for 375.0 cfs.

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 977.0 cubic feet per second, being 975.0 cfs. from McKenzie River and 2.0 cfs. from Jameson Creek,

or its equivalent in case of rotation, measured at the point of diversion from the stream.

The point of diversion is located in the SWt SEt, Section 21, T. 17 S., R. 1 W., W.M.

RET SET, Section 23, T. 17 S., R. 1 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:

Power Plant NET NWT Section 29 T. 17 S., R. 1 W., W.M.

This right is subject to the terms and conditions of Special Order of the State Engineer, dated September 17, 1954, and by reference made a part hereof. - Sp. OR. Joc. 8, 89 264-266

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. OCTOBER 21 1960

LEWIS A. STANLEY

State Engineer

Recorded in State Record of Water Right Certificates, Volume 19 , page 27662

A-22597

BEFORE THE STATE ENGINEER OF OREGON

Lane County

IN THE MATTER OF APPLICATION NO. 22597 IN THE NAME OF THE CITY OF EUGENE ORDER

APPROVING APPLICATION &

DISMISSING PROTEST

On June 2, 1947, the City of Eugene by Eugene Water and Electric Board, Eugene, Oregon, filed an application for a permit to appropriate 500 c.f.s. of water from the McKenzie River for the development of hydroelectric power. This application is designated in the records of the State Engineer as Application No. 22597. The application contains a statement that the 500 c.f.s. of water is in addition to 1600 c.f.s. of water of which it is claimed that a right for 1200 c.f.s. of water was initiated prior to 1909 but is not yet adjudicated, and 400 c.f.s. of water as evidenced by a certificate recorded in Volume 7, at Page 6671, State Record of Water Right Certificates. On August 14, 1950, the application was amended by the addition of 100 c.f.s. of water thereby increasing the total applied for to 600 c.f.s. of water, and on August 24, 1951, it wasagain amended to include 2 c.f.s. of water from Jameson Creek. On June 25, 1953 the application was further amended by the addition of 375 c.f.s. of water, making a total of 975 c.f.s. of water from McKenzie River and 2 c.f.s. of water from Jameson Creek.

On June 23, 1947, The Fish Commission of Oregon filed a protest signed by Arnie J. Sucmela, Master Fish Warden, objecting to the proposed project. In this protest it is alleged that this project would incur great losses to the fishery resources of the state because the McKenzie River is the most important producer of Spring Schinook Salmon in the Willamette River system.

On April 6, 1954 an agreement, dated January 18, 1954, between the City of Eugene, by and through the Eugene Water and Electric Board, and the State of Oregon, by and through the Oregon State Came Commission and the Fish Commission of Oregon, was filed in the office of the State Engineer, which agreement contains

provisions for certain limitations and minimum flows and authorizes the State Engineer to include these provisions in any permit approving Application No. 22597.

This agreement sets forth that if the operation of the pumped storage must be altered in the future, all parties will confer to determine mutually agreeable methods of meeting the situation and of maintaining adequate flows in the river.

It was also agreed that the following schedule of minumum flows would be maintained:

May - 1,000 cubic feet per second

June - 800 cubic feet per second

July 1 through 15 - 750 cubic feet per second

July 16 through 31 - 500 cubic feet per second

August - 500 cubic feet per second

September - 425 cubic feet per second (except as a greater flow is required, up to a maximum of 500 cubic feet per second, in order to maintain water temperatures at Hendricks

Bridge not in excess of 60° F.)

October to May - 350 cubic feet per second

The methods of measurement to be used are those which are in current common use by the U. S. Geological Survey, and at a point as near as practical to the point of diversion.

As a further condition of this agreement the Oregon State Game.

Commission and the Fish Commission of Oregon would withdraw their formal objection to the application.

NOW, THERIFFIE, it hereby is ORDERED that Application No. 22597 for the appropriation of 975 c.f.s. of water from the McKenzie River and 2 c.f.s. of water from Jameson Creek be and the same hereby is approved, subject to the terms of the agreement dated January 18, 1954;

It is FURTHER ORDERED that the protest filed by the Fish Commission of Oregon, signed by Arnie J. Suomela, Master Fish Warden, be and the same is hereby dismissed.

Dated at Salem, Oregon, this 17th day of September, 1954.

CHAS. E. STRICKLIN State Engineer

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STATE OF OREGON

COUNTY OF LANE

CERTIFICATE OF WATER RIGHT

THIS CERTIFICATE ISSUED TO

STATE OF OREGON WATER RESOURCES DEPARTMENT SALEM, OREGON 97310

confirms the right to use the waters of MCKENZIE RIVER, a tributary of the WILLAMETTE RIVER, in the WILLAMETTE BASIN to maintain an instream flow for the purpose of SUPPORTING AQUATIC LIFE.

The right is for flows to be maintained IN THE MCKENZIE RIVER AND ITS TRIBUTARIES ABOVE THE INTERSECTION OF THE MCKENZIE RIVER AND INTERSTATE HIGHWAY 5, MEASURED AT SAID INTERSECTION.

The right is established under Oregon Revised Statutes 537.346.

The date of priority is MAY 24, 1962.

The right is limited to not more than 1025 cubic feet per second throughout the year.

This instream water right shall not have priority over domestic or livestock uses or waters to be legally stored or legally released from storage.

Witness the signature of the Water Resources Director affixed this 17th day of May 1989.

Water Resource Director

Recorded in State Record of Water Right Certificates number 59757.

MF528

X-Sender: engelcc@mailhub.wrd.state.or.us

X-Mailer: QUALCOMM Windows Eudora Version 5.2.1

Date: Wed, 31 Mar 2004 16:15:49 -0800 To: Michael.J.MATTICK@wrd.state.or.us

From: Cory Engel <Cory.C.ENGEL@wrd.state.or.us> Subject: S-85336, Springfield Utility Board

Cc: Cory.C.ENGEL@wrd.state.or.us

Mike,

S-85336 is the application intended to provide 40 cfs for municipal use to be diverted from McKenzie R into Cedar Cr, 3 cfs of which is intended to mitigate for

I spoke with Jeff Ziller about this application yesterday (3/30) since we had not gotten any comments from ODFW about this diversion yet. He remarked that the head of Cedar Creek is definitely between a 2500 CFS (I think) diversion and discharge points, that the remaining flow in the McKenzie in that reach is around the 1000 CFS mark, and that no water is available for any further diversions due to the instream water right. He further mentioned that this use might be allowable if SUB works out a deal with EWEB wherein EWEB agrees to reduce their water use by 40 CFS to make up for SUB's diversion. (Apparently EWEB's diversion is part of the 2500 cfs?)

As a result of this conversation, I have a few questions for you:

- 1. I believe you had mentioned at one time that the Cedar Creek headgate is downstream from the return discharge, which contradicts what Ziller had to say about it. What am I missing here?
- 2. Related question: There is 390 or so CFS available in the McKenzie according to WARS. However, that may not take into account massive dewatering of a limited stream reach; the WARS tables may not be accurate for the reach between the large diversion and discharge. If the proposed diversion is in fact in the dewatered reach, can you tell me whether water is available to support additional uses at the POD?
- 3. If the diversion is in the dewatered reach and water is not available, what are your thoughts on Ziller's mitigation idea?

I expect to get his written comments soon, although he said he was going to contact SUB to discuss it first.

Cory Engel Water Right Application Caseworker 503-986-0813

Standard Application "Completeness" Checklist

Minimum Requirements (OAR 690-310-040)

Application # S-85336 County: LANE

Priority Date: 11/8/02 Township: 17 S

Range: 2 W

Use(s): MUNICIPAL Section: 26 & 27

POD 1/4 1/4: SW/NW

Rate: 40 CFS POU ¼ ¼: SEE MAP

OK Applicant/Organization Name, Mailing Address and Telephone Number. If applicant is other than a private landowner, Organizations section must be completed.

OK Source and tributary listed

OK Property ownership indicated? If applicant does not own all the land, is the affected landowner's name and mailing address listed? (Including: Lands, not owned by applicant, upon which the source is locatedor..... any Lands, not owned by applicant, which are crossed by the diversion works.) NOTE: An easement or agreement DOES NOT need to be submitted at this time, but will be required before a permit will be issued.

OK If a groundwater application...is the groundwater development section completed?

OK Proposed Use of the water.... Is each proposed use identified?

OK Has the appropriate "Supplemental Form" for each proposed use been completed?

NA Form I (Irrigation) OK Form M (Municipal or Quasi-Municipal)

NA Form R (Mining) NA Form Q (Commercial or Industrial)

NA Spring Description Sheet (if source is a Spring)

OK Amount of water from each source listed in GPM, CFS or AF?

OK Acreage being proposed, if applicable.

OK Season being requested by applicant.

OK The water management section has been completed? If system has not been designed, the applicant may estimate this information. OK Resource protection system completed on Surface Water application? OK Are the dates of construction indicated? If system already completed, applicant should indicate existing. OK Is the application signed in ink by the applicant? If the application is in the name of an organization or corporation, the authorized agent must sign the application. Is a copy of the deed, land sales contract or title insurance policy included? We cannot accept a OK copy of the tax bill. A completed Land-Use Form or receipt signed by the appropriate planning department officials OK enclosed? Does the use on land-use form match the proposed use on the application? Does the map meet map requirements of OAR 690-310-050? OK OK Town, Range, Sec, 1/4 and Tax Lot # OK Scale of the Map OK Reference corner on map **OK** North Directional Symbol OK 1/4 1/4's clearly identified **OK** POD clearly identified **OK** POU clearly identified OK Location Coordinates for each POD OK Location of House, if Domestic OK Number of acres per 1/4 1/4, if Irrigation OK Location of Bldg, if Comm/Indus OK Location of Stock Tanks, if Livestock OK Muni/Quasi-Muni Service Boundaries OK Other OK Correct fees enclosed? Base Fee\$250.00 Total Paid \$3,325.00 plus\$150.00

Total Amount of

Water Requested: 40 CFS

Total Exam Fee \$3,325.00

plus\$2,925.00

Total Exam Fee \$ 3,325.00 Recording Fee \$ 175.00 TO BE RECEIVED

Completeness Check by: ROGER WRIGHT

Date: 11/8/02

interoffice MEMORANDUM

To:

Dwight French

From:

Cory Engel

Date:

June 29, 2004

Subject:

Springfield Utility Board PFOs

Attached are draft PFOs for SUB. These PFOs reflect the most obvious course of action when taking the applications at face value. The result of such a review is approval of the municipal portion of S-85336 and denial of the streamflow augmentation/mitigation part. That in part leads to the proposed rejection of applications G-15241, G-15243, and G-15244.

There are scenarios under which these applications could be approved. I've brainstormed them below. These have varying degrees of viability, and there are pros and cons to all solutions, which we can discuss if you want.

Howe there choose 1 or 3 or drop the 3 cfs.

A. To overcome basin program:

> Have applicant change the character of use to a use or uses allowed in 690-502, such as fish life, wildlife, pollution abatement, or some combination

Diet died our the respond to be 18 2. Died sown ture of the servers?

OR

Call it municipal use

OR Get a basin program exception

G-15241, G-15243, and G-15244

OR

OR

To overcome basin program:

accept the shorter season allowed by the basin program

Consider Cedar Creek to be McKenzie main stem rather than a trib, since most or all of its water originates in the

McKenzie (artificial diversion Get a basin program exception

To overcome Division 33

Amend S-85336 to 4.1 cfs for mitigation to match what The real Marc Norton says is necessary

Get S-85336 approved per "I" above AND 2.

AND 3. Get ODFW to buy off on the applications based on the

Have they presented information that disjoutes or call on this issue in the IR?

Oregon Water Resources Department Water Rights Division

Water Rights Application Number S-85336

Prior to issuance of a permit, recording fees in the amount of \$250.00 must be submitted to the Department. In order to increase Department efficiency and expedite the processing of your application, please submit the necessary fees prior to the protest deadline of August 27, 2004. Please include your application number on your check made out to the Oregon Water Resources Department. If this fee is not paid prior to August 27, 2004, issuance of a permit may be delayed.

Proposed Final Order

Summary of Recommendation: The Department proposes that the attached draft permit be issued for municipal use with conditions, and that the use of water for streamflow augmentation in Cedar Creek be denied on the basis that it is not allowed by the Willamette Basin Program.

Application History

On November 8, 2002, BART MCKEE submitted an application for SPRINGFIELD UTILITY BOARD to the Department for the following water use permit:

- Amount and use of water: 40.0 CUBIC FEET PER SECOND (CFS), BEING 37.0 CFS FOR MUNICIPAL USE AND 3.0 CFS FOR STREAMFLOW AUGMENTATION
- Source of water: MCKENZIE RIVER, A TRIBUTARY OF WILLAMETTE RIVER
- Area of proposed use: MUNICIPAL USE: WITHIN THE SERVICE AREA BOUNDARY OF SPRINGFIELD UTILITY BOARD; STREAMFLOW AUGMENTATION: WITHIN THE CHANNEL OF CEDAR CREEK

On May 16, 2003, the Department mailed the applicant notice of its Initial Review, determining that "The use of 37.0 CUBIC FEET PER SECOND from MCKENZIE RIVER for MUNICIPAL USE may be allowed year-round. However, 3.0 CUBIC FEET PER SECOND FOR STREAMFLOW AUGMENTATION IN CEDAR CREEK is not allowable. At this stage of processing, it appears unlikely that a permit approving this application would include streamflow augmentation." The applicant did not notify the Department to stop processing the application within 14 days of that date.

On May 20, 2003, the Department gave public notice of the application in its weekly notice. The public notice included a request for comments, and information for interested persons about both obtaining future notices and a copy of the proposed final order.

No written comments were received within 30 days.

In reviewing applications, the Department may consider any relevant sources of information, including the following:

- comments by or consultation with another state agency
- any applicable basin program
- any applicable comprehensive plan or zoning ordinance
- the amount of water available
- the rate and duty for the proposed use
- pending senior applications and existing water rights of record
- the Scenic Waterway requirements of ORS 390.835
- applicable statutes, administrative rules, and case law
- any comments received

Findings of Fact

The Willamette Basin Program allows MUNICIPAL USE. It does not allow STREAMFLOW AUGMENTATION (OAR 690-502-0080(1)(e)).

Senior water rights exist on MCKENZIE RIVER, A TRIBUTARY OF WILLAMETTE RIVER, or on downstream waters.

MCKENZIE RIVER, A TRIBUTARY OF WILLAMETTE RIVER is not within or above a State Scenic Waterway.

An assessment of water availability has been completed. This assessment compared a calculation of natural streamflow minus the consumption portion of all relevant rights of record. A copy of this assessment is in the file. This assessment determined that water is available for further appropriation (at an 80 percent exceedance probability) during the full season requested.

The Department finds that the rate requested for MUNICIPAL USE, 37.0 CFS, is an acceptable amount.

The purpose of the streamflow augmentation portion of the application is to mitigate the impacts to surface water by the use of wells proposed under pending applications G-15241, G-15243, and G-15244. Following an evaluation of those applications, including a technical analysis prepared for the applicant by Western Groundwater Services LLC, the Department issued Proposed Final Orders containing findings that the likely impact to Cedar Creek is 4.1 CFS (1.78 CFS by G-15241, 1.28 CFS by G-15243, and 1.04 CFS by G-15244). The Department therefore finds that the rate

requested for STREAMFLOW AUGMENTATION, 3.0 CFS, is not likely to be sufficient to mitigate the impacts of the water use proposed under applications G-15241, G-15243, and G-15244.

In accordance with OAR 690-33-330, an interagency team reviewed this proposed use for potential adverse impacts on sensitive, threatened and endangered fish populations. This team consisted of representatives from the Oregon Departments of Water Resources (WRD), Environmental Quality, Fish and Wildlife (DFW), and Agriculture. WRD and DFW representatives included both technical and field staff. The interagency team recommended that additional limitations or conditions of use be imposed on this application as follows:

If the riparian area is disturbed in the process of developing a point of diversion, the permittee shall be responsible for restoration and enhancement of such riparian area.

The use may be restricted if the quality of the source stream or downstream waters decrease to the point that those waters no longer meet existing state or federal water quality standards due to reduced flows.

The permittee shall install, maintain, and operate fish screening and by-pass devices as required by the Oregon Department of Fish and Wildlife to prevent fish from entering the proposed diversion. The required screens and by-pass devices are to be in place, functional and approved by an ODFW representative prior to diversion of any water.

The use may be restricted if it results in depletion of water levels in Oregon chub ponds on Big Island.

In addition to other measuring and reporting conditions, the permittee must install a totalizing flow meter.

Conclusions of Law

Under the provisions of ORS 537.153, the Department must presume that a proposed use will not impair or be detrimental to the public interest if the proposed use is allowed in the applicable basin program established pursuant to ORS 536.300 and 536.340 or given a preference under ORS 536.310(12), if water is available, if the proposed use will not injure other water rights and if the proposed use complies with rules of the Water Resources Commission.

MUNICIPAL USE is allowed in the Willamette Basin Plan. STREAMFLOW AUGMENTATION is not allowed in the Willamette Basin Plan.

Water is available for the proposed use.

The proposed use will not injure other water rights.

The proposed use complies with other rules of the Water Resources Commission not otherwise described above.

The proposed use complies with the State Agency Agreement for land use.

For these reasons, the required presumption has been established with regard to MUNICIPAL USE, but not STREAMFLOW AUGMENTATION.

Once the required presumption has been established, under the provisions of ORS 537.153(2) it may be overcome by a preponderance of evidence that either:

- (a) One or more of the criteria for establishing the presumption are not satisfied; or
- (b) The proposed use will impair or be detrimental to the public interest as demonstrated in comments, in a protest . . . or in a finding of the department that shows:
 - (A) The specific public interest under ORS 537.170(8) that would be impaired or detrimentally affected; and
 - (B) Specifically how the identified public interest would be impaired or detrimentally affected.

In this application, all criteria for establishing the presumption have been satisfied with regard to MUNICIPAL USE, as noted above. The presumption has not been overcome by a preponderance of evidence that MUNICIPAL USE will impair or be detrimental to the public interest.

The Department therefore concludes that water is available in the amount necessary for MUNICIPAL USE; MUNICIPAL USE will not result in injury to existing water rights; and MUNICIPAL USE will not impair or be detrimental to the public interest as provided in ORS 537.170.

When issuing permits, ORS 537.211(1) authorizes the Department to include limitations and conditions which have been determined necessary to protect the public interest. The attached draft permit is conditioned accordingly.

Recommendation

The Department recommends that the attached draft permit be issued with conditions.

DATED July 13, 2004

Dwight French Water Rights Section Manager If you have any questions, please check the information box on the last page for the appropriate names and phone numbers.

Protest Rights and Standing

Under the provisions of 537.621(7), you have the right to protest this proposed final order. Your protest must be in writing, and must include the following:

- Your name, address, and telephone number;
- A description of your interest in the proposed final order, and, if you claim to represent the public interest, a precise statement of the public interest represented;
- A detailed description of how the action proposed in this proposed final order would impair or be detrimental to your interest;
- A detailed description of how the proposed final order is in error or deficient, and how to correct the alleged error or deficiency;
- Any citation of legal authority to support your protest, if known; and
- If you are not the applicant, the protest fee of \$250 required by ORS 536.050 and proof of service of the protest upon the applicant.
- If you are the applicant, a statement of whether or not you are requesting a contested case hearing. If you do not request a hearing, the Department will presume that you do not wish to contest the findings of the proposed final order.
- If you do not protest this Proposed Final Order and if no substantive changes are made in the final order, you will not have an opportunity for judicial review, protest or appeal of the final order when it is issued.

Requests for Standing

Under the provisions of 537.153(5), persons other than the applicant who support a proposed final order may request standing for purposes of participating in any contested case proceeding on the proposed final

order or for judicial review of a final order. A request for standing shall be in writing, include a statement that the requester supports the proposed final order, and a statement of how the requester would be harmed if the proposed final order is modified. The fee required at the time of submitting this request is \$50.00. If a hearing is scheduled, an additional fee of \$200.00 must be submitted along with a request for intervention. Forms to request standing are available from the Department.

Your protest or request for standing must be received in the Water Resources Department no later than August 27, 2004.

After the protest period has ended, the Director will either issue a final order or schedule a contested case hearing. The contested case hearing will be scheduled only if a protest has been submitted and if

- upon review of the issues, the director finds that there are significant disputes related to the proposed use of water, or
- the applicant requests a contested case hearing within 30 days after the close of the protest period.

This document was prepared by Cory Engel. If you have any questions about any of the statements contained in this document I am most likely the best person to answer your questions. You can reach me at 503-986-0813.

If you have questions about how to file a protest or if you have previously filed a protest and want to know the status, please contact Renee Moulun at 503-986-0824.

If you have other questions about the Department or any of its programs please contact our Water Rights Information Group at 503-986-0801. Address all other correspondence to:

Water Rights Section, Oregon Water Resources Department, 725 Summer St NE Ste A, Salem OR 97301-1271, Fax: 503-986-0901.

engelcc-WEEK 468

STATE OF OREGON

COUNTY OF

DRAFT PERMIT TO APPROPRIATE THE PUBLIC WATERS

THIS DRAFT PERMIT IS HEREBY ISSUED TO

SPRINGFIELD UTILITY BOARD 202 S 18TH ST SPRINGFIELD, OR 97477

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

APPLICATION FILE NUMBER: S-85336

SOURCE OF WATER: MCKENZIE RIVER, A TRIBUTARY OF WILLAMETTE RIVER

PURPOSE OR USE: MUNICIPAL USE

MAXIMUM RATE: 37.0 CUBIC FEET PER SECOND

PERIOD OF USE: YEAR ROUND

DATE OF PRIORITY: NOVEMBER 8, 2002

POINT OF DIVERSION LOCATION: NW & SW & SECTION 26, T17S, R2W, W.M.; 250 FEET SOUTH & 972 FEET EAST FROM THE WEST 1/4 CORNER OF SECTION 26

THE PLACE OF USE IS LOCATED WITHIN THE SERVICE AREA BOUNDARY OF SPRINGFIELD UTILITY BOARD.

Measurement, recording and reporting conditions:

- A. Before water use may begin under this permit, the permittee shall install a totalizing flow meter. The totalizing flow meter must be installed and maintained in good working order consistent with those standards identified in OAR 690-507-645(1) through (3). The permittee shall keep a complete record of the amount of water used each month and shall submit a report which includes the recorded 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.
- B. The permittee shall allow the watermaster access to the meter; provided however, where the meter is located within a private

structure, the watermaster shall request access upon reasonable notice.

If the riparian area is disturbed in the process of developing a point of diversion, the permittee shall be responsible for restoration and enhancement of such riparian area.

The use may be restricted if the quality of the source stream or downstream waters decrease to the point that those waters no longer meet existing state or federal water quality standards due to reduced flows.

The permittee shall install, maintain, and operate fish screening and by-pass devices as required by the Oregon Department of Fish and Wildlife to prevent fish from entering the proposed diversion. The required screens and by-pass devices are to be in place, functional and approved by an ODFW representative prior to diversion of any water.

The use may be restricted if it results in depletion of water levels in Oregon chub ponds on Big Island.

STANDARD CONDITIONS

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.

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

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

By law, the land use associated with this water use must be in compliance with statewide land-use goals and any local acknowledged land-use plan.

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

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

Complete application of the water to the use shall be made on or before October 1, 2008. If the water is not completely applied before this date, and the permittee wishes to continue development under the permit, the permittee must submit an application for extension of time, which may be approved based upon the merit of the application.

Within one year after complete application of water to the proposed use, the permittee shall submit a claim of beneficial use, which includes a map and report, prepared by a Certified Water Rights Examiner (CWRE).

Issued , 2004

DRAFT - THIS IS NOT A PERMIT

Phillip C. Ward, Acting Director Water Resources Department

ASSIGNMENT OF PERMIT: Pursuant to ORS 537.220, this permit may be assigned to a party other than the permittee named hereon, if the land the permit is associated with changes ownership, or if the permittee is an organization whose name changes as a result of sale or merger. Request for Assignment forms are available from the Oregon Water Resources Department web site at http://www.wrd.state.or.us/, or may be requested from the Department at 503-986-0801 or Water Right Application Section, Oregon Water Resources Department, 725 Summer St NE Ste A, Salem OR 97301-1271.

MAILING ADDRESS CHANGES: If the mailing address of the permittee named hereon changes, it is important that the Oregon Water Resources Department be informed of the change. Address changes must be submitted in writing with the permittee's signature to Water Right Application Section, Oregon Water Resources Department, 725 Summer St NE Ste A, Salem OR 97301-1271.

REAL ESTATE TRANSACTIONS: Pursuant to ORS 537.330, in any transaction for the conveyance of real estate that includes any portion of the lands described in this permit, the seller of the real estate shall, upon accepting an offer to purchase that real estate, also inform the purchaser in writing whether any permit, transfer approval order, or certificate evidencing the water right is available and that the seller

will deliver any permit, transfer approval order or certificate to the purchaser at closing, if the permit, transfer approval order or certificate is available.

CULTURAL RESOURCES PROTECTION LAWS: Permittees involved in grounddisturbing activities should be aware of federal and state cultural resources protection laws. ORS 358.920 prohibits the excavation, injury, destruction or alteration of an archeological site or object, or removal of archeological objects from public and private lands without an archeological permit issued by the State Historic Preservation Office. 16 USC 470, Section 106, National Historic Preservation Act of 1966 requires a federal agency, prior to any undertaking to take into account the effect of the undertaking that is included on or eligible for inclusion in the National Register. For further information, contact the State Historic Preservation Office at 503-378-4168, extension 232.

Flow Meter Specifications and Installation Guidelines

- (1) A flow meter shall meet the following specifications
 - (a) A flow meter shall be of the velocity-propeller type or shunt line venturi type with enclosed propeller made of non-corrosive materials. Other types of flow meters may be used with the written approval of the Water Resources Director;
 - (b) A flow meter shall have a rated accuracy of plus or minus 2 percent of actual flow for all rates of flow within the range of flow for which the meter is designed. The flow meter shall register the full range of discharge from the source of water for which it is to be used;
 - (c) The register head of the flow meter shall have a visual, recording, mechanical, digital totalizer located on or adjacent to the flow meter and shall be equipped with a test sweep hand so that flow rate can be quickly determined. The register face shall be protected by a suitable plate or cover;
 - (d) Units of water measurement shall be in acre-feet, cubic feet, or gallons. The totalizer shall read directly in the above-described units. Flow meters recording in acre-feet shall read to the nearest 1/10th acrefoot, and the decimal multiplier shall be clearly indicated on the face of the register head;
 - The totalizing part of the flow meter shall have a sufficient capacity to record the quantity of water authorized to be pumped over a period of 2 years;
 - (f) Both the register and the flow meter unit shall be provided with a method of sealing with a wire or lead seal to prevent unauthorized tampering with the placement or position of the flow meter.
- (2) The flow meter installation shall be as follows
 - (a) The flow meter shall be installed in accordance with manufacturer's specifications and in such a manner that there shall be a full pipe of water at all times during which water is being pumped;
 - (b) There shall be no turnouts or diversions between the source of water and the flow meter installation;
 - (c) The flow meter shall be placed in the pipe not less than five pipe diameters downstream from any valve, elbow, or other obstruction which might create turbulent flow, or install straightening vanes as recommended by the flow meter manufacturer. There shall also be at least one pipe diameter of unobstructed flow on the downstream side of the flow meter;
 - (d) All in-line saddle flow meters equipped with U-bolt fasteners shall be provided with a sealing wire and lead seal near the terminal ends of the U-bolt following the complete installation of the flow meter;
 - (e) The flow meter and register shall not be locked in a building which would prevent access to the register. The register or flow meter shelter may be equipped with a lock to prevent tampering or breakage, provided that a lock is used and for which the watermaster has a key;
 - (f) Provisions shall be made for rating of the flow meter in accordance with the manufacturers specifications;
 - (g) The flow meter installation is subject to inspection and approval by the Director;
 - (h) In the case of artesian wells which flow at various times, the flow meter shall be installed in a manner which will measure both pumped and flowing discharges.
- (3) Flow meters shall be kept clear of debris or other foreign or vegetative growth which could impede their operation. All flow meters shall be lubricated as specified by the manufacturer.

Mailing List for PFO Copies

Application #S-85336

PFO Date July 13, 2004

Original mailed to:

Applicant: BART MCKEE; SPRINGFIELD UTILITY BOARD, 202 S 18TH ST, SPRINGFIELD, OR 97477; include Flow Meter Specifications and Installation Guidelines sheet for this copy only

Copies sent to:

1. WRD - File # S-85336

2. Water Availability: Ken Stahr

PFO copy already sent via e-mail to: with Mattick WRD - Watermaster # 2 (William.E.FERBER@wrd.state.or.us)

Regional Manager: NWR (Dave.E.JARRETT@wrd.state.or.us)

Copies Mailed (SUPPORT STAFF) (DATE)

CASEWORKER: engelcc

WEEK 468

Form 2 - Lower Columbia/Statewide

ODFW DIVISION 33 APPLICATION REVIEW SHEET

Recommendations for Water Right Applications that may affect the Habitat of Sensitive, Threatened or Endangered Fish Species, OAR 690-33-310 through 340.

Application # S-85336

| Applicant's Name: SUB |
|--|
| Will the proposed use occur in an area that may affect the essential habitat of sensitive, threatened, or endangered fish specie [690-33-330(1)] |
| NO / YES Species: Status: Sensitive, Threatened, Endangered |
| IF ANSWER TO QUESTION (1) IS YES, CONTINUE ON THIS PAGE TO QUESTION (2), IF ANSWER IS NO, FILL OUT PUBLIC INTEREST REVIEW SHEET (PAGE 2) |
| What stage or value is at risk (circle all that apply): Spawning, Incubation, Rearing, Passage, Habitat Value |
| 2) Will the proposed use result in a LOSS in the essential habitat of THREATENED OR ENDANGERED SPECIES or a NET LOSS in the habitat of a SENSITIVE SPECIES? NO / YES A) Standard of NET LOSS applies to sensitive species statewide. [690-33-330(2)(a)] B) Standard of LOSS applies to T or E provide a tride the Columbia Paris (199-33-330(2)(a)) |
| B) Standard of LOSS applies to T or E species outside the Columbia Basin. [690-33-330(2)(b)] 3) Can conditions be applied to mitigate the impact to the essential habitat of a S, T or E species? NO / YES [690-33-330(3)] |
| Which conditions are recommended? |
| (Try to select conditions from the Menu of Conditions) |
| 4) If conditions cannot be identified to offset impacts to the essential habitat of S, T or E species, would the proposed use harm the species? NO / YES [690-33-330(4)] |
| If YES, please explain: |
| 5) If a permit is issued, what fish screen, bypass or other conditions should be included in the permit? |
| |
| ODFW Representative: Name: Jeff Ziller Signature: Date: |
| WRD Contact: Caseworker: Cory Engel, Water Rights Division 503-986-0813 / Fax: 503-986-0901 / e-mail: Cory.C.ENGEL@wrd.or.state.us |

Date: May 16, 2003

Deadline Date: ASAP

ODFW PUBLIC INTEREST REVIEW SHEET

Page 2

Application # S-85336 Applicant's Name: SUB

| 1) Will the proposed use occur in an area that may affect the habitat of fish or wildlife species? |
|---|
| NO / YES Species:Other: |
| What stage or value is at risk (circle all that apply): Spawning, Incubation, Rearing, Passage, Habitat V |
| 2) Will the proposed use result in a loss of habitat? NO / YES |
| 3) Can conditions be applied to mitigate the impact to the loss of habitat? NO / YES |
| Which conditions are recommended? |
| |
| (Try to select conditions from the Menu of Conditions) |
| If conditions cannot be identified to offset impacts to the habitat, would the proposed use harm the species? NO / YES |
| If YES, please explain: |
| |
| |
| 5) If a permit is issued, what fish screen, bypass or other conditions should be included in the permit? |
| |
| |
| ODFW Representative: Name: Jeff Ziller Signature: Date: |
| WRD Contact: Caseworker Cory Engel Water Pichts Division |

503-986-0813 / Fax: 503-986-0901 / e-mail: Cory.C.ENGEL@wrd.or.state.us

MENU OF CONDITIONS FOR WRD, ODFW, DEQ AND AG (Developed 6/27/97 - revised 2/26/02)

fish The permittee shall install, maintain, and operate fish screening and by-pass devices as required by the Oregon Department of Fish and Wildlife to prevent fish from entering the proposed diversion. The required screen is to be in place and functional prior to diversion of any water. odfw The permittee shall install, maintain, and operate fish screening and by-pass devices as required by the Oregon Department of Fish and Wildlife to prevent fish from entering the proposed diversion. The required screens and by-pass devices are to be in place, functional and approved by an ODFW representative prior to diversion of any water. B54b The permittee shall install, maintain, and operate fish screening to prevent fish from entering the proposed diversion. The permittee shall also install a fishway at the obstruction that will provide adequate upstream and downstream passage for fish. The permittee may submit evidence that the Oregon Department of Fish and Wildlife (ODFW) has determined screens and/or fishways are not necessary. The required screens and fishways are to be in place, functional, and approved by ODFW before diversion of any water. b54c 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. The applicant is hereby directed to contact an Oregon Department of Fish and Wildlife Fish Passage Coordinator, Portland, Oregon, before beginning construction of any in-channel obstruction. b54m The permittee may be required in the future to install, maintain, and operate fish screening devices to prevent fish from entering the proposed diversion. Water may be diverted only when Department of Environmental Quality sediment standards are being met. b52 The water user shall install and maintain adequate treatment facilities meeting current DEQ requirements to remove sediment before b5 returning the water to the stream. The period of use has been limited to _____ through ___ b51a b57 Before water use may begin under this permit, a totalizing flow meter must be installed at each diversion point. The totalizing flow meter must be installed and maintained as identified in OAR 690-507-645. b58 Before water use may begin under this permit, a staff gage that measures the entire range and stage between full reservoir level dead pool storage must be installed in the reservoir. The staff gage shall be United States Geological Survey style porcelain enamel iron staff gage style A, C, E or I. Additionally, before water use may begin under this permit, if the reservoir is located in channel then weirs or other suitable measuring devices must be installed upstream and downstream of the reservoir, and, a gated valve outlet must be installed. A written waiver may be obtained from the local Watermaster if in his judgement the installation of the weir(s) will provide no public benefit. no id yet (futile call) The use of water allowed herein may be made only at times when waters from the (SPRING OR WHATEVER) would not otherwise flow into a tributary of the (WHATEVER) River or sufficient water is available to satisfy all prior rights, including rights for maintaining instream flows. If the riparian area is disturbed in the process of developing a point of diversion, the permittee shall be responsible for restoration and pispe enhancement of such riparian area. The use may be restricted if the quality of the source stream or downstream waters decrease to the point that those waters no longer meet existing state or federal water quality standards due to reduced flows. The permittee shall install, maintain, and operate fish screening to prevent fish from entering the proposed diversion. The permittee shall also install a fishway at the obstruction that will provide adequate upstream and downstream passage for fish. The permittee may

no id yet The stream and its adjacent riparian area shall be fenced to exclude livestock.

Water must be diverted to a trough or tank through an enclosed water delivery system. The delivery system must be equipped with an automatic shutoff or limiting flow control mechanism or include a means for returning water to the stream source through an enclosed delivery system. The use of water shall not exceed 0.10 cubic feet per second per 1000 head of livestock.

The required screens and fishways are to be in place, functional, and approved by ODFW before diversion of any water.

submit evidence that the Oregon Department of Fish and Wildlife (ODFW) has determined screens and/or fishways are not necessary.

X-Mailer: QUALCOMM Windows Eudora Version 5.2.1

Date: Wed, 02 Jul 2003 15:18:34 -0700

To: Jeffrey.S.Ziller@state.or.us, Michael.J.MATTICK@wrd.state.or.us

From: Cory Engel <Cory.C.ENGEL@wrd.state.or.us> Subject: Springfield Utility Board, S-85336

Cc: Cory.C.ENGEL@wrd.state.or.us

Hello!

We don't have a record of your response to our Initial Review of this application dated May 16, 2003. If you intend to comment, please submit your comment as soon as possible.

If you need any additional information about the application, please do not hesitate to ask.

Mr. Cory C. Engel
Water Right Specialist
Oregon Water Resources Department
503-378-8455, extension 324
FAX: 503-378-6203
Cory.C.ENGEL@wrd.state.or.us
http://www.wrd.state.or.us/

X-Security: MIME headers sanitized on kettle.wrd.state.or.us See http://www.impsec.org/email-tools/sanitizer-intro.html for details. SRevision: 1.139 \$Date: 2003-09-07 10:14:23-07 Subject: RE: SUB comments Date: Mon, 18 Jul 2005 13:43:32 -0700 X-MS-Has-Attach: yes X-MS-TNEF-Correlator: Thread-Topic: SUB comments Thread-Index: AcV+eY0XQF2mIVfeShq+nKzsyvqZqgNVGNHg From: "Jeffrey Ziller" <Jeffrey.S.Ziller@state.or.us> To: "ENGEL Cory C" <Cory.C.ENGEL@state.or.us>, "Jeffrey Ziller" <Jeffrey.S.Ziller@state.or.us> Cc: "MATTICK Michael J" <Michael.J.MATTICK@state.or.us> X-Spam-Checker-Version: SpamAssassin 2.63 (2004-01-11) on kettle.wrd.state.or.us X-Spam-Status: No, hits=-4.7 required=5.0 tests=BAYES 00, HTML FONTCOLOR BLUE, HTML MESSAGE autolearn=no version=2.63

Hi Cory.

X-Spam-Level:

Thanks for your thorough reading of the conditions. I like your suggestions and have put my comments (in blue) into your text. Let me know if you have any questions. Otherwise, I think you could kick this one out the door.

Jeffrey S. Ziller
District Fish Biologist
South Willamette Watershed District
541-726-3515 x26
Jeffrey.S.Ziller@state.or.us
www.dfw.state.or.us/South_Willamette

From: Cory Engel [mailto:Cory.C.ENGEL@state.or.us]

Sent: Friday, July 01, 2005 1:11 PM

To: Jeffrey Ziller
Cc: MATTICK Michael J
Subject: Re: SUB comments

At 06:32 PM 6/9/2005, you wrote:

Attached is a letter amending ODFW's previous comments on the Springfield Utility Board's groundwater applications G-15241, G-15243, and G-15244 and surface application S-85336. ODFW developed the conditions with SUB's input and I believe they are acceptable to both SUB and ODFW. Please let me know if you have any questions.

Jeffrey S. Ziller District Fish Biologist

Jeff,

It's been a bit of a crazy month, but I've finally been able to go over your recommendations for SUB. For the most part, I think we can implement conditions similar to those in your letter which will address your concerns. However, I have questions about some of the conditions. Below, I've addressed each item

with numbers corresponding to those in your letter.

#1: To accommodate the need for fish passage, I recommend the following standard condition for S-85336:

The permittee shall not construct, operate or maintain any dam or artificial obstruction to fish passage at the diversion into Cedar Creek 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 inchannel obstruction.

Please inform me if you see a problem with this. (The condition's last sentence may be unnecessary.) Looks fine to me.

#2: Your recommendation for G-15241 might read as follows when worded as a permit condition:

If the Cedar Creek flow monitoring program currently maintained by the U.S. Geological Survey in conjunction with the U.S. Army Corps of Engineers and the Eugene Water and Electric Board is discontinued, the permittee shall ensure that a similar flow monitoring program is implemented on Cedar Creek.

It would be difficult for us to know what a "similar" program would be when we evaluate their future claim of beneficial use (or "final proof") while processing a final certificate. To rectify this, it would be helpful to identify the minimum characteristics of the flow monitoring program. Ataminimum, a calibrated staff gage would suffice.

#3: This condition says "SUB should continue working cooperatively with any relevant person or entity to ensure that the headgate for Cedar Creek is maintained and operated consistent with the Surface Application." I think this condition might be a bit too vague, and it may be unclear to the permittee and to WRD what is required (e.g. the degree of cooperation or who is "relevant"), and could lead to a dispute at the time of final proof over whether they complied with the condition. If we include this condition in the surface water permit without modifying its substance, it would likely be worded as follows:

SUB shall work cooperatively with any other relevant party to ensure that the Cedar Creek headgate is maintained and operated consistently with this permit.

I'm not sure what this condition will achieve, and it might have unintended consequences. For example, if the headgate is maintained and operated

consistently with the permit, but SUB does not cooperate with other parties to achieve that goal, technically SUB would not have complied with the condition, which would place the permit in jeopardy even though the headgate is adequately maintained and operated. I assume the real goal here is that the headgate be maintained and operated in in good working order. If that requires cooperation with other parties, then SUB must cooperate even if we don't use this condition. Also, the ground water permits will contain a condition prohibiting the use of water from the wells except at times when 4.1 cfs is being diverted from the McKenzie through the headgate. Since the headgate must be maintained and operated to achieve that goal, I'm not sure this condition adds anything. For those reasons, I recommend that this condition be excluded. I'm OK with excluding this. I believe SUB was attempting to cover their cooperation with the Cedar Creek Irrigation District with this condition.

#4: (skipped for the moment to consider #5, which is related)

#5: The suggested condition requires installation of a staff gage at Hendricks Bridge and related calibration and monitoring. There is already a gage (USGS 14163900) with live telemetry viewable at http://waterdata.usgs.gov/or/nwis/uv/?site no=14163900&PARAmeter cd=00065,00060 located 0.8 mile downstream from the Walterville Canal. Though this is 3.7 miles upstream from the bridge, the watermaster has told me that differences in flow between the two points would not be measurable. Because live telemetry would eliminate the need for installation of a new gage and ongoing manual onsite calibration and readings, the probability of compliance would be increased. Is this acceptable to you? Yes.

#4 (resumed): At its core, I think this condition makes sense, and achieves a specific goal, but I have two concerns. The recommended condition essentially says that as long as FERC requires EWEB to bypass 1,000 cfs past Walterville Canal, SUB must bypass 1,000 cfs, but if the FERC requirement changes or ceases, the bypass flow goes up to 1,440 cfs or to EWEB's bypass, whichever is greater.

a. This might also have the unintended consequence of causing SUB to have an interest in FERC's regulation of EWEB's Walterville diversion that would not have otherwise been present. SUB will certainly want to avoid a 44% increase in their required bypass flow. As a result, SUB may have an increased level of interest and/or activity in future relicensing. Though the current FERC license will be in effect until 2037, any certificate issued as a result of this permit will continue in perpetuity. I don't think this is necessarily a problem, but I just wanted to bring it up for your consideration.

- b. The condition is quite complex. It covers several possibilities:
- * If EWEB's bypass remains 1,000, SUB's bypass remains 1,000.
- * If EWEB's bypass ceases, SUB's bypass increases to 1,440.
- * If EWEB's bypass decreases, SUB's bypass increases to 1,440.
- * If EWEB's bypass increases to a rate less than or equal to 1,440, SUB's bypass increases to 1,440.
- * If EWEB's bypass increases to a rate greater than 1,440, SUB's bypass increases to match EWEB's.

From our telephone conversation a few weeks ago, my understanding was that ODFW believes any flow less than 1,440 is not truly adequate. However, despite my desire for a simplified permit condition, it is also apparent that requiring a simple bypass flow of 1,440 wouldn't necessarily be productive either; it would prohibit diversion by SUB much of the time, but it would not result in actual flows of 1,440 below the Walterville diversion because EWEB is not required to bypass that amount. Despite its complexity, unless further discussion causes reconsideration, I intend to use the following paragraph. This substantially follows your recommendation, the only major difference being the gage that is used.

While Eugene Water and Electric Board's (EWEB) license from Federal Energy Regulatory Energy Commission (FERC) requires EWEB to bypass 1,000 cfs of water past the Walterville Canal diversion, the permittee may divert water under this permit only when the flow in the McKenzie River, as measured at U.S. Geological Survey (USGS) gage 14163900, is greater than or equal to 1,000 cfs plus the actual rate of appropriation under this permit. In the event that EWEB's license from FERC is modified or rescinded, the permittee may divert water under this permit only when flow in the McKenzie River, as measured at USGS gage 14163900, is greater than or equal to the FERC-required minimum bypass flow plus the actual rate of appropriation under this permit, or 1,400 cfs plus the actual rate of appropriation under this permit, whichever is greater. The minimum in-stream flow requested by ODFW is 1400 cfs. Though I'd like to see a simpler condition to avoid confusion, this is probably an acceptable alternative to denial of the application, given political considerations. Lagree.

#6: The recommendation says: SUB should confirm that water quality monitoring in lower Cedar Creek is being completed to verify that flow augmentation of 4.1 cfs is sufficient to maintain fish production.

This raises several questions:

- a. It requires confirmation, but not documentation. Is that good enough?
- b. It does not specify what kind of quality aspects should be monitored (pH, turbidity, temperature, bacteria, etc.).
- c. It is unclear at what point it is decided that 4.1 cfs is insufficient, or who makes that determination. (See also item 'e' below, which relates to the relevancy of the 4.1 cfs to water quality.)
- c. There are no consequences if monitoring reveals a problem.
- d. SUB, together with Rural Thurston Neighborhood Organization, the McKenzie Watershed Council, and Thurston High School are already engaged cooperatively in a water monitoring program on Cedar Creek. This program was apparently initiated and has continued for 9 years without the compulsion of a permit condition. That, combined with the involvement of organizations other than SUB, suggest to me that a permit condition would

probably not be required to ensure the continuation of the monitoring program.

e. Most importantly, the basis of the 4.1 streamflow augmentation requirement is not to improve water quality in Cedar Creek, but rather to make up for reduced flows expected to result from ground water appropriations, which our Ground Water / Hydrology Section has determined it will. Therefore, it does not seem possible that reduced water quality in Cedar Creek can result from this project, from a flow rate or abatement perspective.

It seems that the only way this project could result in reduced water quality in Cedar Creek would be if the quality of water in the McKenzie is (or becomes) inferior to the quality of water in Cedar Creek. This seems unlikely; a quick search of internet sources (http://www.mckenziewatershedcouncil.org/pdf/Cedar Creek Monitoring 0102.pdf and http://www.deq.state.or.us/lab/wqm/wqi/upwill/upwill3.htm) shows good water quality in the McKenzie and high levels of turbidity and E.coli in Cedar Creek. In the event McKenzie quality does become inferior to Cedar Creek, increasing the streamflow augmentation beyond 4.1 cfs (which incidentally would not be authorized by the permit) would only exacerbate the problem in Cedar Creek.

In the lower reach, streamflow will be diluted with higher quality water even if flows do not experience a net increase, and in the upper reach, streamflow will be increased with higher quality water. Admittedly, I'm neither a fish biologist nor a water quality expert, but I'm having difficulty conceiving of a scenario under which this project would reduce water quality in Cedar Creek. If this project is implemented consistent with other terms of the permit and Cedar Creek water quality decreases, it seems that such a decrease would likely be the result of factors independent of this project, and would have happened anyway.

One alternative might be to use the following condition (which is derived from a standard water quality condition):

The use may be restricted if the quality of the McKenzie River, Cedar Creek, or downstream waters decrease to the point that those waters no longer meet existing state or federal water quality standards as a result of the use. I'm Ok with not including this condition, however, as you noted, this is insurance that the water quality in Cedar Creek is maintained as intended. The wording was designed to be a reminder to the City of Springfield that additional stormwater and other pollutants should not be allowed into Cedar Creek. If WRD is uncomfortable with this (after all, this should be a DEQ function) go ahead and drop it.

(The actual standard language for this condition reads "The use may be restricted if the quality of the source stream or downstream waters decrease to the point that those waters no longer meet existing state or federal water quality standards due to reduced flows." However, in this case we're concerned not only about the source stream--McKenzie River--but also Cedar Creek, and theoretically there is also the possibility that a quality reduction could result from something other than "reduced flows".)

Since this e-mail turned into the Great American Novel, please comment on each

of these items by number for clarity. I intend to issue PFOs on these applications immediately following resolution of these questions.

Thanks.

Mr. Cory C. Engel
Water Right Application Caseworker
Oregon Water Resources Department
725 Summer St NE Ste A
Salem OR 97301-1271
Phone: 503-986-0813
Fax: 503-986-0901

http://www.wrd.state.or.us/

X-Content-Security: [kettle.wrd.state.or.us] original Content-Type was text/x-

vcard;

Content-Type: APPLICATION/DEFANGED; name="Ziller, Jeff.19433DEFANGED-vcf"

Content-Description: Ziller, Jeff.vcf

Content-Disposition: attachment; filename="Ziller, Jeff.19433DEFANGED-vcf"



Ziller, Jeff.19433DEFANGED-vcf

To: "Jeffrey Ziller" <Jeffrey.S.Ziller@state.or.us> From: Cory Engel <Cory.C.ENGEL@wrd.state.or.us>

Subject: Re: SUB comments

Cc: Mike Mattick

Bcc: f\In Attached:

. .

At 06:32 PM 6/9/2005, you wrote:

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Jeffrey S. Ziller District Fish Biologist

Jeff.

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The permittee shall not construct, operate or maintain any dam or artificial obstruction to fish passage at the diversion into Cedar Creek 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.

Please inform me if you see a problem with this. (The condition's last sentence may be unnecessary.)

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It would be difficult for us to know what a "similar" program would be when we evaluate their future claim of beneficial use (or "final proof") while processing a final certificate. To rectify this, it would be helpful to identify the minimum characteristics of the flow monitoring program.

#3: This condition says "SUB should continue working cooperatively with any relevant person or entity to ensure that the headgate for Cedar Creek is maintained and operated consistent with the Surface Application." I think this condition might be a bit too vague, and it may be unclear to the permittee and to WRD what is required (e.g. the degree of cooperation or who is "relevant"), and could lead to a dispute at the time of final proof over whether they complied with the condition. If we include this condition in the surface water permit without modifying its substance, it would likely be worded as follows:

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#4 (resumed): At its core, I think this condition makes sense, and achieves a specific goal, but I have two concerns. The recommended condition essentially

says that as long as FERC requires EWEB to bypass 1,000 cfs past Walterville Canal, SUB must bypass 1,000 cfs, but if the FERC requirement changes or ceases, the bypass flow goes up to 1,440 cfs or to EWEB's bypass, whichever is greater.

a. This might also have the unintended consequence of causing SUB to have an interest in FERC's regulation of EWEB's Walterville diversion that would not have otherwise been present. SUB will certainly want to avoid a 44% increase in their required bypass flow. As a result, SUB may have an increased level of interest and/or activity in future relicensing. Though the current FERC license will be in effect until 2037, any certificate issued as a result of this permit will continue in perpetuity. I don't think this is necessarily a problem, but I just wanted to bring it up for your consideration.

- b. The condition is quite complex. It covers several possibilities:
- * If EWEB's bypass remains 1,000, SUB's bypass remains 1,000.
- * If EWEB's bypass ceases, SUB's bypass increases to 1,440.
- * If EWEB's bypass decreases, SUB's bypass increases to 1,440.
- * If EWEB's bypass increases to a rate less than or equal to 1,440, SUB's bypass increases to 1,440.
- * If EWEB's bypass increases to a rate greater than 1,440, SUB's bypass increases to match EWEB's.

From our telephone conversation a few weeks ago, my understanding was that ODFW believes any flow less than 1,440 is not truly adequate. However, despite my desire for a simplified permit condition, it is also apparent that requiring a simple bypass flow of 1,440 wouldn't necessarily be productive either; it would prohibit diversion by SUB much of the time, but it would not result in actual flows of 1,440 below the Walterville diversion because EWEB is not required to bypass that amount. Despite its complexity, unless further discussion causes reconsideration, I intend to use the following paragraph. This substantially follows your recommendation, the only major difference being the gage that is used.

While Eugene Water and Electric Board's (EWEB) license from Federal Energy Regulatory Energy Commission (FERC) requires EWEB to bypass 1,000 cfs of water past the Walterville Canal diversion, the permittee may divert water under this permit only when the flow in the McKenzie River, as measured at U.S. Geological Survey (USGS) gage 14163900, is greater than or equal to 1,000 cfs plus the actual rate of appropriation under this permit. In the event that EWEB's license from FERC is modified or rescinded, the permittee may divert water under this permit only when flow in the McKenzie River, as measured at USGS gage 14163900, is greater than or equal to the FERC-required minimum bypass flow plus the actual rate of appropriation under this permit, or 1,440 cfs plus the actual rate of appropriation under this permit, whichever is greater.

Though I'd like to see a simpler condition to avoid confusion, this is probably an acceptable alternative to denial of the application, given political considerations.

#6: The recommendation says: SUB should confirm that water quality monitoring in lower Cedar Creek is being completed to verify that flow augmentation of 4.1 cfs is sufficient to maintain fish production.

This raises several questions:

- a. It requires confirmation, but not documentation. Is that good enough?
- b. It does not specify what kind of quality aspects should be monitored (pH, turbidity, temperature, bacteria, etc.).
- c. It is unclear at what point it is decided that 4.1 cfs is insufficient, or who makes that determination. (See also item 'e' below, which relates to the relevancy of the 4.1 cfs to water quality.)
- c. There are no consequences if monitoring reveals a problem.
- d. SUB, together with Rural Thurston Neighborhood Organization, the McKenzie Watershed Council, and Thurston High School are already engaged cooperatively in a water monitoring program on Cedar Creek. This program was apparently initiated and has continued for 9 years without the compulsion of a permit condition. That, combined with the involvement of organizations other than SUB, suggest to me that a permit condition would probably not be required to ensure the continuation of the monitoring program.
- e. Most importantly, the basis of the 4.1 streamflow augmentation requirement is not to improve water quality in Cedar Creek, but rather to make up for reduced flows expected to result from ground water appropriations, which our Ground Water / Hydrology Section has determined it will. Therefore, it does not seem possible that reduced water quality in Cedar Creek can result from this project, from a flow rate or abatement perspective.

It seems that the only way this project could result in reduced water quality in Cedar Creek would be if the quality of water in the McKenzie is (or becomes) inferior to the quality of water in Cedar Creek. This seems unlikely; a quick search of internet sources (http://www.mckenziewatershedcouncil.org/pdf/Cedar Creek Monitoring 0102.pdf and http://www.deq.state.or.us/lab/wqm/wqi/upwill/upwill3.htm) shows good water quality in the McKenzie and high levels of turbidity and E.coli in Cedar Creek. In the event McKenzie quality does become inferior to Cedar Creek, increasing the streamflow augmentation beyond 4.1 cfs (which incidentally would not be authorized by the permit) would only exacerbate the problem in Cedar Creek.

In the lower reach, streamflow will be diluted with higher quality water even if flows do not experience a net increase, and in the upper reach, streamflow will be increased with higher quality water. Admittedly, I'm neither a fish biologist nor a water quality expert, but I'm having difficulty conceiving of a scenario under which this project would reduce water quality in Cedar Creek. If this project is implemented consistent with other terms of the permit and Cedar Creek water quality decreases, it seems that such a decrease would likely be the result of factors independent of this project, and would

have happened anyway.

One alternative might be to use the following condition (which is derived from a standard water quality condition):

The use may be restricted if the quality of the McKenzie River, Cedar Creek, or downstream waters decrease to the point that those waters no longer meet existing state or federal water quality standards as a result of the use.

(The actual standard language for this condition reads "The use may be restricted if the quality of the source stream or downstream waters decrease to the point that those waters no longer meet existing state or federal water quality standards due to reduced flows." However, in this case we're concerned not only about the source stream--McKenzie River--but also Cedar Creek, and theoretically there is also the possibility that a quality reduction could result from something other than "reduced flows".)

Since this e-mail turned into the Great American Novel, please comment on each of these items by number for clarity. I intend to issue PFOs on these applications immediately following resolution of these questions.

Thanks.

Mr. Cory C. Engel
Water Right Application Caseworker
Oregon Water Resources Department
725 Summer St NE Ste A
Salem OR 97301-1271
Phone: 503-986-0813
Fax: 503-986-0901

http://www.wrd.state.or.us/

X-Mailer: QUALCOMM Windows Eudora Version 5.2.1

Date: Thu, 08 Apr 2004 08:49:40 -0700

To: Jeffrey.S.Ziller@state.or.us

From: Cory Engel <Cory.C.ENGEL@wrd.state.or.us> Subject: Springfield Utility Board, S-85336

Cc: Cory.C.ENGEL@wrd.state.or.us

X-Security: MIME headers sanitized on kettle.wrd.state.or.us See http://www.impsec.org/email-tools/sanitizer-intro.html for details. \$Revision: 1.139 \$Date: 2003-09-07 10:14:23-07

Jeff.

A couple of weeks ago I called you about SUB's pending surface water application for municipal use and streamflow augmentation in Cedar Creek, to see if you wanted to comment on the application. You told me that you were going to talk to SUB about possibly working with EWEB to reduce EWEB's diversion for the Walterville project to mitigate for a diversion into Cedar Creek, and that you would subsequently make any comments you have.

Please keep in mind that you are under no obligation to negotiate an agreement between SUB and EWEB to make this diversion work. If in fact the diversion would be harmful to fish, then the proper course of action would be to provide that information in a comment to WRD, along with identification of conditions or mitigation options that you believe would satisfactorily address those fish issues (as requested on the Div 33 comment form, a copy of which is attached). If you do that, then we will proceed with a Proposed Final Order which will take those comments under advisement. The applicant will have an opportunity to address concerns if the PFO is not positive.

This application is long overdue for processing, and we'll have to proceed soon. How close are you to providing comments?

Thanks.



\$85536-SUB.ndf

Oregon Water Res Salem OR 97301-1 Fax: 503-986-090 http://www.wrd.s

Mr. Cory C. Enge LEGT MSG FOR ZEWIN Water Right Appl TO GOT COMENTS 725 Summer St NE 3/23 9AM. Phone: 503-986-0 OUT UNTEL 3/29

4/19/04- ZEWER WEW
COMMENT PATER HISSING
W/ SUB & OTHER MYSERSS
PARTIES ON 4/20.

X-Mailer: QUALCOMM Windows Eudora Version 5.2.1

Date: Thu, 08 Apr 2004 08:49:40 -0700

To: Jeffrey.S.Ziller@state.or.us

From: Cory Engel <Cory.C.ENGEL@wrd.state.or.us> Subject: Springfield Utility Board, S-85336

Cc: Cory.C.ENGEL@wrd.state.or.us

X-Security: MIME headers sanitized on kettle.wrd.state.or.us See http://www.impsec.org/email-tools/sanitizer-intro.html for details. \$Revision: 1.139 \$Date: 2003-09-07 10:14:23-07

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This application is long overdue for processing, and we'll have to proceed soon. How close are you to providing comments?

Thanks.



S85536-SUB.pdf

Mr. Cory C. Engel
Water Right Application Caseworker
Oregon Water Resources Department
725 Summer St NE
Salem OR 97301-1271

Phone: 503-986-0813 Fax: 503-986-0901

http://www.wrd.state.or.us/

4/19/04- ZEVER WEU

COMMENT PATER MESSENG

W/ SUB & OTHER ANTECTOS

PARTES ON 4/20.

X-Mailer: QUALCOMM Windows Eudora Version 5.2.1

Date: Thu, 27 May 2004 13:40:36 -0700

To: "Jeff Ziller" <jeffrey.s.ziller@STATE.OR.US> From: Cory Engel <Cory.C.ENGEL@wrd.state.or.us> Subject: S-85336, Springfield Utility Board

Jeff,

I'm afraid I can't wait any longer for your comments on this application. I intend to proceed with Proposed Final Orders on SUB's applications. If you have any comments to make, you need to make them now in order for them to be considered.

Thanks.

Mr. Cory C. Engel Water Right Application Caseworker Oregon Water Resources Department 725 Summer St NE Salem OR 97301-1271 Phone: 503-986-0813

Fax: 503-986-0901

http://www.wrd.state.or.us/

X-Mailer: Novell GroupWise Internet Agent 6.5.2 Beta

Date: Fri, 28 May 2004 12:55:47 -0700

From: "Jeff Ziller" <Jeffrey.S.Ziller@state.or.us>

To: ENGEL Cory C <Cory.C.ENGEL@state.or.us> Subject: Re: S-85336, Springfield Utility Board

X-Security: MIME headers sanitized on kettle.wrd.state.or.us See http://www.impsec.org/email-tools/sanitizer-intro.html for details. \$Revision: 1.139 \$Date: 2003-09-07 10:14:23-07

That's fine Cory. The Cedar Creek water issue is very complicated and I don't believe we have enough information to make any substantial comments. Because the analysis is not there, we have to assume that SUB will not be directly entraining fish (screens are in order) or drying up the Oregon chub ponds on. Big Island (does the USFWS get a chance to review?). If WRD believes there is enough water, I don't believe ODFW can object very strenuously. I think there will be a lot more on this waterway in the coming months.

Jeffrey S. Ziller
District Fish Biologist
Oregon Department of Fish and Wildlife
541-726-3515 x26
Jeffrey.S.Ziller@state.or.us
http://www.dfw.state.or.us/South Willamette

>>> Cory Engel <Cory.C.ENGEL@state.or.us> 5/27/2004 1:40:36 PM >>> Jeff,

I'm afraid I can't wait any longer for your comments on this application. I intend to proceed with Proposed Final Orders on SUB's applications. If you have any comments to make, you need to make them now in order for them to be considered.

Thanks.

Mr. Cory C. Engel
Water Right Application Caseworker
Oregon Water Resources Department
725 Summer St NE
Salem OR 97301-1271
Phone: 503-986-0813
Fax: 503-986-0901

http://www.wrd.state.or.us/

MEMORANDUM

To:

S-85336 Application File

From:

Cory Engel

Date:

May 9, 2005

Subject:

Summary of Division 33 comments

In preparation for a conversation with Greg Corbin at Stoel Rives (the applicant's attorney), I have summarized comments provided by ODFW and DEQ with regard to OAR 690-33. Statements made by ODFW and DEQ, if not modified by additional comment, will result in only one added condition each:

ODFW:

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

DEQ:

The permittee shall maintain the diversion works in good working order.

Greg Corbin stated that Jeff Ziller at ODFW has stated that fish screening should not be necessary, and that he would ask Jeff to reverse his earlier comment.

Superis 80,80 / 1/8/2005 Emer.

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Subject: SUB comments

Date: Thu, 9 Jun 2005 18:32:45 -0700

X-MS-Has-Attach: yes X-MS-TNEF-Correlator: Thread-Topic: SUB comments

Thread-Index: AcVtXE0tdvuc3cDfTg0xjB1CPl3NGw==

From: "Jeffrey Ziller" <Jeffrey.S.Ziller@state.or.us>

To: "ENGEL Cory C" <Cory.C.ENGEL@state.or.us>

Attached is a letter amending ODFW's previous comments on the Springfield Utility Board's groundwater applications G-15241, G-15243, and G-15244 and surface application S-85336. ODFW developed the conditions with SUB's input and I believe they are acceptable to both SUB and ODFW. Please let me know if you have any questions.

Jeffrey S. Ziller
District Fish Biologist
South Willamette Watershed District
541-726-3515 x26
Jeffrey.S.Ziller@state.or.us
www.dfw.state.or.us/South_Willamette

X-Content-Security: [kettle.wrd.state.or.us] original Content-Type was text/x-vcard;

Content-Type: APPLICATION/DEFANGED; name="Ziller, Jeff.26940DEFANGED-vcf"

Content-Description: Ziller, Jeff.vcf

Content-Disposition: attachment; filename="Ziller, Jeff.26940DEFANGED-vcf"



Ziller, Jeff.26940DEFANGED-vcf



SUB comments 5 31 05.doc



Department of Fish and Wildlife

SPRINGFIELD FIELD OFFICE 3150 Main Street Springfield, OR 97478 Voice (541) 726-3515 FAX (541) 726-2505

http://www.dfw.state.or.us/South_Willamette

June 9, 2005

Mr. Cory C. Engel Oregon Water Resources Department North Mall Office Building 725 Summer Street NE, Suite A Salem, OR 97301-1271 OREGON
Fish & Wildlife

Dear Mr. Engel:

The Oregon Department of Fish and Wildlife (ODFW) previously provided the Oregon Water Resources Department (OWRD) comments on the Springfield Utility Board's (SUB) groundwater applications G-15241, G-15243, and G-15244 (Groundwater Applications) and surface application S-85336 (Surface Application). The purpose of this letter is to modify our earlier comments on these water right applications. Application G-15241 is for year-round appropriation of 1.78 cubic feet per second (cfs) of municipal use water from two wells (0.89 cfs from each) located in the Cedar Creek basin. Application G-15243 is for year-round appropriation of 4.91 cfs of municipal use water from four wells (1.34 cfs from three wells and 0.89 cfs from the fourth well) located within the McKenzie River basin. Application G-15244 is for year-round appropriation of 4.02 cfs of municipal use water from three wells (1.34 cfs from each well) located within the McKenzie River basin. The Surface Application as originally filed was for year-round diversion of 37.0 cfs of water from the McKenzie River for municipal use, and 3.0 cfs from the McKenzie River for stream flow augmentation in Cedar Creek, for a total of 40.0 cfs from the McKenzie River.

ODFW provided comments pursuant to Oregon Administrative Rules Chapter 690, Division 33. We commented that the Groundwater Applications would result in a net loss of essential habitat of Upper Willamette Spring Chinook Salmon, and that if the loss cannot be offset, the reduced stream flow would limit fish production in Cedar Creek and McKenzie River. We recommended that SUB develop a water flow monitoring program for the affected stream reaches. We also recommended that if stream flow is reduced in Cedar Creek or the McKenzie River, SUB should purchase stored reservoir water from the U.S. Army Corps of Engineers (Corps) to offset reductions in stream flow.

Subsequent to ODFW's original comments on the Groundwater Applications and Surface Applications, SUB obtained from the Oregon Water Resources Commission an exception from the Willamette Basin Program to allow OWRD to consider the Groundwater Applications. OWRD is prepared to issue water right permits after receiving updated comments from ODFW. I also understand that SUB has amended its Surface Application to covert the 3.0 cfs of stream flow augmentation to 4.1 cfs of instream flows in Cedar Creek for fish and wildlife, and that this 4.1 cfs of instream flow will fully offset impacts on Cedar Creek from application G-15241. Thus, the Surface Application as amended is for 35.9 cfs of municipal use and 4.1 cfs of instream water for fish and wildlife. Finally, I understand from discussions with SUB that purchasing stored water from the Corps is currently not a viable option because the Corps is not offering stored water for sale until its consultation under the federal Endangered Species Act is

complete. In light of these changed circumstances, ODFW now provides new and amended Division 33 comments on the Groundwater Applications and Surface Application.

ODFW does not object to the issuance of the Groundwater Applications and Surface Application under the following conditions:

- SUB shall ensure that the Cedar Creek headgate is maintained and managed to allow upstream and downstream fish passage all year. Provided fish passage is unimpeded at the headgate, fish screens are not required at the Cedar Creek headgate as previously recommended for the Surface Application.
- 2. A flow monitoring program currently is in place and maintained by the U.S. Geological Survey, in conjunction with the U.S. Army Corps of Engineers and the Eugene Water and Electric Board, on Cedar Creek. If that monitoring program is discontinued, as a condition on application G-15241, SUB shall ensure that a similar flow monitoring program is implemented on Cedar Creek.
- SUB should continue working cooperatively with any relevant person or entity to ensure that the headgate for Cedar Creek is maintained and operated consistent with the Surface Application.
- 4. As a condition on the Surface Application, so long as the Federal Energy Regulatory Energy Commission (FERC) requires the Eugene Water and Electric Board (EWEB) to bypass 1,000 cfs of water in the reach of the McKenzie River downstream from the Walterville Canal intake, SUB shall divert surface flow from the McKenzie River only if the flow in the McKenzie River, as measured at Hendricks Bridge, is greater than or equal to 1,000 cfs plus the amount of SUB's diversion. In the event that EWEB's FERC License is modified or recinded, SUB shall divert surface water only when flow in the McKenzie River, as measured at Hendricks Bridge, is greater than or equal to the FERC required minimum bypass flow plus the amount of SUB's diversion or 1440 cfs, whichever is greater.
- A flow monitoring program that consists of a staff guage and annual calibration shall be implemented for the McKenzie River at Hendricks Bridge to verify minimum flow requirements are being met, as described above (in 4).
- SUB should confirm that water quality monitoring in lower Cedar Creek is being completed to verify that flow augmentation of 4.1 cfs is sufficient to maintain fish production.

As conditioned above, approval of the Groundwater Applications and Surface Application will mitigate for stream flow loss in Cedar Creek and have a beneficial effect on Cedar Creek for fish and fish habitat. ODFW supports this proposal as a means for addressing its earlier concerns about stream flows and no additional flow augmentation in Cedar Creek would be required.

Thank you for this opportunity to respond and please do not hesitate to contact me if you have questions.

Sincerely,

Jeffrey S. Ziller
District Fish Biologist
South Willamette Watershed District
Jeffrey.S.Ziller@state.or.us
phone: 541-726-3515, ext. 26

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See http://www.impsec.org/email-tools/sanitizer-intro.html for details. \$Revision: 1.133 \$Date: 2002-01-05 17:09:21-08

Subject: RE: questions on two applications

Date: Wed, 2 Jul 2003 16:17:25 -0700

X-MS-Has-Attach:

3

X-MS-TNEF-Correlator:

<58498AC4FB74D74BB2E653BACAC22C106C4335@DEQMAIL.deq.state.or.us>

Thread-Topic: questions on two applications

Thread-Index: AcNA51uRd4Z4N7gIRyGxWGTN7EwpIwAATUzw

From: "BURR Rachel" <Rachel.Burr@state.or.us>

To: "ENGEL Cory C" <Cory.C.ENGEL@state.or.us>

Thanks Cory for the information. The task of reviewing these water rights application is pretty difficult sometimes considering the limited amount of information that is available, I do appreciate you checking further on my concerns. In light of this new information it appears the applicant has a method to return water to Cedar Creek that is adequate and will not affect the hydraulics of the stream. With this in mind I would like to withdraw my comment regarding the methodologies used by SUB to return water to Cedar Creek. Regarding the head gate it would be prudent to included as a condition regular maintenance on the head gate to ensure that it is functioning properly, likely SUB already does this but thought I should offer it.

In response to your question about my request for a "study" of Cedar Creek, perhaps I should have been more delicate when stating that I would like to see a study; actually my hope was that the applicant would consider monitoring Cedar Creek (suppose it was more of a suggestion than a condition) therefore remove my comment regarding further study. Also Cory thought I might add that I did find out that EWEB has several water quality monitoring sites along Cedar Creek, not sure if perhaps some of their data could be used to evaluate the conditions of Cedar Creek but it may be an option. The person I spoke with at EWEB does have a dialogue with SUB so I am sure they will discuss Cedar Creek in the future.

Lastly Cory it certainly appears that my determination of conditions for projects will need to be reined in a bit. I feel sometimes that this process is so streamlined that we sometimes miss the big picture and more could be done to protect water quality. But I do understand your concerns about additional conditions that are outside of the ones WRD offers. In the future I will only add new conditions when I feel there is a dire need for additional action.

Regarding the comments on the Coquille Tribes application, funny I was about to call you and edit my comments on the conditions I suggested. I was able to speak with Mike Grey just a few minutes ago and received a tremendous amount of information regarding these two sites and Mike indicated that there is likely not going to be any water quality issues that could affect Coos Bay. Mike also stated that the fish passage issues have already been resolved. With all this in mind I can feel

comfortable withdrawing my conditions regarding monitoring and fish passage issues. Cory next time I will not send the review until I have talked to everybody that has knowledge of the area. This was kind of of a rush job and it certainly shows considering I did not get all the information required to provide an accurate review. Hope this covers everything Cory. Call if you have more questions.

Rachel Burr

----Original Message----

From: ENGEL Cory C

Sent: Wednesday, July 02, 2003 3:15 PM

To: BURR Rachel

Cc: ENGEL Cory C; MATTICK Michael J Subject: questions on two applications

Rachel,

I have questions about your recent comments on two applications:

1. S-85336, Springfield Utility Board:

This application proposes to send 3.0 cfs water from the McKenzie River through Cedar Creek downstream past SUB's well field, where they intend to appropriate water via their wells under separate groundwater applications. In your comment on this application, you said:

"I would like to see more study on impacts to Cedar Creek. The introduction of 3 cfs of water into Cedar Creek could cause turbidity issues and potentially erosion of stream bank. Suggest returning water to Cedar Creek using several sites for return."

I have spoken with the applicant's attorney, who informed me that the intended means of diversion into Cedar Creek is an existing headgate at McKenzie River. He also stated that he thought the flow in Cedar Creek was often more than 3 cfs, and at some times of the year, perhaps several times that rate. It occurred to me that, given those facts, your concerns about turbidity may be assuaged. (It seems to me that diversion via headgate, particularly an existing one, would be less likely to cause substantial increased turbidity and erosion than, for example, a discharge via pipe into Cedar Creek; it may even cause less turbidity and erosion than several piped discharges.)

I have the following questions:

- a. Generally speaking, does this new information cause you to change your previous recommendation?
- b. Please elaborate on what you would like to see with regard to "study on impacts to Cedar Creek". We rely heavily on DEQ expertise to

X-Sender: engelcc@mailhub.wrd.state.or.us

X-Mailer: QUALCOMM Windows Eudora Version 5.2.1

Date: Wed, 02 Jul 2003 15:15:13 -0700

To: Rachel.Burr@state.or.us

From: Cory Engel <Cory.C.ENGEL@wrd.state.or.us>

Subject: questions on two applications

Cc: Cory.C.ENGEL@wrd.state.or.us, Michael.J.MATTICK@wrd.state.or.us

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See http://www.impsec.org/email-tools/sanitizer-intro.html for details. \$Revision: 1.133 \$Date: 2002-01-05 17:09:21-08

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I have the following questions:

- a. Generally speaking, does this new information cause you to change your previous recommendation?
- b. Please elaborate on what you would like to see with regard to "study on impacts to Cedar Creek". We rely heavily on DEQ expertise to address issues relating to water quality, and generally do not undertake further study of quality issues after this stage of application processing. If you intend that the applicant should be required to commission a study, then I'll need more information in order to enable the applicant to comply. For example, what would be the specific goal of the study? Who will evaluate its results? Should it be completed prior to permit issuance, or as a condition of a permit, and if the latter, should it be completed and evaluated before water use may begin? What will possible outcomes be (e.g. could it result in cancellation of the permit)?

c. If you do not wish to alter your recommendation that the permittee be required to discharge water into Cedar Creek at several points (given that there apparently already exists a headgate at McKenzie River > Cedar Creek which sometimes delivers substantially more than 3 cfs of water into Cedar Creek), please provide more specific information to ensure that the permittee's compliance has the desired result. For example, how many discharge points should be required? Should there be a maximum rate of flow at each point? Should the points of discharge have a minimum distance between them? Also note that this may cause some difficulty to the applicant, depending on whether they have legal access to lands over which they would have to transport water to additional discharge points.

I suspect that the Watermaster, Mike Mattick, is familiar with this diversion. I am copying this message to him so that he may give feedback to us if he has anything to offer; you may wish to communicate with him directly if you need more information about the physical diversion.

2. R-85411 & R-85412, Coquille Indian Tribe

Thanks for your quick response on these applications. In your comment, you said:

"Would like to see monitoring of water quality in both Tarheel Creek and Fourth Creek. Especially at the point where these two streams enter Coos Bay."

Similarly to your SUB recommendation above, it isn't clear to me how this is to be implemented. If you intend that the applicant should be required to monitor water quality, then I'll need more information in order to enable the applicant to comply. For example, what would be the specific goal of the monitoring? Will the applicant be required to submit water quality results? Who will evaluate them? Does monitoring equipment need to be installed prior to water use or at any time prior to issuance of a water right certificate? What equipment or methods should be used? What will possible outcomes be (e.g. could it result in cancellation of the permit)?

Also, again, it is possible that the applicant may not have access to the point where these two streams enter Coos Bay.

Thanks for your time on these. As you can tell, it can be quite difficult for us to process comments that go beyond recommendations for specific permit conditions and the specific reasons for those permit conditions. For that reason, we prefer that your recommendations be limited to conditions that are either from the menu on the back of the form when possible, and when customized conditions are warranted, that you provide the exact wording you would like to see.

Thanks.

Mr. Cory C. Engel Water Right Specialist

DIVISION 33 APPLICATION REVIEW SHEET FOR USE BY DEQ

Blanchard

Recommendations for Water Right Applications that may affect the Habitat of Sensitive, Threatened or Endangered Fish Species, OAR 690-33-310 through 340.

| Date: 5/16/03 21 day Deadline Date: 6/6/03 Application # S-85336 |
|--|
| Applicant's Name: Springfield Utility Board |
| 1) Is there a connection to a 303(d) listed water quality limited waterbody? NO VES |
| Explain: Mckovzie Liver listelfor temperature. |
| |
| |
| 2) What is the potential for this use to impact a water quality limited waterbody: HIGH MEDIUM LOW |
| Explain: |
| |
| |
| 3) If the answer to question (2) is HIGH or MEDIUM, will the proposed use still result in diminution of water quality for the has of sensitive, threatened, or endangered fish species? NO / YES |
| |
| If YES, how? |
| |
| |
| 4) Can conditions be applied to mitigate the impact of the use? NO /YES |
| Which conditions are recommended? (Try to select conditions from the Menu of Conditions) |
| pispe, odtw, bot, |
| |
| 5) If conditions cannot be identified to offset impacts would the proposed use affect the Habitat of Sensitive, Threatened, or Endangered Fish Species? NO YES |
| |
| If YES, please explain: Totake must have fish screen to avoid harming listed fish species. Riphains area must be intact, removal of veget from |
| could cause temperature increase and increased sedimentation. |
| 6) If a permit is issued, are there any conditions you would like to see included in the permit? |
| The introduction of 3 cts of water into Ceder Creek |
| Cause & tuebility issues and potentially exosion of stream bank, |
| Suggest setuaning water to Cedan Creek using several sites for setuen. |
| DEQ Representative: Name: John Blanchard Signature: Rockel Anny Bun Date: 6/11/03 |
| DEQ Representative: Name: John Blanchard Signature: Kockel Home Dun Date: 6/11/03 |
| WRD Contact: Caseworker: Cory Engel, Water Rights Division 503-378-8455 ext: 324 / Fax: 503-378-6203 / e-mail: Cory.C.ENGEL@wrd.or.state.us |

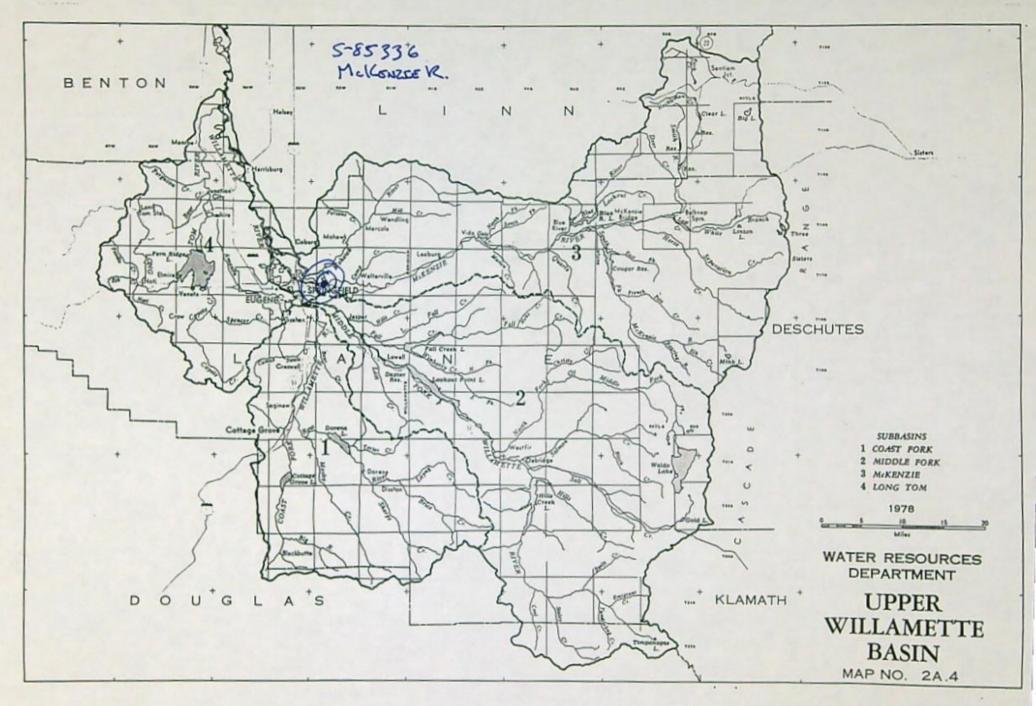
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Revised: 02/26/02

MAY 1 9 2003

DEQ - MEDFORD



This map has been prepared by WRD to assist you in the review of this application. The dot in the center of the bullseye is a close approximation of the proposed diversion.



WATER SERVICE CENTER 202 South 18th Street Springfield, OR 97477-5240 Tel 541.726.2396 Fax 541.747.7348 www.subutil.com

October 12, 2005

Mr. Cory Engel Water Right Application Caseworker Oregon Water Resources Department 725 Summer Street NE, Suite A Salem, OR 97301-0900

RE: Application Files S-85336, G-15241, G-15242, G-15243, G-15244

Dear Mr. Engel:

The Springfield Utility Board intends to complete construction of proposed works for the above referenced surface and groundwater applications. All construction will be completed within 20 years from the date of permit issue.

In the first quarter of 2006, SUB will be constructing the first phase of transmission mains sized to accommodate the new water source designated in these applications. Due to timing of ODOT paving projects on Highway 126, it is necessary that we install these mains in anticipation of receiving water rights.

Please call me at (541) 726-2396 if you have any questions.

Sincerely,

Charles C. Arrera PE

Director of Water Engineering and Operations

200

CA:mkm

cc: Greg Corbin, Stoel Rives

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OCT 1 4 2005

WATER RESOURCES DEPT SALEM, OREGON



SPRINGFIELD UTILITY BI 250 A STREET, PO BOX 300 SPRINGFIELD, OREGON 97477-0077

Address Service Requested

2002 2110 0000 BS15 2515

A CONTRACTOR OF THE CONTRACTOR



Mr. Cory Engel Water Right Application Caseworker Oregon Water Resources Department 725 Summer Street NE, Suite A Salem, OR 97301-0900



Water Resources Department

North Mall Office Building 725 Summer Street NE, Suite A Salem, OR 97301-1271 503-986-0900 FAX 503-986-0904

September 1, 2005

Chuck Arrera Springfield Utility Board 202 S 18th St Springfield OR 97477

RE: Application Files S-85336, G-15241, G-15242, G-15243, & G-15244

Mr. Arrera:

The Department is currently in the process of reviewing your applications for permits to use water for municipal use. House Bill 3038 (HB3038), which became effective on June 29, 2005, amended ORS 537.230 and ORS 537.630 to provide the applicant of a permit for a municipal water use a maximum of 20 years to commence and complete construction of proposed works. In order to comply with HB3038, please submit a statement providing the number of years (not to exceed 20 years) you need to complete construction from the date of permit issuance.

Please submit this information no later than 60 days from date of this letter.

To be in compliance with the statute, you may request up to 20 years to complete construction from the date of permit issuance, but no longer.

Should you have any questions regarding your application, please call me at (503) 986-0813.

Sincerely,

Mr. Cory Engel

Water Right Application Caseworker

c: File

Watermaster District #2

Greg D. Corbin, Stoel Rives (via vax to 503-220-2480)



Water Resources Department

North Mall Office Building 725 Summer Street NE, Suite A Salem, OR 97301-1271 503-986-0900 FAX 503-986-0904

May 3, 2005

Greg D Corbin Stoel Rives 900 SW 5th Ave Ste 2600 Portland OR 97204

RE: Springfield Utility Board applications S-85336, G-15241, G-15242, G-15243, G-15244

Mr. Corbin:

This is in response to your letter dated April 28, 2005, in which you requested that the administrative hold on the above-referenced applications be extended for an additional six months.

Your request is approved. The Department will not take further action on your application until October 26, 2005, unless issues raised by Oregon Department of Fish and Wildlife are resolved sooner.

Sincerely

Dwight French

Water Right Application Section Manager

c: Files

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APR 2 9 2005 WATER RESOURCES THEFT 900 S.W. Fifth Avenue, Suite 2600 Portland, Oregon 97204 main 503:224:3380 fax 503:220:2480 www.stoet.com

April 28, 2005

GREG D. CORBIN Direct (503) 294-9632 gdcorbin@stoel.com

Mr. Cory C. Engel Water Resources Department North Mall Office Building 725 Summer Street NE, Suite A Salem, OR 97301-1271

Re: Springfield Utility Board Applications S-85336, G-15241, G-15242, G-15243, and G-15244

Dear Cory:

Thank you for your letter dated April 18, 2005 regarding the Springfield Utility Board's ("SUB") water right applications. As you note in your letter, the current administrative hold period for the above-referenced applications expires April 30, 2005. SUB hereby requests that the Department extend the administrative hold period for these applications for six months to allow sufficient time to work through the issues raised in your letter. In particular, SUB is working with Jeff Ziller at the Oregon Department of Fish and Wildlife to address that agency's earlier comments on the applications. SUB is hopeful that it can resolve the issues raised in those comments shortly. According, SUB also requests that if those issues are resolved before the expiration of an additional six month administrative hold period, then the Department proceed to process SUB's applications S-85336, G-15241, G-15243, and G-15244 without further delay. SUB will continue to deal with application G-15242 separately.

I appreciate your attention to this matter. Please contact me if you have any questions.

Very truly yours,

Greg D. Corbin

cc: Mr. Dwight French

Mr. Chuck Arrera Mr. David Filippi



Eugene Water & Electric Board

500 East 4th Avenue / Post Office Box 10148 Eugene, Oregon 97440-2148 541-484-2411 Fax 541-484-3762 APR 1 1 2005
WATER RESOURCES DEPT
SALEM, OREGON

April 7, 2005

Oregon Water Resources Commission Oregon Water Resources Department 725 Summer Street NE, Suite A Salem, OR 97301-1271

Re: Request for Exception from the Willamette Basin Program for Springfield Utility Board's Groundwater Permit Applications G-15241, G-15243, and G-15244; Amended Surface Water Application S-85336

Dear Commissioners:

The Springfield Utility Board (SUB) has requested an exception from the Willamette Basin Program in order to avoid extreme hardship as provided for in ORS 536.295. As a neighboring municipal water supplier, EWEB would like to express our support of SUB's request for an exemption.

EWEB agrees with SUB that failure to grant the exception will cause SUB extreme hardship, both financially and by creating difficulty and uncertainty in providing safe and reliable water sources for a growing municipal population.

EWEB, SUB, and Rainbow Water District are currently exploring the feasibility of a regional water supply agreement that outlines a regional approach for primary and emergency back-up water for the Eugene-Springfield metropolitan area. Granting this exception will be helpful in developing a regional approach for adequate and safe drinking water supplies for human consumption in this area.

Thank you for your consideration of our input on this important matter.

Sincerely,

Thomas Buckhouse

Director, Water & Steam Division

CC:

Dwight French, OWRD Chuck Arrera, SUB



Water Resources Department

North Mall Office Building 725 Summer Street NE, Suite A Salem, OR 97301-1271 503-986-0900 FAX 503-986-0904

April 18, 2005

Chuck Arrera Springfield Utility Board 202 S 18th St Springfield OR 97477

RE: Application Files S-85336, G-15241, G-15242, G-15243, & G-15244

Mr. Arrera:

My letter of July 9, 2004 to Bart McKee laid out a plan which included options that would enable the Department to issue Proposed Final Orders for Springfield Utility Board's (SUB's) applications proposing approval. In essence, that plan included three elements:

- Achieving consistency with the Willamette Basin Program for application S-85336. Two
 options were presented: requesting a basin program exception, or amending application
 S-85336. SUB resolved this issue by amending the application on December 10, 2004.
- Achieving consistency with the Willamette Basin Program for applications G-15241, G15243, and G-15244. Two options were presented: accepting the shorter period of use
 required by the basin program, or requesting a basin program exception. As you are
 aware, the Oregon Water Resources Commission (WRC) resolved this issue on April 14
 by authorizing the Department to consider the applications notwithstanding basin
 program limitations.
- 3. Achieving consistency with OAR Chapter 690, Division 33 for applications G-15241, G-15243, and G-15244. Previously, Oregon Department of Fish & Wildlife (ODFW) indicated that the proposed use of water will result in a loss of essential habitat of upper Willamette spring Chinook salmon, a threatened species under the Endangered Species Act. ODFW recommended that if the proposed use would reduce streamflow in Cedar Creek or McKenzie River (which it would), the applicant should be required to contract for the release of stored water from upstream reservoirs to mitigate the reduction. However, that is not a viable option, because the water in upstream reservoirs is not stored for that purpose. My July 9, 2004 letter suggested working with ODFW to determine conditions under which these applications may be approved, something that



900 S.W. Fifth Avenue, Suite 2600 Portland, Oregon 97204 main 503.224.3380 fax 503.220.2480 www.stock.com

GREG D. CORBIN

Direct (503) 294-9632
gdcorbin@stoel.com

Dwight French
Acting Administrator, Water Rights & Adjudication Division
Oregon Water Resources Department
725 Summer Street NE, Suite A
Salem, OR 97301-1271

Re: Letter of Support for Springfield Utility Board Basin Program Exception

Dear Dwight:

April 4, 2005

Per our telephone conversation, enclosed is an original letter from Gossler Farms Nursery expressing support for the Springfield Utility Board's ("SUB") request for an exception to the Willamette Basin Program. Please include the letter with materials provided to the Water Resources Commission for its consideration of SUB's request on April 14, 2005.

Very truly yours,

Greg D. Corbin

Enclosure

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MATER RESOURCES DEPT. SALEM, OREGON Oregon Washington California Utah Idaho

ROGER GOSSLER ERIC GOSSLER MARJORY GOSSLER

SPECIALIZING IN MAGNOLIAS AND COMPANION PLANTS

PHONE (541) 746-3922 • FAX (541) 744-7924

March 31, 2005

Oregon Water Resources Department 725 Summer Street NE, Suite A Salem, OR 97301

RE: Cedar Creek Water rights application

As a representative for the Cedar Creek Irrigation District, I am writing to you in support of the application for 4.1 CFS from the McKenzie River. This will aid in maintaining the creek for all parties involved. This is an important waterway and this application will help insure its long-term survival. The creek contains roughly 8 miles of riparian habitat, supporting many species of wildlife. Therefore this application is critical to assist in maintaining flows year round.

The irrigation district is also looking forward to partnering with Springfield Utility Board in the operation of Cedar Creek. We feel this will help increase community awareness on the importance of this waterway.

If you need to contact me, I would be open to discuss any of the issues surrounding the creek.

Eric Gossler

Sinecrety,

Cedar Creek Irrigation District

(541)746-3922

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APP 0 5 2005 WATER RESOURCES DEPT. SALEM, OREGON



Water Resources Department North Mall Office Building 725 Summer Street NE, Suite A

> Salem, OR 97301-1271 503-986-0900 FAX 503-986-0904

January 7, 2005

Greg D Corbin Stoel Rives 900 SW 5th Ave Ste 2600 Portland OR 97204

RE: Springfield Utility Board applications S-85336, G-15241, G-15242, G-15243, G-15244

Mr. Corbin:

This is in response to your letter dated December 10, 2004, in which you requested that the administrative hold on the above-referenced applications be extended until at least April 30, 2005.

Your request is approved.

If you have any questions, please feel free to call me at 503-986-0819.

Sincerely,

Dwight French

Water Right Application Section Manager

c: Files



900 S.W. Fifth Avenue, Suite 2600 Portland, Oregon 97204 main 503-224-3380 fax 503-220-2480 www.stocl.com

GREG D. CORBIN Direct (503) 294-9632 gdcorbin@stoel.com

February 7, 2005

Mr. Dwight French Oregon Water Resources Department 725 Summer Street NE, Suite A Salem, OR 97301-1271

Re: Updated Request for Exception from the Willamette Basin Program for Springfield Utility Board's Groundwater Permit Applications G-15241, G-15243, and G-15244; Request to Amend Surface Water Permit Application S-85336

Dear Mr. French:

This office represents the Springfield Utility Board ("SUB") in connection with the abovereferenced water right permit applications. This letter represents SUB's request that, pursuant to
ORS 536.295, the Oregon Water Resources Commission (the "Commission") allow the Oregon
Water Resources Department ("OWRD" or the "Department") to consider SUB's groundwater
permit applications G-15241, G-15243, and G-15244 (collectively the "Groundwater
Applications") notwithstanding the Willamette Basin Program (the "WBP") classification for
Cedar Creek, a tributary of the McKenzie River. As you know, the Department has made a
preliminary determination that the Groundwater Applications have the potential for substantial
interference with Cedar Creek. The Groundwater Applications are for year-round municipal use.
Under the WBP, Cedar Creek is classified for municipal use only for nine months of the year.

SUB also is hereby requesting to amend its surface water right permit application S-85336 (the "Surface Application") as described in Section II below. The Surface Application is integral to approval of the Groundwater Applications and SUB's master water development plan (the "Master Plan"), a copy of which is on file with the Department, because a portion of the Surface Application provides water to mitigate potential interference with Cedar Creek caused by water withdrawals under the Groundwater Applications. We intend to follow up with you regarding this correspondence, but would anticipate that the Commission may consider this matter at its next regularly scheduled Commission meeting.

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WATER RESOURCES DEPT SALEM, OREGON Oregon Washington California Utah Idaho



I. Background

A. SUB's Operations and Water Development Plans

SUB is a customer-owned electric and water utility serving the greater Springfield, Oregon community. Collectively SUB and the Rainbow Water District ("RWD") serve approximately 55,000 customers from groundwater wells and surface water sources. SUB owns the vast majority of wells supplying the SUB/RWD territory. Even with an active water conservation and demand management program currently in place, SUB must develop additional water supplies to continue meeting the needs of the Springfield area into the future. According to its Water Conservation Plan (the "WCP"), a copy of which is on file with the Department, SUB's system is currently inadequate to provide future projected water needs with an adequate reserve capacity. WCP tbl 4-3. The current water supply deficit relative to need will increase over time unless SUB is able to develop additional water supply capacity. WCP fig 4-2.

To meet current and future demands, the Master Plan anticipates adding new wells to the SUB/RWD system out to 2017. The wells associated with the Groundwater Applications are integral to the Master Plan. Without developing these additional sources, SUB must find alternate, and largely more expensive and less reliable, sources of water to continue meeting customer demands.

B. SUB's Groundwater Applications

Consistent with the Master Plan and WCP, SUB filed the Groundwater Applications on November 8, 2000. Application G-15241 is for year-round appropriation of 1.78 cubic feet per second ("cfs") of municipal use water from two wells (0.89 cfs from each) located in the Cedar Creek basin. Application G-15243 is for year-round appropriation of 4.91 cfs of municipal use water from four wells (1.34 cfs from three wells and 0.89 cfs from the fourth well) located within the McKenzie River basin. Application G-15244 is for year-round appropriation of 4.02 cfs of municipal use water from three wells (1.34 cfs from each well) located within the McKenzie River basin.

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¹ SUB filed a fourth groundwater permit application on November 8, 2000 that was designated G-15242. That application is on administrative hold pending a final decision on the Groundwater Applications. SUB is not requesting an exception from the WBP for G-15242 at this time but reserves the right to do so.



C. The Department's Reviews of SUB's Applications and SUB's Response

The Department issued initial reviews of the Groundwater Applications on February 9, 2001. It found that the amount of municipal use groundwater to be appropriated from each well is available year-round and allowed under the WBP. OAR 690-502-0160(2). For two of the Groundwater Applications (G-15243 and G-15244), the Department determined that the proposed groundwater use has the potential to interfere substantially with the McKenzie River and, therefore, that those applications must also be consistent with the WBP limits applicable to the McKenzie River. Water from the McKenzie River for municipal use is available year-round. Accordingly, the Department gave applications G-15243 and G-15244 favorable reviews.

The Department reached a different conclusion in its initial review for application G-15241. It found that the proposed use has the potential to interfere substantially with Cedar Creek and, therefore, that application G-15241 must also be consistent with the WBP surface water limits applicable to Cedar Creek. OAR 690-009-0040(2). Cedar Creek is classified for municipal use only from October 1 through June 30. OAR 690-502-0080(1)(d). Application G-15241 for year-round use thus is inconsistent with the WBP classification for Cedar Creek during the three-month period from July 1 to September 30. Accordingly, the Department indicated that it likely would not issue a permit for application G-15241.

On May 21, 2001, SUB provided additional information to the Department to address the issue of potential interference with Cedar Creek (G-15241). SUB explained that Cedar Creek, which begins and ends on the McKenzie River, is essentially a side channel of the McKenzie River composed entirely of McKenzie River water. As noted, McKenzie River water is classified for municipal use and available year-round. However, recognizing that the issue of connectivity between the wells proposed in the Groundwater Applications and the nearby surface water bodies is complex, SUB requested that the Department place the Groundwater Applications on administrative hold while it had an independent consultant study the relationship between the wells and surface water sources. The Department granted the administrative holds. During the administrative hold period, SUB and its consultant, Mark Cunnane of Western Groundwater Services, worked with the Department's hydrogeologist Marc Norton to resolve whether the proposed wells would substantially interfere with surface water sources. Mr. Cunnane's report, supplemented in October 2002, determined that the use proposed in the Groundwater Applications

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² SUB has requested and received administrative holds for all of its water right permit applications, including G-15241, G-15242, G-15243, G-15244, and S-85336. They are currently on hold until April 30, 2005.



had the potential to affect 7.7 cfs of stream flow in the McKenzie River and 2.995 cfs in Cedar Creek.

Following completion of Mr. Cunnane's report, SUB and its representatives met with Mr. Norton in Salem to discuss options for addressing the potential for interference with Cedar Creek that could result from water withdrawals proposed under the Groundwater Applications. As a means of fully addressing any potential interference, Mr. Norton expressed support for the option of SUB submitting a new application for a surface water right from the McKenzie River, and then having SUB divert water under such a surface water right from the McKenzie River and into Cedar Creek. Although such an approach would take time and add cost to the groundwater diversions, Mr. Norton agreed that such an approach would fully compensate for any interference effect that the Groundwater Applications might have on Cedar Creek, and it would avoid further debate over the existence or extent of the potential for interference.

Based on Mr. Cunnane's report and the additional discussions with the Department described above, on November 6, 2002 SUB filed the Surface Application for year-round diversion of 37.0 cfs of water from the McKenzie River for municipal use, and 3.0 cfs from the McKenzie River for stream flow augmentation in Cedar Creek, for a total of 40.0 cfs from the McKenzie River. The 3.0 cfs of stream flow augmentation was meant to mitigate for stream flow depletion in Cedar Creek associated with the Groundwater Applications.

On May 16, 2003, the Department issued its initial review of the Surface Application. The Department determined that 40.0 cfs of water from the McKenzie River is available year-round but that stream flow augmentation in Cedar Creek is not an allowed use under the WBP. It also determined that the proposed 3.0 cfs of stream flow augmentation in Cedar Creek is not a "municipal use" because Cedar Creek is not a "water service system of an incorporated municipality." OAR 690-502-0010(15).

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^{3 &}quot;Municipal Use" is defined as "the delivery and use of water through the water service system of an incorporated municipality or a nonprofit corporation and includes quasi-municipal uses as defined in OAR 690-011." Id. SUB believes the Department's determination that the 3.0 cfs of flow augmentation in the Surface Application is not a "municipal use" is an overly narrow reading of the Commission's definition. However, because SUB is amending the Surface Application as proposed by the Department from 3.0 cfs of stream flow augmentation to 4.1 cfs of instream use for fish life and wildlife (see Section II below), SUB is not at this time challenging or seeking a reconsideration of that determination. SUB reserves the right to challenge the Department's determination if the Commission does not grant SUB's request for an exception to



Finally, in October 2003 the Department conducted a final review of the Groundwater Applications. It found that the proposed wells appropriate water from unconfined sands and gravel within one-quarter mile of a surface water source (Cedar Creek and McKenzie River). Under OAR 690-009-0040, the Department assumes that wells of such type are hydraulically connected to the surface water source. The Department found that the proposed uses in the Groundwater Applications would affect a total of 4.1 cfs of Cedar Creek's flow.

D. The Department's Proposals for Approving SUB's Permit Applications

On July 9, 2004, the Department wrote to inform SUB that it was prepared to issue Proposed Final Orders (the "PFOs") for the Groundwater Applications and Surface Application. The Department indicated that the PFOs would find that the Groundwater Applications and stream flow augmentation portion of the Surface Application should not be issued. The Department's letter discussed options that SUB might pursue to allow approval of the Groundwater Applications and Surface Application.

The Department proposed for the Surface Application that SUB either (1) amend the application from 3.0 cfs instream use for flow augmentation to 4.1 cfs instream use "to some other in-stream use or combination of uses, which are allowed by the basin program (e.g., fish life, wildlife)," or (2) petition the Commission "to allow the Department to consider the application notwithstanding the basin program, pursuant to ORS 536.295." As is explained in Section II below, SUB is electing to amend the Surface Application as proposed by the Department.

The Department proposed for the Groundwater Applications that SUB either (1) accept the period of use for Cedar Creek allowed under the WBP, which is three months less than the year-round use applied for, or (2) seek an exception from the Commission to allow the Department to

the WBP and the Department does not approve the Groundwater Applications and the Surface Application, as amended herein.

⁴ The Department's letter states: "As you may recall, on May 16, 2003 the Department issued Initial Reviews (IRs) of these applications indicating it was unlikely that a permit would be issued." As is described above, that statement is only partially correct. The Department's letter dated May 16, 2003 indicated only that application G-15241 had received a negative IR. The Department first indicated that all of SUB's applications would receive negative recommendations in its letter dated July 9, 2004.

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consider the application notwithstanding the WBP. As is explained in Section III below, SUB is electing to seek an exception from the WBP for the Groundwater Applications.

II. Amendment of the Surface Application

To the extent necessary to obtain approval of the Groundwater Applications, SUB hereby requests to amend the Surface Application as proposed by the Department, that is, surface water permit application S-85336 should be amended from 37.0 cfs of municipal use and 3.0 cfs for streamflow augmentation to 35.9 cfs for municipal use and 4.1 cfs instream use for fish life and wildlife in Cedar Creek. The 4.1 cfs instream use portion of the Surface Application will fully mitigate any potential impacts on Cedar Creek from the wells proposed in SUB's Groundwater Applications. As the Department indicated in its July 9, 2004 letter, with this amendment to the Surface Application the Department can propose issuance of the permit. This approach to mitigation is consistent with the approach proposed in discussions between Mr. Norton, SUB, and SUB's representatives described above.

III. Exception from the Willamette Basin Program for Permit Applications G-15241, G-15243, and G-15244

As noted above, SUB has invested in a Master Plan to direct development that will allow it to continue meeting customer needs and accommodate projected population and economic growth in the greater Springfield area. The Groundwater Applications and Surface Application are integral to the current phase of the Master Plan. Moreover, the Surface Application, which fully mitigates any impacts to Cedar Creek that may occur as a result of approving the Groundwater Applications, also will provide a net benefit to Cedar Creek by placing up to 4.1 cfs of instream water for fish and wildlife use in that system. Failure to approve the Groundwater Applications would cause an extreme hardship for SUB and its customers and would obviate SUB's need to place water instream in Cedar Creek.

SUB qualifies for an exception to the WBP because the exception is necessary to avoid extreme hardship. ORS 536.295(1)(e). Although "extreme hardship" is not defined by the statute or the Department's rules, or explained in any Oregon case law, the Department and Commission have considered the term to include a situation in which "the failure to allow the use would cause financial or other burdens to a water user that could not be easily overcome." See Exhibit F, OWRD, Memorandum to Water Resources Commission, Request for an Exception to the Willamette Basin Program Due to Extreme Hardship (ORS 536.295(1)(e)) by Pleasant Valley

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Golf Club (May 15, 1995). Thus the burden does not require a showing of complete economic unfeasibility or impossibility.

The "other burdens" that may be considered under the extreme hardship analysis include burdens placed on those who depend on the water use but are not themselves the applicant for a basin program exception. This aspect of the analysis is illustrated by the staff report provided to the Commission in connection with the Greenberry Irrigation District's ("GID") request for an exception to the WBP. See OWRD, Memorandum to Water Resources Commission, Request for an Exception to the Willamette Basin Program Due to Extreme Hardship [ORS 536.295(1)(e)] by Greenberry Irrigation District (February 14, 2003). GID requested an exception from the WBP for irrigation use, a non-classified use in that region of the Willamette River, that would act as a "bridge" water right while GID arranged to use stored water, a classified use, under contract with the U.S. Bureau of Reclamation. Failure to grant the exception would have financially impacted GID because without a stable water supply it could not obtain financing to construct the irrigation system necessary to supply its patrons. Equally important, however, was that the farmers who rely on GID water, and the people those farms employ, could all suffer financial hardship if GID did not receive an exception from the WBP. According to the staff report, "failure to allow the exception to the basin program would cause extreme hardship due to loss of the economic viability of farms within GID and the potential loss of jobs." Id. at 4. Thus the Department and the Commission have recognized that the extreme hardship analysis reaches to those affected by the failure to grant an exception even if they are not the applicant for the basin program exception.

To the analysis in these prior Commission decisions SUB adds another element of the test for extreme hardship: the level of hardship that must be shown ought to be related to the level of resource impact that the proposed use might cause. In a situation such as the present one, in which the threat to the Willamette River Basin's values is negligible because SUB is able to fully mitigate for potential impacts to Cedar Creek, the level of hardship required should be correspondingly reduced.

In the present case, the level of financial hardship that would be caused by denial of the Groundwater Applications would be "extreme," because failure to approve them would result in SUB losing its investment of time and money in the well fields, and that failure is certain to require more time and an even greater financial expenditure to replace the lost capacity. As

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⁵ SUB notes that its investment to date in the wells that are the subject of the Groundwater Applications easily exceeds \$1 million. If SUB cannot put those wells to use, it will have to develop additional wells or seek water from other sources to meet its customers' needs. Thus



noted above, the Master Plan calls for developing additional water supply to keep pace with growth in SUB's service area. SUB has no choice but to find new water supplies. Moreover, the hardship created by any delay serves to increase the likelihood that SUB will not be able to meet customer demand and will have to pass along to its rate payers the costs of additional water supply development.

Similar to the GID situation discussed above, denial of the Groundwater Applications also would create an additional type of extreme hardship, namely, an inability to provide a safe, adequate water supply to the residences and businesses that rely on SUB for water. As noted above, the proposed use is not classified for the three-month period from July 1 through September 30. This three-month period is critically important to SUB as a water utility responsible for supplying municipal water to residential and business customers because the period often corresponds with SUB's peak annual demand. An inability to meet that demand would lead to water shortages in the Springfield area and place the local population at risk of not having an adequate water supply. Water shortages would affect SUB's ability to supply clean, safe water to residential and business customers, causing an extreme hardship over which those customers would have little or no control. Water shortages also would cause extreme hardship by degrading water reserves for fire protection. Such shortages could result in loss of property or life. Thus the use during the three-month period not classified under the WBP is necessary to ensure public health, welfare, and safety for Oregonians in the greater Springfield area, and SUB's inability to supply water for those purposes would cause an extreme hardship for SUB and the local population.

SUB will have lost its current investment and still need to invest an equal or greater amount to replace the lost groundwater use.

⁶ The legislature has found as part of the state's water supply policy that "the availability of an adequate water supply is essential to the continued health and safety of all Oregonians." ORS 536.241(1). The legislature's concern over the link between water supply and public health is evident elsewhere in ORS chapter 536. See, e.g., ORS 536.238(1)(d) ("The potential for a future shortage of water poses serious risks to public health, safety and welfare and therefore is a matter of statewide concern."). To the extent that municipal use also includes domestic use or other forms of human consumption, that use also is given priority treatment by the legislature. ORS 536.310(12) (in resolving conflict between uses "preference shall be given to human consumption purposes over all other uses").

After discussion with Department staff, SUB has decided to base this request for exception on ORS 536.295(1)(e). SUB reserves the right to raise other bases for its request for exception, pursuant to ORS 536.295(1), in the event the Commission were to determine that the

exception is not warranted under ORS 536.295(1)(e).

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IV. Consistency with the Willamette Basin Program's General Policies

The Groundwater Applications also satisfy the exception statute's requirement that the proposed use be consistent with the general policies of the WBP. ORS 536.295(4). The proposed use is not inconsistent with any of the WBP's policies, and it is specifically consistent with at least two of those policies.

A. Groundwater Management

One of the Commission's policies for the Willamette Basin is to "[m]inimize impairment of surface water uses resulting from hydraulic connection between groundwater and surface water." OAR 690-502-0020(2)(d). SUB has repeatedly made every effort to work with the Department to avoid impairing surface water uses. For example, SUB's response to the Department's initial reviews of the Groundwater Applications was to commission a study of the potential hydraulic connection between the proposed groundwater wells and nearby surface water sources. The report that resulted from that study identified a potential for interaction between the aquifer from which the wells appropriate water and Cedar Creek. To alleviate and fully mitigate that potential interaction, SUB filed the Surface Application, which included 3.0 cfs of instream use in Cedar Creek, and as amended will include 4.1 cfs of instream use. Approval of the Surface Application will ensure that approval of the Groundwater Applications will not impair surface water uses from Cedar Creek.

B. Municipal and Domestic Water Systems

Another of the Commission's polices for the Willamette Basin is to "[s]upport coordinated water service planning and consolidation by water purveyors to preserve and protect adequate and safe drinking water supplies for human consumption in the Willamette Basin." OAR 690-502-0020(3). SUB's activities, including the Groundwater Applications, are consistent with this policy. SUB has extensively invested in coordinated water service planning as evidenced by the Master Plan and WCP. Through the Master Plan, SUB has coordinated efficient water system planning and cost-effective water supply development with RWD. Through the WCP, SUB has identified water conservation opportunities within its service territory and has actively pursued implementing those opportunities. Together the Master Plan and WCP represent SUB's substantial investment in water service planning "to preserve and protect adequate and safe drinking water supplies for human consumption in the Willamette Basin." *Id*.

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V. Conclusion

In conclusion, SUB requests that, pursuant to ORS 536.295, the Commission allow the Department to consider SUB's year-round Groundwater Applications notwithstanding the WBP classification that Cedar Creek water is available for only nine months of the year. SUB also hereby requests that its Surface Application be amended as described above. Approval of SUB's amended Surface Application will fully mitigate any potential interference between the Groundwater Applications and Cedar Creek.

Thank you for your attention to this matter. Please do not hesitate to contact me if you have any questions.

Very truly yours,

Greg D. Corbin

cc: Mr. Chuck Arrera, Springfield Utility Board

Mr. David E. Filippi, Stoel Rives LLP

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900 S.W. Fifth Avenue, Suite 2600 Portland, Oregon 97204 main 503:224:3380 fax 503:220:2480 www.stoel.com

December 10, 2004

GREG D. CORBIN Direct (503) 294-9632 gdcorbin@stoel.com

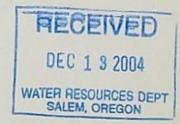
Mr. Dwight French Oregon Water Resources Department 725 Summer Street NE, Suite A Salem, OR 97301-1271

Re: Request for Exception from the Willamette Basin Program for Springfield Utility Board's Groundwater Permit Applications G-15241, G-15243, and G-15244; Request to Amend Surface Water Permit Application S-85336

Dear Mr. French:

This office represents the Springfield Utility Board ("SUB") in connection with the abovereferenced water right permit applications. This letter represents SUB's request that, pursuant to
ORS 536.295, the Oregon Water Resources Commission (the "Commission") allow the Oregon
Water Resources Department ("OWRD" or the "Department") to consider SUB's groundwater
permit applications G-15241, G-15243, and G-15244 (collectively the "Groundwater
Applications") notwithstanding the Willamette Basin Program (the "WBP") classification for
Cedar Creek, a tributary of the McKenzie River. As you know, the Department has determined
that the Groundwater Applications have the potential for substantial interference with Cedar
Creek. The Groundwater Applications are for year-round municipal use. Under the WBP, Cedar
Creek is classified for municipal use only for nine months of the year.

SUB also is hereby amending its surface water right permit application S-85336 (the "Surface Application") as described in Section II below. The Surface Application is integral to approval of the Groundwater Applications and SUB's master water development plan (the "Master Plan"), a copy of which is on file with the Department, because a portion of the Surface Application provides water to mitigate interference with Cedar Creek potentially caused by the Groundwater Applications. We intend to follow up with you regarding this correspondence, but would anticipate that the Commission may consider this matter at its next regularly scheduled Commission meeting.



Oregon Washington California Utah Idaho



I. Background

A. SUB's Operations and Water Development Plans

SUB is a customer-owned electric and water utility serving the greater Springfield, Oregon community. Collectively SUB and the Rainbow Water District ("RWD") serve approximately 55,000 customers from groundwater wells and surface water sources. SUB owns the vast majority of wells supplying the SUB/RWD territory. Even with an active water conservation and demand management program currently in place, SUB must develop additional water supplies to continue meeting the needs of the Springfield area into the future. According to its Water Conservation Plan (the "WCP"), a copy of which is on file with the Department, SUB's system is currently inadequate to provide future projected water needs with an adequate reserve capacity. WCP tbl 4-3. The current water supply deficit relative to need will increase over time unless SUB is able to develop additional water supply capacity. WCP fig 4-2.

To meet current and future demands, the Master Plan anticipates adding new wells to the SUB/RWD system out to 2017. The wells associated with the Groundwater Applications are integral to the Master Plan. Without developing these additional sources, SUB must find alternate, and largely more expensive and less reliable, sources of water to continue meeting customer demands.

B. SUB's Groundwater Applications

Consistent with the Master Plan and WCP, SUB filed the Groundwater Applications on November 8, 2000. Application G-15241 is for year-round appropriation of 1.78 cubic feet per second ("cfs") of municipal use water from two wells (0.89 cfs from each) located in the Cedar Creek basin. Application G-15243 is for year-round appropriation of 4.91 cfs of municipal use water from four wells (1.34 cfs from three wells and 0.89 cfs from the fourth well) located within the McKenzie River basin. Application G-15244 is for year-round appropriation of 4.02 cfs of municipal use water from three wells (1.34 cfs from each well) located within the McKenzie River basin. In the McKenzie River basin.

SUB filed a fourth groundwater permit application on November 8, 2000 that was designated G-15242. That application is on administrative hold pending a final decision on the Groundwater Applications. SUB is not requesting an exception from the WBP for G-15242 at this time but reserves the right to do so.



C. The Department's Reviews of SUB's Applications and SUB's Response

The Department issued initial reviews of the Groundwater Applications on February 9, 2001. It found that the amount of municipal use groundwater to be appropriated from each well is available year-round and allowed under the WBP. OAR 690-502-0160(2). For two of the Groundwater Applications (G-15243 and G-15244), the Department determined that the proposed groundwater use has the potential to interfere substantially with the McKenzie River and, therefore, that those applications must also be consistent with the WBP limits applicable to the McKenzie River. Water from the McKenzie River for municipal use is available year-round. Accordingly, the Department gave applications G-15243 and G-15244 favorable reviews.

The Department reached a different conclusion in its initial review for application G-15241. It found that the proposed use has the potential to interfere substantially with Cedar Creek and, therefore, that application G-15241 must also be consistent with the WBP surface water limits applicable to Cedar Creek. OAR 690-009-0040(2). Cedar Creek is classified for municipal use only from October 1 through June 30. OAR 690-502-0080(1)(d). Application G-15241 for year-round use thus is inconsistent with the WBP classification for Cedar Creek during the three-month period from July 1 to September 30. Accordingly, the Department indicated that it likely would not issue a permit for application G-15241.

On May 21, 2001, SUB provided additional information to the Department to address the issue of potential interference with Cedar Creek (G-15241). SUB explained that Cedar Creek, which begins and ends on the McKenzie River, is essentially a side channel of the McKenzie River composed entirely of McKenzie River water. As noted, McKenzie River water is classified for municipal use and available year-round. However, recognizing that the issue of connectivity between the wells proposed in the Groundwater Applications and the nearby surface water bodies is complex, SUB requested that the Department place the Groundwater Applications on administrative hold while it had an independent consultant study the relationship between the wells and surface water sources. The Department granted the administrative holds. During the administrative hold period, SUB and its consultant, Mark Cunnane of Western Groundwater Services, worked with the Department's hydrogeologist Marc Norton to resolve whether the proposed wells would substantially interfere with surface water sources. Mr. Cunnane's report, supplemented in October 2002, determined that the use proposed in the Groundwater Applications

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² SUB has requested and received administrative holds for all of its water right permit applications, including G-15241, G-15242, G-15243, G-15244, and S-85336. They are currently on hold until January 31, 2005.



had the potential to affect 7.7 cfs of stream flow in the McKenzie River and 2.995 cfs in Cedar Creek.

Following completion of Mr. Cunnane's report, SUB and its representatives met with Mr. Norton in Salem to discuss options for addressing the potential for interference with Cedar Creek that could result from water withdrawals proposed under the Groundwater Applications. As a means of fully addressing any potential interference, Mr. Norton expressed support for the option of SUB submitting a new application for a surface water right from the McKenzie River, and then having SUB divert water under such a surface water right from the McKenzie River and into Cedar Creek. Although such an approach would take time and add cost to the groundwater diversions, Mr. Norton agreed that such an approach would fully compensate for any interference effect that the Groundwater Applications might have on Cedar Creek, and it would avoid further debate over the existence or extent of the potential for interference.

Based on Mr. Cunnane's report and the additional discussions with the Department described above, on November 6, 2002 SUB filed the Surface Application for year-round diversion of 37.0 cfs of water from the McKenzie River for municipal use, and 3.0 cfs from the McKenzie River for stream flow augmentation in Cedar Creek, for a total of 40.0 cfs from the McKenzie River. The 3.0 cfs of stream flow augmentation was meant to mitigate for stream flow depletion in Cedar Creek associated with the Groundwater Applications.

On May 16, 2003, the Department issued its initial review of the Surface Application. The Department determined that 40.0 cfs of water from the McKenzie River is available year-round but that stream flow augmentation in Cedar Creek is not an allowed use under the WBP. It also determined that the proposed 3.0 cfs of stream flow augmentation in Cedar Creek is not a "municipal use" because Cedar Creek is not a "water service system of an incorporated municipality." OAR 690-502-0010(15).

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^{3 &}quot;Municipal Use" is defined as "the delivery and use of water through the water service system of an incorporated municipality or a nonprofit corporation and includes quasi-municipal uses as defined in OAR 690-011." *Id.* SUB believes the Department's determination that the 3.0 cfs of flow augmentation in the Surface Application is not a "municipal use" is an overly narrow reading of the Commission's definition. However, because SUB is amending the Surface Application as proposed by the Department from 3.0 cfs of stream flow augmentation to 4.1 cfs of instream use for fish life and wildlife (*see* Section II below), SUB is not at this time challenging or seeking a reconsideration of that determination. SUB reserves the right to challenge the Department's determination if the Commission does not grant SUB's request for an exception to



Finally, in October 2003 the Department conducted a final review of the Groundwater Applications. It found that the proposed wells appropriate water from unconfined sands and gravel within one-quarter mile of a surface water source (Cedar Creek and McKenzie River). Under OAR 690-009-0040, the Department assumes that wells of such type are hydraulically connected to the surface water source. The Department found that the proposed uses in the Groundwater Applications would affect a total of 4.1 cfs of Cedar Creek's flow.

D. The Department's Proposals for Approving SUB's Permit Applications

On July 9, 2004, the Department wrote to inform SUB that it was prepared to issue Proposed Final Orders (the "PFOs") for the Groundwater Applications and Surface Application. The Department indicated that the PFOs would find that the Groundwater Applications and stream flow augmentation portion of the Surface Application should not be issued. The Department's letter discussed options that SUB might pursue to allow approval of the Groundwater Applications and Surface Application.

The Department proposed for the Surface Application that SUB either (1) amend the application from 3.0 cfs instream use for flow augmentation to 4.1 cfs instream use "to some other in-stream use or combination of uses, which are allowed by the basin program" (e.g., fish life, wildlife), or (2) petition the Commission "to allow the Department to consider the application notwithstanding the basin program, pursuant to ORS 536.295." As is explained in Section II below, SUB is electing to amend the Surface Application as proposed by the Department.

The Department proposed for the Groundwater Applications that SUB either (1) accept the period of use for Cedar Creek allowed under the WBP, which is three months less than the year-round use applied for, or (2) seek an exception from the Commission to allow the Department to

the WBP and the Department does not approve the Groundwater Applications and the Surface Application, as amended herein.

⁴ The Department's letter states: "As you may recall, on May 16, 2003 the Department issued Initial Reviews (IRs) of these applications indicating it was unlikely that a permit would be issued." As is described above, that statement is only partially correct. The Department's letter dated May 16, 2003 indicated only that application G-15241 had received a negative initial review. The Department first indicated that all of SUB's applications would receive negative recommendations in its letter dated July 9, 2004.

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consider the application notwithstanding the WBP. As is explained in Section III below, SUB is electing to seek an exception from the WBP for the Groundwater Applications.

II. Amendment of the Surface Application

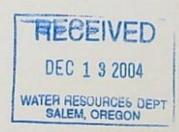
To the extent necessary to obtain approval of the Groundwater Applications, SUB hereby amends the Surface Application as proposed by the Department, that is, surface water permit application S-85336 should be amended from 37.0 cfs of municipal use and 3.0 cfs for streamflow augmentation to 35.9 cfs for municipal use and 4.1 cfs instream use for fish life and wildlife in Cedar Creek. The 4.1 cfs instream use portion of the Surface Application will fully mitigate any potential impacts on Cedar Creek from the wells proposed in SUB's Groundwater Applications. As the Department indicated in its July 9, 2004 letter, with this amendment to the Surface Application the Department can propose issuance of the permit. This approach to mitigation is consistent with the approach proposed in discussions between Mr. Norton, SUB, and SUB's representatives described above.

III. Exception from the Willamette Basin Program for Permit Applications G-15241, G-15243, and G-15244

Pursuant to ORS 536.295, SUB hereby requests an exception from the WBP because the period of use for municipal water from Cedar Creek not classified in the WBP (1) will be of short duration during each year, (2) is necessary to ensure public health, welfare, and safety, (3) is necessary to avoid extreme hardship, and (4) will provide a public benefit.

A. The Water Use Will Be of Short Duration During Each Year

The Commission may allow the Department to consider an application for a water use not classified in the WBP if the proposed use will be of short duration during each year. ORS 536.295(1)(a). SUB's proposed year-round use of water in the Groundwater Applications exceeds the WBP classified period of use for Cedar Creek by three months. The WBP allows for municipal use from Cedar Creek between October 1 and June 30 of each year. OAR 690-502-080(1)(d). Thus allowing the full year-round use proposed in the Groundwater Applications is inconsistent with the WBP classification for Cedar Creek from July 1 through September 30. The Department has determined that it must assume that a portion of the use in the Groundwater Applications (4.1 cfs) will substantially interfere with Cedar Creek. OAR 690-009-0040.





The statute does not define "short duration." The legislature thus did not predetermine the period of use that the Commission may determine to be of short duration for purposes of the exception request. On its face a three-month period would appear to be of "short duration" as it accounts for only a quarter of the year. SUB also suggests that the context in which ORS 536.295 appears should guide the Commission in determining whether a water use is of "short duration" for purposes of ORS 536.295(1)(a). The statutes that appear in the section of chapter 536 dealing with water resources administration (ORS 536.220 to 536.540) declare many of the state's policies concerning water resource development. These policy statements guided the Commission in first adopting the basin programs and therefore properly guide the Commission in considering exceptions to the basin programs. SUB therefore suggests that so long as the period of a proposed use not classified by a basin program is consistent with the policies set out in ORS 536.220 to 536.540, the Commission may find that the proposed use is of "short duration" and allow the Department to consider approving the use.

SUB's proposed year-round use in the Groundwater Applications is not inconsistent with any of the state's water resource policies as declared in ORS 536.220 to 535.540 and is specifically consistent with one of the principal policies that guide water resource planning—the policy of using the state's waters to encourage and maintain economic development. This policy is expressed throughout chapter 536. For example, the legislature has declared:

"The maintenance of the present level of the economic and general welfare of the people of this state and the future growth and development of this state for the increased economic and general welfare of the people thereof are in large part dependent upon a proper utilization and control of the water resources of this state, and such use and control is therefore a matter of greatest concern and highest priority." ORS 536.220(1)(a).

It is well understood that a municipality cannot maintain its economic base or provide for future growth without adequate water supply to meet the various municipal water needs on which such growth depends. As discussed above, the Groundwater Applications are integral components of the Master Plan to develop new water supply to keep pace with growth in the greater Springfield area. Implementing the Master Plan is necessary for the "future growth and development of [the

⁵ This policy also is expressed in other statements in ORS chapter 536. See, e.g., ORS 536.238(1)(a) ("The water resources of the state are critical to the economic and recreational well-being of the people of Oregon.").



Springfield area] for the increased economic and general welfare of the people thereof." ORS 536.220(1)(a).

In the case of the Groundwater Applications, the proposed uses are necessary to allow SUB to continue meeting municipal demand in the greater Springfield area. The Master Plan anticipates additional development of groundwater resources to keep pace with growth in the area, which directly maintains and supports the economic base and future growth in the area. Denial of the Groundwater Permits, and in particular denial of the proposed year-round use, places this economic base and future growth at risk. Under these circumstances, the Commission should find that the uses proposed in the Groundwater Applications are of "short duration" for purposes of granting an exception to the WBP.

B. The Water Use Is Necessary to Ensure Public Health, Welfare, and Safety

The Commission may allow the Department to consider an application for a water use not classified in the WBP if the proposed use is "necessary to ensure public health, welfare and safety." ORS 536.295(1)(d). As noted above, the proposed use is not classified for the three-month period from July 1 through September 30. This three-month period is of critical importance to SUB as a water utility responsible for supplying municipal water to domestic and business customers because it often corresponds with SUB's peak annual demand. An inability to meet that demand would lead to water shortages in the Springfield area. The legislature has found as part of the state's water supply policy that "the availability of an adequate water supply is essential to the continued health and safety of all Oregonians." ORS 536.241(1). Water shortages would affect SUB's ability to supply clean, safe water to domestic and business customers. Water shortages also would affect public welfare and safety by degrading water reserves for fire protection. Thus the use is necessary to ensure public health, welfare, and safety for Oregonians in the greater Springfield area.

⁶ The legislature's concern over the link between water supply and public health is evident elsewhere in ORS chapter 536. See, e.g., ORS 536.238(1)(d) ("The potential for a future shortage of water poses serious risks to public health, safety and welfare and therefore is a matter of statewide concern."). To the extent that municipal use also includes domestic use or other forms of human consumption, that use also is given priority treatment by the legislature. ORS 536.310(12) (in resolving conflict between uses "preference shall be given to human consumption purposes over all other uses").



C. The Water Use Is Necessary to Avoid Extreme Hardship

SUB also qualifies for an exception to the WBP because the exception is necessary to avoid extreme hardship. ORS 536.295(1)(e). Although "extreme hardship" is not defined by the statute or the Department's rules, or explained in any Oregon case law, the Department has considered the term to include a situation in which "the failure to allow the use would cause financial or other burdens to a water user that could not be easily overcome." See Exhibit F, OWRD, Memorandum to Water Resources Commission, Request for an Exception to the Willamette Basin Program Due to Extreme Hardship (ORS 536.295(1)(e)) by Pleasant Valley Golf Club (May 15, 1995). Thus the burden does not require a showing of complete economic unfeasibility or impossibility.

To the Pleasant Valley decision SUB adds another element of the test for extreme hardship: the level of hardship that must be shown ought to be related to the level of resource impact that the proposed use might cause. In a situation such as the present one, in which the threat to the Willamette River Basin's values is negligible because SUB is able to fully mitigate for potential impacts to Cedar Creek, the level of hardship required should be correspondingly reduced. In the present case, the level of hardship that would be caused by denial of the permit applications would be "extreme," because failure to approve the applications would result in lost investment of time and money in the well fields, and is certain to require more time and an even greater expenditure to replace the lost capacity. As noted above, the Master Plan calls for developing additional water supply to keep pace with growth in SUB's service area. SUB has no choice but to find new water supplies, and any delay serves to increase the likelihood that SUB will not be able to meet customer demand and will have to pass along to its rate payers the costs of additional water supply development.

D. The Use Will Provide a Public Benefit

Finally, SUB qualifies for an exception from the WBP because the municipal use will provide a public benefit. ORS 536.295(1)(f). In this case the public benefit of the Groundwater Applications is to provide clean, safe water to SUB's customers and to provide water to support the economic growth of the Springfield area. As is discussed above, public health and economic

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⁷ SUB notes that its investment to date in the wells that are the subject of the Groundwater Applications easily exceeds \$1 million. If SUB cannot put those wells to use, it will have to develop additional wells or seek water from other sources to meet its customers' needs. Thus SUB will have lost its current investment and still need to invest an equal or greater amount to replace the lost groundwater use.



development are key components of the state's water resource planning policies. When, as here, a use supports such policies, and is not inconsistent with other state policies, the Commission should find that the proposed use will provide a public benefit.

IV. Consistency with the Willamette Basin Program's General Policies

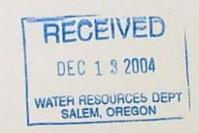
The Groundwater Applications also satisfy the exception statute's requirement that the proposed use be consistent with the general policies of the WBP. ORS 536.295(4). The proposed use is not inconsistent with any of the WBP's policies, and it is specifically consistent with at least two of those policies.

A. Groundwater Management

One of the Commission's policies for the Willamette Basin is to "[m]inimize impairment of surface water uses resulting from hydraulic connection between groundwater and surface water." OAR 690-502-0020(2)(d). SUB has repeatedly made every effort to work with the Department to avoid impairing surface water uses. For example, SUB's response to the Department's initial reviews of the Groundwater Applications was to commission a study of the potential hydraulic connection between the proposed groundwater wells and nearby surface water sources. The report that resulted from that study identified a potential for interaction between the aquifer from which the wells appropriate water and Cedar Creek. To alleviate and fully mitigate that potential interaction, SUB filed the Surface Application, which included 3.0 cfs of instream use in Cedar Creek, and as amended will include 4.1 cfs of instream use. Approval of the Surface Application will ensure that approval of the Groundwater Applications will not impair surface water uses from Cedar Creek.

B. Municipal and Domestic Water Systems

Another of the Commission's polices for the Willamette Basin is to "[s]upport coordinated water service planning and consolidation by water purveyors to preserve and protect adequate and safe drinking water supplies for human consumption in the Willamette Basin." OAR 690-502-0020(3). SUB's activities, including the Groundwater Applications, are consistent with this policy. SUB has extensively invested in coordinated water service planning as evidenced by the Master Plan and WCP. Through the Master Plan, SUB has coordinated efficient water system planning and cost-effective water supply development with RWD. Through the WCP, SUB has identified water conservation opportunities within its service territory and has actively pursued implementing those opportunities. Together the Master Plan and WCP represent SUB's substantial investment in water





Mr. Dwight French December 10, 2004 Page 11

service planning "to preserve and protect adequate and safe drinking water supplies for human consumption in the Willamette Basin." Id.

V. Conclusion

In conclusion, SUB requests that, pursuant to ORS 536.295, the Commission allow the Department to consider SUB's year-round Groundwater Applications notwithstanding the WBP classification that Cedar Creek water is available for only nine months of the year. SUB also hereby amends the Surface Application as described above. Approval of SUB's amended Surface Application will fully mitigate any potential interference between the Groundwater Applications and Cedar Creek.

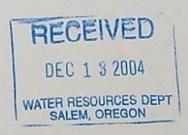
Thank you for your attention to this matter. Please do not hesitate to contact me if you have any questions.

Very truly yours,

Greg D. Corbin

cc: Mr. Chuck Arrera, Springfield Utility Board

Mr. David E. Filippi, Stoel Rives LLP





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WATER RESOURCES DEPT SALEM, OREGON 900 S.W. Fifth Avenue, Suite 2600 Portland, Oregon 97204 main 503-224,3380 fax 503-220-2480 www.stock.com

December 10, 2004

GREG D. CORBIN Direct (503) 294-9632 gdcorbin@stoel.com

Mr. Cory C. Engel Water Resources Department North Mall Office Building 725 Summer Street NE, Suite A Salem, OR 97301-1271

Re: Springfield Utility Board Applications S-85336, G-15241, G-15242, G-15243, and

G-15244

Dear Cory:

Thank you for your letter dated December 8, 2004 informing me that Springfield Utility Board's ("SUB") request for a basin program exception will be presented at the April 14-15, 2005 Water Resources Commission ("Commission") meeting. I submitted SUB's request for an exception from the Willamette Basin Program to the Department today.

As you note in your letter, the current administrative hold period for the above-referenced applications expires January 31, 2005. To allow the Commission to consider the matter before the Department takes any final action, SUB hereby requests that the Department extend the administrative hold period for these applications until at least April 30, 2005.

Finally, please note that Ken Cerotsky is no longer with SUB. Chuck Arrera is the correct contact at SUB for this matter.

I appreciate your attention to this matter. Please contact me if you have any questions.

Very truly yours,

Greg D. Corbin

cc:

Mr. Dwight French

Mr. Chuck Arrera Mr. David Filippi



Water Resources Department

North Mall Office Building 725 Summer Street NE, Suite A Salem, OR 97301-1271 503-986-0900 FAX 503-986-0904

December 8, 2004

Greg D Corbin Stoel Rives 900 SW 5th Ave Ste 2600 Portland OR 97204

RE: Springfield Utility Board applications S-85336, G-15241, G-15242, G-15243, G-15244

Mr. Corbin:

In light of your client's stated interest in pursuing an exception to the Willamette Basin Program from the Water Resources Commission (WRC), please be informed that the agenda for the January WRC meeting is full.

If you would like the matter presented at the April 14-15, 2005 meeting, please make your request in writing prior to January 31, 2005. Please also note that the current administrative hold on these applications expires January 31, 2005 as well, so if you make such a request, it should include a request to extend the administrative hold until at least April 30, 2005.

If you have any questions, please feel free to call me at 503-986-0813.

Sincerely,

Mr. Cory C. Engel

Water Right Application Caseworker

c. Ken Cerotsky
Springfield Utility Board
202 South 18th St
Springfield OR 97477-5240

Files



Water Resources Department

North Mall Office Building 725 Summer Street NE, Suite A Salem, OR 97301-1271 503-986-0900 FAX 503-986-0904

October 25, 2004

Greg Corbin Stoel Rives LLP 900 SW 5th Ave Ste 2600 Portland OR 97204

RE: Springfield Utility Board applications S-85336, G-15241, G-15242, G-15243, & G-15244

Mr. Corbin:

This is in response to your letter dated October 18, 2004, in which you requested that the above-referenced applications be placed on administrative hold to allow the applicant time to address issues raised by the Department in its initial review of applications S-85336, G-15241, G-15243, and G-15244, by pursuing an exception to the basin program at the next scheduled Water Resources Commission meeting. The next Commission meeting will be held January 13-14, 2005.

Your request is approved. The Department will not proceed with Proposed Final Order for these applications until after Monday, January 31, 2005.

If you have any questions, please feel free to call me at 503-986-0819.

Sincerely,

Dwight French

Water Right Application Section Manager

c: Files



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OCT 1 9 2004

WATER RESOURCES DEPT SALEM OREGON

October 18, 2004

900 S.W. Fifth Avenue, Suite 2600 Portland. Oregon 97204 main 503.224.3380 fax 503.220.2480 www.stoet.com

GREG D. CORBIN Direct (503) 294-9632 gdcorbin@stoel.com

VIA FACSIMILE AND MAIL (503) 986-0904

Mr. Dwight French Water Resources Department North Mall Office Building 725 Summer Street NE, Suite A Salem, OR 97301-1271

Re: Springfield Utility Board Applications S-85336, G-15241, G-15242, G-15243, and G-15244

Dear Mr. French:

Pursuant to requests by Springfield Utility Board ("SUB"), the Water Resources Department (the "Department") placed each of the above referenced permit applications on administrative hold to allow SUB additional time to address issues raised by the Department in its initial review ("IR") of applications S-85336, G-15241, G-15243, and G-15244. These permit applications and application G-15242 should be considered together as they are part of SUB's larger water development program.

In letters dated July 9, 2004 and August 19, 2004 from Mr. Cory Engle, the Department stated that a barrier to approving the applications is the Department's position that certain aspects of the applications are inconsistent with the Willamette Basin Program. The letters also suggest that an option for removing this barrier is to petition the Water Resources Commission (the "Commission") under ORS 536.295 to allow the Department to consider approving the applications notwithstanding the Willamette Basin Program. SUB is willing to proceed to petition the Commission as outlined in the Department's letters. Accordingly, SUB will provide to you under separate cover a letter detailing the reasons that the Commission should grant a petition to allow the Department to consider approving the applications notwithstanding the Willamette Basin Program, and the reasons the Department should approve the applications pursuant to ORS 536.295.

The Department's administrative hold on application G-15242 expired July 31, 2004, and the Department's administrative holds for applications S-85336, G-15241, G-15243, and G-15244 expire today. Pursuant to my conversation with Cory Engle earlier today, SUB hereby requests

Oregon Washington California Utah



Mr. Dwight French October 18, 2004 Page 2

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OCT 19 2004

WATER RESOURCES DEPT SALEM, OREGON

that the Department extend the administrative hold for all five of these applications pending completion of the petition process under ORS 536.295. SUB anticipates providing to the Department by the end of this month sufficient information and reasons for pursuing the petition process. SUB will work with the Department to prepare a timely petition that the Commission can consider and act on at its next regularly scheduled meeting following the meeting currently scheduled for October 21-22, 2004.

Please do not hesitate to contact me or David Filippi, (503) 294-9529, of this office if you have any questions.

Very truly yours,

Greg D. Corbin

cc: Mr. Chuck Arrera (Fax: (503) 747-7348)

Mr. David Filippi



900 S W Frifts Andrew Suite 2600 Parsiunal, Oregon 97204 main 503 224 3340 fai 503 220 2460 more alout COID

October 18, 2004

GREG D. CORBIN Direct (503) 294-9632 gdcarbin@stoel.com

VIA FACSIMILE AND MAIL (503) 986-0904

Mr. Dwight French Water Resources Department North Mall Office Building 725 Summer Street NE, Suite A Salem, OR 97301-1271

Re: Springfield Utility Board Applications S-85336, G-15241, G-15242, G-15243, and

Dear Mr. French:

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WATER RESOURCES DEPT SALEM, OREGON



Mr. Dwight French October 18, 2004 Page 2

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Please do not hesitate to contact me or David Filippi, (503) 294-9529, of this office if you have any questions.

Very truly yours,

Greg D. Corbin

cc: Mr. Chuck Arrera (Fax: (503) 747-7348)

Mr. David Filippi

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OCT 19 2004

WATER RESOURCES DEPT SALEM, OREGON



900 5.W Fifth Avenue, Suite 2600 Portland, Oregon 97204 phone 503 224 3380 fun 503,220 2480 AVAILABLE.COM

| | Name: | Fax No. | Company/Firm | Phone No. |
|-------------|----------------------------|---------------------------|-------------------------|--|
| TO: | Dwight French | (503) 986-0904 | WRD | |
| | Chuck Arrera | (503) 747-7348 | | |
| | Name: | Sender's | Direct Dial: | Sender's Direct Email: |
| FROM: | Greg D. Corbin | (503) 29 | 94-9632 | gdcorbin@stoel.com |
| Client: | | | Matter: | |
| Date: | October 18, 2004 | | | |
| No. of Pa | iges (including this cove | er): | | |
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WATER RESOURCES DEPT SALEM, OREGON



Water Resources Department

North Mall Office Building 725 Summer Street NE, Suite A Salem, OR 97301-1271 503-986-0900 FAX 503-986-0904

August 19, 2004



David E. Filippi Stoel Rives 900 SW 5th Ave Ste 2600 Portland OR 9720 Via fax (503-220-2480) and First Class Mail

RE: Springfield Utility Board Applications S-85336, G-15241, G-15243, & G-15244

Dear Mr. Filippi,

This is in response to your August 13, 2004 letter in which you requested an administrative hold to provide time to engage in activities necessary to resolve issues identified in my July 9, 2004 letter. Your request is approved. The Department will not process Applications S-85336, G-15241, G-15243, or G-15244 until after October 18, 2004, unless you request that we proceed sooner.

Following further internal discussion of the question of whether the proposed streamflow augmentation can be characterized as municipal use, we have concluded that the determination of the May 16, 2003 initial review of S-85336 was correct. The initial review stated that

The Willamette Basin Program (OAR 690-502-0010(15)) defines "municipal use" as "the delivery and use of water through the water service system of an incorporated municipality". Because the 3.0 CFS of water proposed for streamflow augmentation would not be delivered through the water service system of an incorporated municipality, it is not municipal use under the Willamette Basin Program.

To expand on the initial review letter, we've determined that, because the means of conveyance-Cedar Creek, a natural waterway--is neither owned nor controlled by City of Springfield, it is not the water service system of an incorporated municipality.

However, as noted in my July 9 letter, we believe that this problem may be overcome by amending the streamflow augmentation portion of the application to propose fish life, wildlife, and/or pollution abatement instead. These uses are explicitly allowed by the basin program, and should adequately mitigate for groundwater pumping impacts if the portion of the application's 40 CFS dedicated to fish life, wildlife, and/or pollution abatement is increased to 4.1 CFS. If application S-85336 is amended in these ways, that should allow us to propose approval of that application, and will overcome one of the obstacles--insufficient mitigation--to approval of applications G-15241, G-15243, and G-15244.

Remaining obstacles to approval of the ground water applications are:

- The Willamette Basin Program does not allow the proposed use during the period July 1 through September 30 (OAR 690-502-0080(1)(d)). This may be overcome either by accepting the shorter season allowed by the basin program or by petitioning the Water Resources Commission to allow the Department to consider approving the application year-round notwithstanding the basin program, pursuant to ORS 536.295.
- 2. The Oregon Department of Fish and Wildlife (ODFW) stated under OAR 690-033 that the proposed use of water may effect the essential habitat of upper Willamette spring Chinook salmon, a threatened species under the Endangered Species Act. This obstacle may be overcome by working with ODFW to determine conditions under which these applications may be approved. It may be that the proposed modifications to S-85336 will help in this regard. Again, I recommend contacting Jeff Ziller at 503-726-3515 x26 to discuss this issue (if you haven't already).

With regard to the meeting we discussed, I hope that these clarifications have eliminated its necessity. However, if you would still like to meet, Dwight French and I are currently available next week during the following times: 10am to 4pm on the 23rd and 26th; 8am to 12 pm on the 24th, and 8am to 10am on the 27th. If you and your clients would prefer it, we would be happy to conduct the meeting by conference call to avoid the need travel.

If you have any questions, please feel free to call me at 503-986-0813.

Sincerely,

Mr. Cory C. Engel

Conjung

Water Right Application Caseworker

c: Bart McKee, Springfield Utility Board (via fax only: 541-747-7348)





900 S.W. Fifth Avenue, Suite 2600 Portland. Oregon 97204 main 503 224 3380 fax 503.220.2480 www.stoel.com

August 13, 2004

DAVID E. FILIPPI Direct (503) 294-9529 defilippi@stoel.com

VIA FACSIMILE NO. (503) 986-0904 AND U.S. MAIL

Mr. Corv Engel Oregon Water Resources Department 725 Summer Street NE, Suite A Salem, OR 97301-1271

Administrative Hold for Applications S-85336, G-15241, G-15243, and G-15244 Re:

Dear Mr. Engel:

Thank you for returning my call today. As we discussed and pursuant to your correspondence of July 9, 2004, I am hereby requesting on behalf of the Springfield Utility Board ("SUB") that the Oregon Water Resources Department (the "Department") place the above-referenced applications on administrative hold for the purpose of resolving the remaining issues identified in your July 9 correspondence. The purpose of this request is to allow time for representatives of SUB to meet with you and others at the Department to discuss the remaining issues and take action as appropriate following the meeting. Assuming the meeting is scheduled in the next couple of weeks as we discussed, we do not anticipate that SUB will require more than 60 days to address the remaining issues.

I understand that you will contact me on Monday to establish a date and time for the proposed meeting. Please contact me if you have any questions.

Very truly yours,

David E. Filippi

cc (via facsimile):

Mr. Chuck Davis

Mr. Bart McKee

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WATER RESOURCES DEPT Washington SALEM, OREGON

California

Oregon

Idaho



900 S W. Filth Awaruse, Swite 2600 Particula, Oregon 9721H phone 503 224 3380 rai 503 229 2480 www.succlustii

| | Name: | Fax No. | Company/Firm | Phone No. |
|-------------|-------------------------------|-----------------------|-------------------------|--|
| TO: | Cory Engel | (503) 986-0904 | OWRD | |
| | Name: | Sender's | Direct Dial: | Sender's Direct Email: |
| FROM: | David E. Filippi | (503) 25 | 94-9529 | defilippi@stoel.com |
| Client: | | | Matter: | |
| Date: | August 13, 2004 | | | |
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August 13, 2004

DAVID E. FILIPPI Direct (503) 294-9529 defilippi@stoel.com

VIA FACSIMILE NO. (503) 986-0904 AND U.S. MAIL

Mr. Cory Engel Oregon Water Resources Department 725 Summer Street NE, Suite A Salem, OR 97301-1271

Re: Administrative Hold for Applications S-85336, G-15241, G-15243, and G-15244

Dear Mr. Engel:

Thank you for returning my call today. As we discussed and pursuant to your correspondence of July 9, 2004, I am hereby requesting on behalf of the Springfield Utility Board ("SUB") that the Oregon Water Resources Department (the "Department") place the above-referenced applications on administrative hold for the purpose of resolving the remaining issues identified in your July 9 correspondence. The purpose of this request is to allow time for representatives of SUB to meet with you and others at the Department to discuss the remaining issues and take action as appropriate following the meeting. Assuming the meeting is scheduled in the next couple of weeks as we discussed, we do not anticipate that SUB will require more than 60 days to address the remaining issues.

I understand that you will contact me on Monday to establish a date and time for the proposed meeting. Please contact me if you have any questions.

Very truly yours,

David E. Filippi

cc (via facsimile): Mr.

Mr. Chuck Davis

Mr. Bart McKee

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Water Resources Department

North Mall Office Building 725 Summer Street NE, Suite A Salem, OR 97301-1271 503-986-0900 FAX 503-986-0904

July 9, 2004

Bart McKee Springfield Utility Board 202 S 18th St Springfield, OR 97477

RE: Application Files S-85336, G-15241, G-15243, & G-15244

Mr. McKee,

The Oregon Water Resources Department (hereafter referred to as "the Department") is currently preparing to issue Proposed Final Orders (PFOs) for the referenced pending applications. As you may recall, on May 16, 2003 the Department issued Initial Reviews (IRs) of these applications indicating it was unlikely that a permit would be issued. In our continuing review, considering the applications in their current forms will result in negative PFOs for the ground water applications and the mitigation portion of S-85336. However, it may be possible for you to modify the applications such that they meet requirements for approval.

S-85336

This application proposed the use of 37.0 cubic feet per second (CFS) for municipal use and 3.0 CFS for streamflow augmentation to mitigate the expected impacts of the appropriation of water proposed under applications G-15241, G-15243, & G-15244.

The Department has determined that while the use of 37.0 CFS for municipal use is likely allowable, the proposed use of water for streamflow augmentation is not a classified use in the Willamette Basin Program (OAR 690-502-0080(1)(e)). If Springfield Utility Board (SUB) intends to pursue the streamflow augmentation portion of this application, this problem may be remedied in one of two ways:

- Amend the application to modify the character of use from streamflow augmentation to some other in-stream use or combination of uses, which are allowed by the basin program. (Examples include fish life, wildlife, and pollution abatement.)
- Petition the Water Resources Commission to allow the Department to consider the application notwithstanding the basin program, pursuant to ORS 536.295.

G-15241, G-15243, & G-15244

These applications propose the use of water from wells for municipal use. Following an evaluation of the application including a review of information provided by SUB, the Department has determined that the use of water from these wells would have the potential to substantially interfere with Cedar Creek and McKenzie River. The combined interference is estimated to be 4.1 CFS.

The Department has determined that there exist two impediments to approval of your applications in their current form: the Willamette Basin Program does not allow the proposed use during the period July 1 through September 30 (OAR 690-502-0080(1)(d)), and pursuant to OAR 690-033, the Oregon Department of Fish and Wildlife (ODFW) has indicated that the proposed use of water may effect the essential habitat of upper Willamette spring Chinook salmon, a threatened species under the Endangered Species Act. To approve the applications, both of these impediments must be overcome.

Your options with regard to the basin program include:

- 1. Accept the shorter season allowed by the basin program.
- Petition the Water Resources Commission to allow the Department to consider approving the application year-round notwithstanding the basin program, pursuant to ORS 536.295.

To overcome OAR 690-033, it will likely be necessary to accomplish all of the following:

- Put S-85336 on a path to approval as described above to mitigate for impacts to Cedar Creek.
- Amend S-85336 from 37.0 CFS for municipal and 3.0 CFS for streamflow augmentation to 35.9 CFS for municipal and 4.1 CFS for the portion intended to augment Cedar Creek flows (though the character of in-stream use may be modified as described above). This will ensure that the estimated impacts to Cedar Creek are fully mitigated.
- 3. Work with ODFW to determine conditions under which these applications may be approved. In March of 2001, ODFW suggested that if the proposed use would reduce streamflow, the applicant should be required to contract for the release of stored water from upstream reservoirs. However, that is not a viable option, because the water in upstream reservoirs is not stored for that purpose. Jeff Ziller, ODFW's current District Biologist, has recently suggested conditions with regard to application S-85336 relating to fish screening and avoidance of depletion of Big Island Oregon chub ponds; it may be that Mr. Ziller can also recommend conditions under which these applications may be approved. Mr. Ziller may be reached at 503-726-3515 x26.

If you are unable to resolve these issues within 30 days, you may request an administrative hold for up to an additional 180 days. You must submit the request in writing, stating how much more time you will need and why you need additional time. If an administrative hold is granted, your applications will not be processed further until the requested information is received or the extended deadline has passed.

If we do not receive the items requested, or you do not request an administrative hold by Monday, August 16, 2004, we will continue to process your applications in their current form. If your applications are rejected, any fees submitted in excess of the examination fees will be refunded; however, the examination fees are non-refundable and will not be returned. In addition, the priority date associated with your applications will be lost.

If you have any questions, please feel free to call me at 503-986-0813.

Sincerely,

Mr. Cory C. Engel

Water Right Application Caseworker

c: Files

Jeff Ziller, ODFW

Michael Mattick, Watermaster



SPRINGFIELD UTILITY BOARD

Water Service Center 202 South 18th Street Springfield, Oregon 97477-5240 (541) 726-2396 Fax (541) 747-7348

July 16, 2003

Cory Engel Water Rights Processing Technician Water Resources Department 158 12th Street, NE Salem, OR 97301-4172 AUG 0 7 2003
WATER RESOURCES DEPT.
SALEM, OREGON

RE: Application # S-85336, Additional Information, Water Needs Projection

Dear Cory:

You requested additional demand information for the above application. SUB used two independent processes to develop two separate estimates of future water demands.

SUB utilized existing planning and water demand materials contained in its 1999 Master Water Plan to project water demands to the year 2070. As a check on this approach, SUB used population projections from a new Lane Council of Governments (LCOG) project titled Region 2050 to develop a separate projection of water demands.

Listed below is an explanation of the attached water demand information contained in Table 1 through Table 4.

A. SUB BASED PROJECTIONS

Table1 - Future Water Demand Using 1999 Water System Master Plan Assumptions, Projected to 2070, Maximum Day Demand and

Table 3 - Future Water Demand Using 1999 Water System Master Plan Assumptions, Projected to 2070, Peak Hour Demand.

SUB previously submitted its 1999 Master Water Plan to the Department and received Department approval for the plan. The 20-year plan contained projected water demands to the year 2017 and the capital facilities needed to meet the demands. The water demands projected were based on an average growth rate of 1.33% per year applied proportionally to the Springfield area water systems. The average growth factor was used to project growth in service connections (an indicator of population growth), growth in maximum day demands (MDD), and growth in peak hour demands (PH) (see Appendix A, 1999 Plan for detailed methodology). Water conservation was factored into the growth projections. Table 1 summarizes the increase in MDD using the same average growth assumptions but projected to the year 2070. Table 3 summarizes the increase in PH to the year 2070.

Water rights needed by a municipal agency will lay between the water demands defined by the maximum day demand and the peak demands defined by the peak hour. SUB must have secure water rights higher than MDD in order to meet its peak demands. However, some of the peak can be mitigated from operational adjustments and from storage.

Corey Engel, Water Resources Dept. Application # S-85336 August 6, 2003 Page 2 of 2

B. LCOG BASED PROJECTIONS

Table 2 - Water Demands Using LCOG Population Data, Maximum Day Demand, Table 4 - Water Demands Using LCOG Population Data, Peak Hour Demand.

For about the last two years, LCOG has been the lead agency in developing a long-term growth management plan for the southern Willamette Valley. The planning process is titled Region 2050. The intent is to broadly define the type and amount of development that may occur in our area by the year 2050 and 2070, and begin identifying ways to influence the development in order to meet quality of life goals defined by the work group. One small part of the exercise included a population projection for the Springfield area in the year 2050 and 2070.

Attached is the document that contains the population projections developed by LCOG for the project. SUB used the population projections for Springfield and applied the historical per capita consumption and peaking factors identified in its 1999 Water Master Plan to the population projections. The result is Table 2--Water Demands Using LCOG Population Data, Maximum Day Demand, and Table 4--Water Demands Using LCOG Population Data, Peak Hour Demand. Growth in population was defined by LCOG as 1.0125% between 2000-2050 and 1.0085% between 2050-2070.

The projections of water demands developed under this approach were very close to the projections of water demands developed using the 1999 SUB Water Master Plan

The summarized demand information as compared to existing SUB water rights is shown in Table 5. A water right deficit exists in 2070 using either of the demand project methods.

The primary issue is the amount of new water right to be granted under this pending application. The amount of 40 cfs is requested to meet future demands, assuming some portion of the peak demand will be met from storage or operational adjustments. It is uncertain if this new water right will be sufficient to meet the demands in the area. SUB plans to closely monitor our growth in demands and adjust any future water right applications accordingly.

As an aside, in your letter of June 17, 2003, you stated that our projected deficit would be 9.35 cfs (6.04 MG) in 2017. I believe this figure is one you noticed on page 4-6, Table 4-3 in our 1999 Master Plan. The deficit is not a water right deficit but a facility/developed capacity deficit. The intent of the table was to project the amount of capital improvements SUB needed to meet water demands, such as development of new source.

Please call me if you have any questions about this request.

Sincerely,

Ken Cerotsky

Director - Water Division

KC:mkm

cc: Bart McKee, SUB Project Engineer Water Division David Filippi

WATER RESOURCES DEPT.

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TABLE 1-FUTURE WATER DEMAND USING 1999 WATER SYSTEM MASTER PLAN ASSUMPTIONS, PROJECTED TO 2070, MAXIMUM DAY DEMAND

| | GROWTH RA | ATE, WITH CO | ONSERVATION | = | 1.0133 |
|------|-----------|--------------|-------------|------|------------|
| YR | MDD | YR | MDD | YR | MDD |
| | (MG) | | (MG) | | (MG) |
| 2002 | 24.5 | 2026 | 31.7 | 2050 | 43.5 |
| 2003 | 24.5 | 2027 : | 32.1 | 2051 | 44.1 |
| 2004 | 24.6 | 2028 | 32.6 | 2052 | 44.7 |
| 2005 | 24.6 | 2029 | 33.0 | 2053 | 45.3 |
| 2006 | 24.7 | 2030 | 33.4 | 2054 | 45.9 |
| 2007 | 24.7 | 2031 | 33.9 | 2055 | 46.5 |
| 2008 | 25 | 2032 | 34.3 | 2056 | 47.1 |
| 2009 | 25.3 | 2033 | 34.8 | 2057 | 47.8 |
| 2010 | 25.7 | 2034 | 35.2 | 2058 | 48.4 |
| 2011 | 26.0 | 2035 | 35.7 | 2059 | 49.0 |
| 2012 | 26.4 | 2036 | 36.2 | 2060 | 49.7 |
| 2013 | 26.7 | 2037 | 36.7 | 2061 | 50.4 |
| 2014 | 27.1 | 2038 | 37.2 | 2062 | 51.0 |
| 2015 | 27.4 | 2039 | 37.7 | 2063 | 51.7 |
| 2016 | 27.8 | 2040 | 38.2 | 2064 | 52.4 |
| 2017 | 28.2 | 2041 | 38.7 | 2065 | 53.1 |
| 2018 | 28.5 | 2042 | 39.2 | 2066 | 53.8 |
| 2019 | 28.9 | 2043 | 39.7 | 2067 | 54.5 |
| 2020 | 29.3 | 2044 | 40.2 | 2068 | 55.2 |
| 2021 | 29.7 | 2045 | 40.8 | 2069 | 56.0 |
| 2022 | 30.1 | 2046 | 41.3 | 2070 | 56.7 |
| 2023 | 30.5 | 2047 | 41.9 | | = 87.7 CFS |
| 2024 | 30.9 | 2048 | 42.4 | | |
| 2025 | 31.3 | 2049 | 43.0 | | |

S:kenc\water right conflict\water demand projection 071603

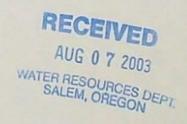


TABLE 2-FUTURE WATER DEMAND USING LCOG POPULATION DATA, MAXIMUM DAY DEMAND.

USE 1998 SPRINGFIELD POPULATION, 60481 AND 1998 MDD OF 26.65 MG, GIVES 440.6 GAL/PERSON AT MDD. PROJECT MDD USING LCOG POPULATION, LCOG POPULATION GROWTH RATE AND 440.6 GALLONS/PERSON AT MAX. DAY

| LCOG AVERAGE GROWTH RA | TE, 2000-2050 | = | 1.0125 |
|-------------------------|---------------|---|--------|
| LOCG AVERAGE GROWTH RAT | TE, 2050-2070 | = | 1.0085 |
| MMD | | = | 440.6 |

| YR | POP. | MDD (MG) | YR | POP. | MDD (MG) | YR | POP. | MDD (MG) |
|------|--------|-------------|------|--------|-------------|------|--------|-------------|
| 2000 | 62040 | 27.3 | | | | | | |
| 2001 | 62816 | 27.7 | | | | | | |
| 2002 | 63601 | 28.0 | 2026 | 85692 | 37.8 | 2050 | 115458 | 50.9 |
| 2003 | 64396 | 28.4 | 2027 | 86764 | 38.2 | 2051 | 116439 | 51.3 |
| 2004 | 65201 | 28.7 | 2028 | 87848 | 38.7 | 2052 | 117429 | 51.7 |
| 2005 | 66016 | 29.1 | 2029 | 88946 | 39.2 | 2052 | 118427 | 52.2 |
| 2006 | 66841 | 29.5 | 2030 | 90058 | 39.7 | 2053 | | |
| 2007 | 67676 | 29.8 | | | | | 119434 | 52.6 |
| 2007 | | | 2031 | 91184 | 40.2 | 2055 | 120449 | 53.1 |
| | 68522 | 30.2 | 2032 | 92324 | 40.7 | 2056 | 121473 | 53.5 |
| 2009 | 69379 | 30.6 | 2033 | 93478 | 41.2 | 2057 | 122505 | 54.0 |
| 2010 | 70246 | 31.0 | 2034 | 94646 | 41.7 | 2058 | 123547 | 54.4 |
| 2011 | 71124 | 31.3 | 2035 | 95829 | 42.2 | 2059 | 124597 | 54.9 |
| 2012 | 72013 | 31.7 | 2036 | 97027 | 42.8 | 2060 | 125656 | 55.4 |
| 2013 | 72913 | 32.1 | 2037 | 98240 | 43.3 | 2061 | 126724 | 55.8 |
| 2014 | 73825 | 32.5 | 2038 | 99468 | 43.8 | 2062 | 127801 | 56.3 |
| 2015 | 74748 | 32.9 | 2039 | 100711 | 44.4 | 2063 | 128887 | 56.8 |
| 2016 | 75682 | 33.3 | 2040 | 101970 | 44.9 | 2064 | 129983 | 57.3 |
| 2017 | 76628 | 33.8 | 2041 | 103245 | 45.5 | 2065 | 131088 | 57.8 |
| 2018 | 77586 | 34.2 | 2042 | 104535 | 46.1 | 2066 | 132202 | 58.2 |
| 2019 | 78556 | 34.6 | 2043 | 105842 | 46.6 | 2067 | 133326 | 58.7 |
| 2020 | 79538 | 35.0 | 2044 | 107165 | 47.2 | 2068 | 134459 | 59.2 |
| 2021 | 80532 | 35.5 | 2045 | 108505 | 47.8 | 2069 | 135602 | 59.7 |
| 2022 | 81538 | 35.9 | 2046 | 109861 | 48.4 | 2070 | 136754 | 60.3 |
| 2023 | 82558 | 36.4 | 2047 | 111234 | 49.0 | | | = 93.3 CFS |
| 2024 | 83590 | 36.8 | 2048 | 112625 | 49.6 | | | 00.0 01 0 |
| 2025 | 84635 | 37.3 | 2049 | 114032 | 50.2 | | | |
| | 0 1000 | 01.0 | 2010 | 114002 | 00.2 | | | |

S:kenc\water right conflict\water demand projection 071603

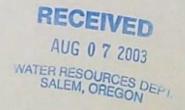


TABLE 3-FUTURE WATER DEMAND USING 1999 WATER SYSTEM MASTER PLAN ASSUMPTIONS, PROJECTED TO 2070, PEAK HOUR DEMAND

| | | TH CONSER | | = | 1.0133 |
|----------|-------------|------------|-------------|------|-------------|
| HISTORIC | PEAK HR | (PH) TO MM | ID FACTOR | = | 1.8 |
| YR | MDD (MG) | YR | MDD (MG) | YR | MDD (MG) |
| 2002 | 24.5 | 2026 | 31.7 | 2050 | 43.5 |
| 2003 | 24.5 | 2027 | 32.1 | 2051 | 44.1 |
| 2004 | 24.6 | 2028 | 32.6 | 2052 | 44.7 |
| 2005 | 24.6 | 2029 | 33.0 | 2053 | 45.3 |
| 2006 | 24.7 | 2030 | 33.4 | 2054 | 45.9 - |
| 2007 | 24.7 | 2031 | 33.9 | 2055 | 46.5 |
| 2008 | 25 | 2032 | 34.3 | 2056 | 47.1 |
| 2009 | 25.3 | 2033 | 34.8 | 2057 | 47.8 |
| 2010 | 25.7 | 2034 | 35.2 | 2058 | 48.4 |
| 2011 | 26.0 | 2035 | 35.7 | 2059 | 49.0 |
| 2012 | 26.4 | 2036 | 36.2 | 2060 | 49.7 |
| 2013 | 26.7 | 2037 | 36.7 | 2061 | 50.4 |
| 2014 | 27.1 | 2038 | 37.2 | 2062 | 51.0 |
| 2015 | 27.4 | 2039 | 37.7 | 2063 | 51.7 |
| 2016 | 27.8 | 2040 | 38.2 | 2064 | 52.4 |
| 2017 | 28.2 | 2041 | 38.7 | 2065 | 53.1 |
| 2018 | 28.5 | 2042 | 39.2 | 2066 | 53.8 |
| 2019 | 28.9 | 2043 | 39.7 | 2067 | 54.5 |
| 2020 | 29.3 | 2044 | 40.2 | 2068 | 55.2 |
| 2021 | 29.7 | 2045 | 40.8 | 2069 | 56.0 |
| 2022 | 30.1 | 2046 | 41.3 | 2070 | 56.7 |
| 2023 | 30.5 | 2047 | 41.9 | | |
| 2024 | 30.9 | 2048 | 42.4 | | |
| 2025 | 31.3 | 2049 | 43.0 | | |
| | | | | | |

2070 WATER RIGHT NEEDED = (PH) X 2070 MDD = 1.8 X 56.7 MG

102.0872 MG 157.95 CFS

S:kenc\water right conflict\water demand projection PEAK HOUR 071603

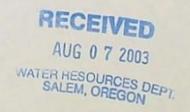


TABLE 4-WATER DEMAND USING LCOG POPULATION DATA, PEAK HOUR DEMAND

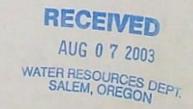
USE 1998 SPRINGFIELD POPULATION, 60481 AND 1998 MDD OF 26.65 MG, GIVES 440.6 GAL/PERSON AT MDD. PROJECT MDD USING LCOG POPULATION, LCOG POPULATION GROWTH RATE AND 440.6 GALLONS/PERSON AT MAX. DAY

LCOG AVERAGE GROWTH RATE, 2000-2050 = 1.0125 LOCG AVERAGE GROWTH RATE, 2050-2070 = 1.0085 MMD = 440.6 HISTORIC PEAK HR (PH) TO MMD FACTOR = 1.8

| YR | POP. | MDD (MG) | YR | POP. | MDD (MG) | YR | POP. | MDD (MG) |
|------|-------|-------------|------|--------|-------------|------|--------|-------------|
| 2000 | 62040 | 27.3 | | | | | | |
| 2001 | 62816 | 27.7 | | | | | | |
| 2002 | 63601 | 28.0 | 2026 | 85692 | 37.8 | 2050 | 115458 | 50.9 |
| 2003 | 64396 | 28.4 | 2027 | 86764 | 38.2 | 2051 | 116439 | 51.3 |
| 2004 | 65201 | 28.7 | 2028 | 87848 | 38.7 | 2052 | 117429 | 51.7 |
| 2005 | 66016 | 29.1 | 2029 | 88946 | 39.2 | 2053 | 118427 | 52.2 |
| 2006 | 66841 | 29.5 | 2030 | 90058 | 39.7 | 2054 | 119434 | 52.6 |
| 2007 | 67676 | 29.8 | 2031 | 91184 | 40.2 | 2055 | 120449 | 53.1 |
| 2008 | 68522 | 30.2 | 2032 | 92324 | 40.7 | 2056 | 121473 | 53.5 |
| 2009 | 69379 | 30.6 | 2033 | 93478 | 41.2 | 2057 | 122505 | 54.0 |
| 2010 | 70246 | 31.0 | 2034 | 94646 | 41.7 | 2058 | 123547 | 54.4 |
| 2011 | 71124 | 31.3 | 2035 | 95829 | 42.2 | 2059 | 124597 | 54.9 |
| 2012 | 72013 | 31.7 | 2036 | 97027 | 42.8 | 2060 | 125656 | 55.4 |
| 2013 | 72913 | 32.1 | 2037 | 98240 | 43.3 | 2061 | 126724 | 55.8 |
| 2014 | 73825 | 32.5 | 2038 | 99468 | 43.8 | 2062 | 127801 | 56.3 |
| 2015 | 74748 | 32.9 | 2039 | 100711 | 44.4 | 2063 | 128887 | 56.8 |
| 2016 | 75682 | 33.3 | 2040 | 101970 | 44.9 | 2064 | 129983 | 57.3 |
| 2017 | 76628 | 33.8 | 2041 | 103245 | 45.5 | 2065 | 131088 | 57.8 |
| 2018 | 77586 | 34.2 | 2042 | 104535 | 46.1 | 2066 | 132202 | 58.2 |
| 2019 | 78556 | 34.6 | 2043 | 105842 | 46.6 | 2067 | 133326 | 58.7 |
| 2020 | 79538 | 35.0 | 2044 | 107165 | 47.2 | 2068 | 134459 | 59.2 |
| 2021 | 80532 | 35.5 | 2045 | 108505 | 47.8 | 2069 | 135602 | 59.7 |
| 2022 | 81538 | 35.9 | 2046 | 109861 | 48.4 | 2070 | 136754 | 60.3 |
| 2023 | 82558 | 36.4 | 2047 | 111234 | 49.0 | | | |
| 2024 | 83590 | 36.8 | 2048 | 112625 | 49.6 | | | |
| 2025 | 84635 | 37.3 | 2049 | 114032 | 50.2 | | | |

2070 WATER RIGHT NEEDED = (PH) X 2070 MDD = 1.8 X 60.3 MG = 167.94 CFS

S:kenc\water right conflict\water demand projection PEAK HOUR 071603



, TABLE 5-SUMMARY OF PROJECTIONS

| PROJECTION METHOD | PROJECTED WATER DEMAND 2070 | | PRESENT RIGHTS | | PROJECTED DEFICIT | PROPOSED ADDITION |
|---|--------------------------------|-------|----------------|-----|----------------------|-------------------|
| | MG | CSF | MG | CSF | CSF | CSF |
| TABLE 1-1999 SUB MASTER PLAN, MAXIMUM DAY DEMAND | 56.7 | 87.7 | 52.99 | 82 | -5.7 | 40 |
| TABLE 2-LCOG REGION 2050 MAXIMUM DAY DEMAND | 60.3 | 93.3 | 52.99 | 82 | -11.3 | 40 |
| TABLE 3-1999 SUB MASTER PLAN, PEAK HOUR DEMAND | 102.1 | 157.9 | 52.99 | 82 | -75.9 | 40 |
| TABLE 4-LCOG REGION 2050 PEAK HOUR DEMAND | 108.5 | 167.9 | 52.99 | 82 | -85.9 | 40 |

S:\kenc\water right conflict\Table 5 summary of projections 071603

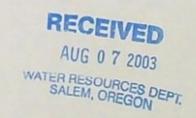


TABLE 4-1 SUB and RWD Source Listing

| | | | | | Water Right |
|---------------------------------------|---------|---------------|------------------|---------------------|--|
| Source Name | Owner | Permit No. | Priority Date | Certificat e No. | Amount (gpm) |
| East Fork of the | | | | | 101 |
| Willamette River | SUB | 22200 | 4/1/1953 | | 8,976 |
| Willamette Wellfield | SUB | | | | ADDRESS OF THE PARTY OF THE PAR |
| No. 8 | | G-266 | 6/18/1956 | 20-27979 | 896 |
| No. 1 | | GR-3134 | 6/16/1959 | | 900 |
| No. 6 | | GR-3135 | 6/16/1959 | | 1,250 |
| No. 4 | | GR-3136 | 6/16/1959 | | 1,250 |
| No. 3 | | GR-3137 | 6/16/1959 | | 1,250 |
| No. 7 | | GR-3138 | | | 1,250 |
| No. 5 | | GR-3139 | | | 600 |
| No. 2 | | GR-3140 | | | 1,250 |
| No. 9 | | G-3027 | | 27-35650 | 400 |
| No. 12 | | G-3073 | 11/1/1965 | | 995 |
| No. 11 | | G-3074 | | 27-35651 | 1,478 |
| No. 10 | | G-3075 | 11/1/1965 | 27-35754 | 1,075 |
| No. 13/15 | | G-11558 | 6/4/1991 | | 323 |
| SP Well | SUB | G-9989 | 7/12/1982 | 51-56430 | 797 |
| Maia Well | SUB | G-10349 | 1/20/1984 | | 1,200 |
| Thurston Wellfield | SUB | | | | ., |
| No. 1 | | G-3267 | 4/21/1966 | 34-42085 | 797 |
| No. 2 | | G-4570 | 4/28/1969 | 34-42086 | 1,201 |
| No. 3 | | G-4989 | 2/10/1972 | 34-42088 | 497 |
| No. 4 | | G-9983 | 2/4/1982 | 51-56427 | 251 |
| Platt Wellfield | SUB | | | | |
| No. 1 | | G-9984 | 2/4/1982 | 51-56428 | 251 |
| No. 2 | | G-9985 | 2/4/1982 | 51-56429 | 448 |
| Weyerhaeuser WF | SUB/RWD | | | | |
| No. A | | G-237 | 3/29/1956 | 37-45301 | 493 |
| No. 1 | | G-237 | 3/29/1956 | 37-45301 | 806 |
| No. 2 | | G-237 | 3/29/1956 | 37-45301 | 806 |
| No. D | | G-237 | 3/29/1956 | 37-45301 | 403 |
| No. 3 | | G-2795 | 12/16/1964 | | 762 |
| Chase Wellfield | RWD | | | | |
| No. 1 | | G-2795 | 12/16/1964 | 45302 | 1,122 |
| No. 2 | | G-2795 | 12/16/1964 | 45302 | 1,122 |
| No. 3 | | G-47098 | 9/12/1969 | 45303 | 399 |
| No. 4 | | G-5132 | 9/1/1970 | 45304 | 898 |
| Q Street Well | RWD | G-9945 | 7/14/1980 | 65691 | 700 |
| I-5 Wellfield | RWD | 0 00 10 | | 00001 | , 00 |
| No. 1 | ,,,,, | | | | |
| No. 2 | | | | | |
| Sports Way Well | SUB | G-12845 | 10/13/1995 | | 2,000 |
| TOTAL (gpm) | | | | | 36,800 |
| TOTAL (mgd) | | | | | 52.99 |
| · · · · · · · · · · · · · · · · · · · | | | | | JE. 33 |

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Sustaining Quality of Life in the Southern Willamette Valley

Yesterday and Today Growth Scenarios Methodology and Assumptions April 2, 2002

The methodology presented in this paper and attachments were used in developing the Yesterday and Today growth scenarios for the Southern Willamette Valley region. This methodology and these assumptions are based on a model prepared by Fregonese Calthorpe Associates, consultants to the Region 2050 process, as modified by the Regional Technical Advisory Committee (RTAC) and the Regional Policy Advisory Board.

The values for the detailed assumptions in the two scenarios are provided in the following attachments.

| Popula | tion Forecasts for UGBs and Outside UGBs in the Southern Willamette Valley |
|--------|--|
| Yester | day and Today Scenario Assumptions |
| Yester | day Scenario: |
| | Employment Forecasts |
| | Development Types and Densities |
| | Current Mix of Development Types |
| | Capacity Analysis and Calculation of Expansion Acres |
| Today | Scenario: |
| | Employment Forecasts |
| | Development Types and Densities |
| | Current Mix of Development Types |
| | Capacity Analysis and Calculation of Expansion Acres |
| | |

What is a Growth Scenario?

These scenarios were prepared by LCOG and the RTAC as the Yesterday and Today scenarios for the region. The Yesterday Scenario is a snap-shot of the region in the year 2050 if development patterns continue in the future as they have in the past. The Today Scenario is a snap-shot of the region in the year 2050 if specific local plans and policies are implemented.

The scenarios are not intended to be perfect predictions of the future. They are intended to reflect reasonable approximations of continuing existing conditions and practices and of implementing current policies. The full set of assumptions for the two scenarios are listed in the attachment, "Yesterday and Today Scenario Assumptions."

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What are the Basic Steps in Building a Growth Scenario?

There are three basic steps to building a Growth Scenario.

- Forecast how many housing units and jobs must be accommodated;
- Determine existing development capacity, i.e., how much and what type of growth can be accommodated within the current urban growth boundaries (UGBs) and on rural lands; and
- Determine how and where future UGB expansions will occur, based on 3. assumptions about the amount and location of land (if any) that will need to be urbanized outside of the current UGBs.

Forecast

The first assumption to be decided is the forecast of growth in housing units and jobs between 2000 and 2050. While the specific numbers may be reached either before or after the projected date, the forecast will be used to determine the extent of physical growth required to accommodate the projected population and employment. The regional forecast used in these scenarios will be modified to reflect updated forecasts for Lane County prepared by the state Office of Economic Analysis. The modified forecast used in these scenarios will be used in any alternative future scenarios, in order to measure impacts on comparable elements of each alternative.

Growth in Housing Units

This analysis assumes a regional population of 515,000 in the year 2050. The table below compares the estimated 1950 and 2000 regional population with the 2050 forecast. As shown, the forecast estimates an increase in the region's population of 70% over the next 50 years compared to the increase of 158% over the last 50 years. The population over the last 50 years has increasingly concentrated in cities with a 310% increase in city population and a 25% increase in population outside cities during this timeframe.

| | | | 050 Population te Valley Reg | | | |
|---------------------------|---------|---------|---------------------------------|-----------------------|-----------------------|--|
| Area | 1950 | 2000 | 2050 | % Change 1950-2000 | % Change 2000-2050 | |
| Regional Total | 117,510 | 302,741 | 515,000 | +158% | +70% | |
| Population in Cities | 54,613 | 224,011 | | +310% | - | |
| Population Outside Cities | 62,897 | 78,730 | | +25% | | |
| Population in UGBs | N/A | 249,992 | 471,870 | - | +89% | |
| Population Outside UGBs | N/A | 52,749 | 43,130 | - | -18% | |
| | | | | | | |

Sources: 1950 Lane County from US Census Bureau,

Sources: 1950 Lane County from US Census Bureau,
2000 Region, cities, and UGBs from 2000 US Census Bureau data, adjusted in Lowell and Veneta to reflect their proposed revisions.

1950 Estimates based on Precinct information from 1950 Census of Population.
2050 Forecast for the Region was prepared by Pacific Northwest Ecosystem Research Consortium.

This regional forecast was allocated to the UGBs in the region (see table 1).

The regional forecast was developed by the Pacific Northwest Ecosystem Research Consortium, and was based on the projection from the Oregon Office of Economic Analysis (OEA). OEA will be updating their projections in 2002 to adjust for 2000 census data. The UGB projections were arrived at by reviewing the proportion of Lane County population in each UGB, examining the 2000 population figures from U.S. Census data, and consulting with individual jurisdictions about their anticipated growth. For example, the Cities of Veneta, Coburg, and Lowell anticipate a faster rate of growth in the future than in the past due to recent and planned public water and/or wastewater system improvements. These cities' growth rates were adjusted to reflect that of Creswell, a fast growing city that is also close to the metropolitan area.

To forecast housing units, an average household size for 2050 was applied. An average household size of 2.24 was used for the metropolitan area, consistent with the analysis prepared for the 2001 Metropolitan Urban Reserve Analysis. An average household size of 2.4 was used for the small cities, consistent with the recent Marion County project, and reflecting the fact that average household sizes are larger in the smaller cities. In the Eugene-Springfield UGB, a vacancy rate of 3.5 percent was applied to account for unoccupied housing in the metropolitan area.

The density assumptions used in this analysis are identified in the attachments: Yesterday Scenario Development Types and Today Scenario Development Types.

Growth in Jobs

An employment forecast for the region was prepared by LCOG for inclusion in the report, A Profile of the Southern Willamette Valley, April 2001. This forecast projected that the region will have a total of 215,000 jobs by the year 2050. This is 85,625 more jobs than the total of 129,375 in 1998, the most recent year employment data for the region are available. This projection was developed by extrapolating the Office of Economic Analysis' (OEA) Lane County 2040 employment projection to 2050 and assuming the region would continue to have the 1998 proportion, 96 percent, of the county's employment. This projection was very close to the employment projection developed independently for the Willamette Valley Alternative Futures project which was 214,790.

This regional forecast was allocated to the UGBs under assumptions in the Yesterday Scenario and under slightly different assumptions in the Today Scenario, as described in the narrative describing the two scenarios (see table 2). In both scenarios, employment forecasts for UGBs and the rural area begin by assuming the proportion of population to jobs in each UGB continues in the future and by controlling these results to the 2050 OEA-based forecast for the region. The forecasts were then adjusted to reflect specific anticipated trends in the Yesterday Scenario (i.e., the continuation of the jobs-housing ratio in Coburg) and the implementation of local economic development policies and anticipated actions in Coburg, Junction City, and Veneta.

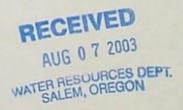


Table 1. Population Forecasts Within UGBs and Outside UGBs in the Southern Willamette Valley

| | 2000 | 2050 | 2070 | Change 2000-2070 | % Change 2000-2050 | %Change 2000-2070 | AAGR 2000-2050 | AAGR 2050-2070 |
|----------------------------|---------|---------|---------|---------------------|-----------------------|----------------------|-------------------|-------------------|
| Metro | 222,836 | 412,207 | 487,955 | 265,119 | 85% | 119% | 1.24% | 0.85% |
| Eugene | 160,796 | 296,789 | 351,186 | 190,390 | 85% | 118% | 1.23% | 0.85% |
| Springfield | 62,040 | 115,418 | 136,769 | 74,729 | 86% | 120% | 1.25% | 0.85% |
| Coburg | 969 | 2,490 | 3,098 | 2,129 | 157% | 220% | 1.91% | 1.10% |
| Cottage Grove | 8,890 | 17,500 | 20,944 | 12,054 | 97% | 136% | 1.36% | 0.90% |
| Creswell | 3,892 | 10,000 | 12,443 | 8,551 | 157% | 220% | 1.91% | 1.10% |
| Junction City | 5,858 | 13,300 | 16,277 | 10,419 | 127% | 178% | 1.65% | 1.02% |
| Lowell | 1,013 | 2,603 | 3,239 | 2,226 | 157% | 220% | 1.91% | 1.10% |
| Oakridge | 3,246 | 5,400 | 6,262 | 3,016 | 66% | 93% | 1.02% | 0.74% |
| Veneta | 3,055 | 7,850 | 9,768 | 6,713 | 157% | 220% | 1.91% | 1.10% |
| Westfir | 233 | 520 | 635 | 402 | 123% | 172% | 1.62% | 1.00% |
| Total UGBs | 249,992 | 471,870 | 560,621 | 310,629 | 89% | 124% | 1.28% | 0.87% |
| Rural Area Outside UGBs | 52,749 | 43,130 | 39,282 | -13,467 | -18% | -26% | -0.40% | -0.47% |
| Total Region: | 302,741 | 515,000 | 599,904 | 297,163 | 70% | 98% | 1.07% | 0.77% |

Notes:

The 2000 UGB population estimates are derived by overlaying 2000 census block data on digitized UGBs and regional boundary, with adjustments for Lowell and Veneta to reflect the revised figures those Cities are proposing to the initial census report.

The regional 2050 forecast was prepared by the Pacific Northwest Ecosystems Research Consortium based on the projection from the State Office of Economic Analysis (OEA).

The regional 2050 forecast was allocated to the UGBs based on available population projections from recent local comprehensive plans, facility plans, and buildable lands inventories, adjusted for future growth rates anticipated by the Cities of Lowell, Coburg, and Veneta. As a result of the planned wastewater treatment facility in Coburg and facility improvements in Lowell and Veneta, these cities anticipate having the same growth rate in the future as the City of Creswell.

The 2070 forecast was trended (simple linear regression) based on 2000 data and 2050 forecasts.

Note that the OEA will be adjusting their population projections in 2002 based on 2000 Census data.

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Table 2. 2050 Employment Projections Within and Outside UGBs for the Yesterday Scenario and the Today Scenario

| | Yesterday Scenario | Today Scenario |
|-------------------------|--------------------|----------------|
| Metro | 185,444 | 184,830 |
| Eugene | 146,018 | 145,534 |
| Springfield | 39,426 | 39,295 |
| Coburg | 4,058 | 3,012 |
| Cottage Grove | 5,936 | 5,936 |
| Creswell | 2,635 | 2,635 |
| Junction City | 6,558 | 7,058 |
| Lowell | 376 | 376 |
| Oakridge | 804 | 804 |
| Veneta | 1,359 | 2,520 |
| Westfir | 6 | 6 |
| Total UGBs | 207,177 | 207,177 |
| Rural area outside UGBs | 7,823 | 7,823 |
| Total Region | 215,000 | 215,000 |

What is the Existing Development Capacity in the Region?

The development capacity of the existing UGBs was estimated by using the vacant and partially vacant land inventory reported in the Regional Geographic Information System (GIS) for the region. The full set of assumptions used to determine development capacity and to allocate growth are listed in the attached, "Yesterday and Today Scenario Assumptions." The GIS inventory was updated during Phase I of the Region 2050 process. Assumptions about development capacity include current Comprehensive Plan designation, environmental constraints, underbuild factors (i.e., actual built densities as opposed to maximum allowed densities in the zoning code), implementation of the TransPlan nodes, need for additional public facilities, and current infill and redevelopment. Jurisdiction staff reviewed each of these factors and set agreed-upon levels to determine the development capacity of the land.

Current Comprehensive Plan

The Comprehensive Plans provide a general allowable development capacity, the implementation of which is affected by the factors described below. Two pending comprehensive plan changes were assumed in the Today Scenario analysis: the Oaklea Comprehensive Plan Amendment and the UGB expansion for the prison (shown as an expansion area). In addition, the Today Scenario assumes the 54 TransPlan nodes would be designated and developed at assumed densities.

The attached "Today Scenario Development Types and Densities" and "Yesterday Scenario Development Types and Densities" were created to represent the different types of land uses currently allowed in existing comprehensive plans throughout the region. Development types

were assigned to comprehensive plan designations in each city's plan based on their compatibility with the land uses and assumed housing and employment densities.

Constrained Lands

Lands were considered constrained by environmental constraints and because they are developed (except that the nodes were assumed to accommodate population and employment growth through complete redevelopment of developed lands in addition to development of the vacant land). Each of these factors has an impact on the development capacity of affected parcels. Some are purely physical in their impact, while others are linked with policies that affect their application.

The environmental constraints identified in the attached, "Yesterday and Today Scenario Assumptions" are typically used in buildable lands inventories to determine the development capacity within UGBs. For the metropolitan area, the buildable lands GIS layer used in the 1999 Metropolitan Residential Land and Housing Study was used.

Underbuild

This factor addresses the discrepancy between the comprehensive plan designation, which establishes the allowable density, and the density that is actually being achieved. This factor was based on approved developments during a recent period of time. For the Eugene-Springfield UGB, recent trends on actual densities were reported in the 1999 Metropolitan Residential Lands and Housing Study. In Cottage Grove, the underbuild factor accounted for the current trend of building single-family homes in Multi-family plan designations, as allowed by the existing code. The remaining UGBs were assumed to develop at current densities. Gross densities were assumed to account for the location of non-residential uses on land designated residential, streets and roads.

Public Facilities

The scenarios assume the same percentage of land designated for public facilities, natural resources, and parks and open space as the present. No housing or employment densities were assigned to this development type.

TransPlan Nodes

The Cities of Eugene and Springfield have initiated a process to amend the Metro Plan diagram to designate 29 priority TransPlan nodes. The Today Scenario assumes the 54 nodes identified in TransPlan will be designated and completely redeveloped to the assumed densities over the next 50 years. The density assumptions for nodes were derived from the TransPlan performance measure that 23.3% of all new residential development and 45% of all new employment over the next 20 years locate in the nodes, adjusted to reflect an increase in residential density over that which would be achieved under the current plan designation.

As part of the recent TransPlan adoption process, the designation "ND – Nodal Development" was added to the legend block of the Metro Plan Diagram and the following definition for nodes was adopted into the text of the Metro Plan:

Nodal Development Area (Node)

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Areas identified as nodal development areas in TransPlan are considered to have potential for this type of land use pattern. Other areas, not proposed for nodal development in TransPlan, may be determined to have potential for nodal development.

Nodal development is a mixed-use pedestrian-friendly land use pattern that seeks to increase concentrations of population and employment in well-defined areas with good transit service, a mix of diverse and compatible land uses, and public and private improvements designed to be pedestrian and transit oriented.

Fundamental characteristics of nodal development require:

- Design elements that support pedestrian environments and encourage transit use, walking and bicycling;
- A transit stop which is within walking distance (generally ¼ mile) of anywhere in the node;
- Mixed uses so that services are available within walking distance;
- Public spaces, such as parks, public and private open space, and public facilities, that can be reached without driving; and
- A mix of housing types and residential densities that achieve an overall net density of at least 12 units per net acre.

Nodal developments will vary in the amount, type, and orientation of commercial, civic, and employment uses; target commercial floor area ratios; size of buildings; and the amount and types of residential uses.

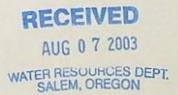
Infill and Redevelopment

In the metro cities, a certain amount of land will experience infill and redevelopment. This is less likely to occur in the smaller cities under the scenario assumptions. For the Eugene-Springfield UGB, infill assumptions in the 1999 Metropolitan Residential Land and Housing Study were applied. Redevelopment of residential lands was assumed to occur in the nodes; and redevelopment of employment land was assumed at 10%.

How and Where Will Future UGB Expansions Occur?

The following assumptions guided the expansion of UGBs to accommodate future population under the scenarios:

 For the most part, the UGBs were sized to accommodate future population at the same density as build-out determined from the capacity analysis, assuming current overall densities will change very little in the future. As stated above, in the metro area a portion of population and employment growth was assumed in the Today Scenario to be accommodated in nodes at higher densities within the existing UGB.



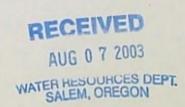
- No development was assumed on environmentally constrained lands. The allocation of jobs and households will avoid environmentally sensitive or constrained land. These lands were not considered available for development.
- UGBs were sized to accommodate the forecasted 2050 population and employment plus a 20 year supply of buildable land, as required under current state law. The forecasts for 2070 assumed a straight-line increase from the 2000-2050 forecast.
- 4. UGB expansion areas were drawn in accordance with State rules: areas with large inclusions of exception land first comprising contiguous additions along parcel lines; development of rural residential land was assumed to occur prior to development of prime farm and forest land.

Oregon's land use laws identify a priority order for land to be urbanized when expanding a UGB. This provides that the most valuable farm and forest land (Exclusive Farm Use and Exclusive Forest Use) be brought into an urban area last. The Base Case Scenario followed the following prioritization when expanding UGBs (ORS 197.298):

- "Lands adjacent to a UGB that are either exception lands or nonresource land or nonprime farm land that is completely surrounded by exception areas (lower capability as measured by classification or cubic foot size or both);
- 2. Marginal lands
- 3. Land designated for agriculture or forestry (higher capability)
- 4. Land of lower priority can be included when amount of land is inadequate due to specific types of land needed, inability to provide future urban services due to topographical or other physical constraints; or maximum efficiency of land uses requires inclusion of lower priority lands in order to include or provide services to higher priority lands."

A draft boundary expansion was reviewed by the RTAC, including staff from the Oregon Department of Land Conservation and Development, and facility providers prior to presenting it to the Regional Policy Advisory Board. In the metropolitan UGB, the analysis prepared for the Urban Reserve Study in June, 2001 and 2001 Metropolitan Urban Facilities and Services Plan helped inform this process.

 Exception land within the expanded UGB was treated similarly to underutilized land currently within the boundary. If an improvement was present, a portion was considered developed and the remaining land considered available for development at Plan densities.
 EFU land was treated as fully vacant land developed at Plan densities.



Attachments

| Valley |
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WATER RESOURCES DEPT. SALEM, OREGON



Sustaining Quality of Life in the Southern Willamette Valley

Yesterday and Today Scenario Assumptions April 2, 2002

| ALL TYPES | |
|--|---|
| Undeveloped and Underdeveloped land | The Regional Geographic Information System (GIS) parcel file was used to identify undeveloped and underdeveloped acres |
| Environmental Constraints | All Cities and Rural Lands: ☐ Open Water discount 100% ☐ Floodway 100% ☐ Wetlands on National Wetlands Inventory and significant wetlands in local wetland inventories in Coburg and Veneta discount 100% ☐ Slopes > 25%, discount 40% Additional Constraints (In addition to the above, the following apply) ☐ Springfield: Floodplain discount 100%; Slopes = 15-25% discount 45% and slopes >25% discount 80% ☐ Eugene: Protected wetlands, wetland mitigation sites, and significant National Wetlands Inventory wetlands discount 100% ☐ Eugene and Springfield: • Land in easement of 230 KV powerlines discount 100% • Land within 75 feet of Class A stream or pond discount 100% • Land within 50 feet of Class B stream or pond discount 100% ☐ Rural non-resource lands: • Land within 50 feet of Class I stream – 100% |
| RESIDENTIAL | |
| Residential capacity | Densities: See Development Types for Yesterday and Today Scenarios Vacancy rates (metro only): 3.5% Average household size: □ 2.4 for small cities (source: Marion County Growth Management project) □ 2.24 for the metro area (Source: 2001 Metro Urban Reserve Analysis) Group Quarters: This analysis assumes that a portion of the total population in the metro area (3%) and Junction City would reside in group quarters in high density residential units: 7,599 in Eugene, 337 in Springfield, and 1,900 in Junction City. |

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| Residential Infill and Redevelopment | For the Eugene-Springfield UGB, estimated dwelling unit capacity for 2000 was adjusted to account for infill: 1,243 units added, 845 in Eugene and 398 in Springfield (1999 Metropolitan Residential Land and Housing Study). Redevelopment of residential lands was assumed to occur in the nodes. |
|---|--|
| | In the Today Scenario in Springfield, existing UGB capacity was increased by 716 units to account for future accessory dwellings (400 units, 5% of those allowed) and increased densities in Transition Zones. For Transition Zones, 316 units were added due to doubling actual density on low density residential lots abutting higher intense use. Actual density on these lots is 4.6 units/net acre. Assuming 845 developed acres redevelop at 9.2 DU/net acre and 1,409 undeveloped acres develop at 6.3 DU/gross acre. |
| Residential Net-to-Gross | For Urban Residential and Mixed Use, net residential densities were reduced by 32% to account for non-residential uses on residentially-designated land (roads, schools, parks, etc.) (Metropolitan Residential Land and Housing Study, 1999). In Residential Subdivisions in small cities, net densities were reduced by 20%, primarily to account for roads and other non-residential uses. In nodes, the gross-to-net ratio is 12% for residential and 8% for employment, due to the fact that the nodes are 64% developed. |
| Residential land need outside the UGB/20 year residential land supply | 2070 population was trended (simple linear regression) based on 2000 estimates and 2050 projections. The same densities of development during the 20-year period. |
| EMPLOYMENT | during the 20-year period. |
| Employment allocation on vacant land | See Development Types |
| Employment Redevelopment | Metro: Redevelopment of employment land was assumed at 10% (Salem Futures technical memorandum by Eco Northwest) outside the nodes. |
| Employment capacity outside UGB/Add 20 year employment land supply | 2070 employment was trended (simple linear regression) based on 2000 estimates and 2050 projections. The same densities of development during the 20-year period. |
| Employment Net-to- Gross | 20% for rights-of-way and other public uses. (See 1993 Metro Industrial Lands Inventory Report, page 34). (Note: due to the 70-year projected need, no assumption was made regarding land holdings for expansion which would result in a lower density for industrial land.) In nodes, the gross-to-net ratio is 12% for residential and 8% for employment, due to the fact that the nodes are 64% developed. |
| TRANSPORTATION | |
| Road Network | Completion of projects in the adopted local and regional transportation plans. (Note: this is assumed in the gross-to-net ratios. More detailed analysis of this assumption will occur as part of the evaluation of the alternative scenarios.) |

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Population Forecasts for UGBs and Outside UGBs in the Southern Willamette Valley

| | 2000 | 2050 | 2070 | Change 2000-2070 | % Change 2000-2050 | %Change 2000-2070 | AAGR 2000-2050 | AAGR 2050-2070 |
|--------------------|---------|---------|---------|------------------|-----------------------|----------------------|-------------------|-------------------|
| Metro | 222,836 | 412,207 | 487,955 | 265,119 | 85% | 119% | 1.24% | 0.85% |
| Eugene | 160,796 | 296,789 | 351,186 | 190,390 | 85% | 118% | 1.23% | 0.85% |
| Springfield | 62,040 | 115,418 | 136,769 | 74,729 | 86% | 120% | 1.25% | 0.85% |
| Coburg | 969 | 2,490 | 3,098 | 2,129 | 157% | 220% | 1.91% | 1.10% |
| Cottage Grove | 8,890 | 17,500 | 20,944 | 12,054 | 97% | 136% | 1.36% | 0.90% |
| Creswell | 3,892 | 10,000 | 12,443 | 8,551 | 157% | 220% | 1.91% | 1.10% |
| Junction City | 5,858 | 13,300 | 16,277 | 10,419 | 127% | 178% | 1.65% | 1.02% |
| Lowell | 1,013 | 2,603 | 3,239 | 2,226 | 157% | 220% | 1.91% | 1.10% |
| Oakridge | 3,246 | 5,400 | 6,262 | 3,016 | 66% | 93% | 1.02% | 0.74% |
| Veneta | 3,055 | 7,850 | 9,768 | 6,713 | 157% | 220% | 1.91% | 1.10% |
| Westfir | 233 | 520 | 635 | 402 | 123% | 172% | 1.62% | 1.00% |
| Total UGBs | 249,992 | 471,870 | 560,621 | 310,629 | 89% | 124% | 1.28% | 0.87% |
| Rural Area Outside | | | | | | | | |
| UGBs " | 52,749 | 43,130 | 39,282 | -13,467 | -18% | -26% | -0.40% | -0.47% |
| Total Region: | 302,741 | 515,000 | 599,904 | 297,163 | 70% | 98% | 1.07% | 0.77% |

Notes:

The 2000 UGB population estimates are derived by overlaying 2000 census block data on digitized UGBs and regional boundary, with adjustments for Lowell and Veneta to reflect the revised figures those Cities are proposing to the initial census report.

The regional 2050 forecast was prepared by the Pacific Northwest Ecosystems Research Consortium based on the projection from the State Office of Economic Analysis (OEA).

The regional 2050 forecast was allocated to the UGBs based on available population projections from recent local comprehensive plans, facility plans, and buildable lands inventories, adjusted for future growth rates anticipated by the Cities of Lowell, Coburg, and Veneta. As a result of the planned wastewater treatment facility in Coburg and facility improvements in Lowell and Veneta, these cities anticipate having the same growth rate in the future as the City of Creswell.

The 2070 forecast was trended (simple linear regression) based on 2000 data and 2050 forecasts.

Note that the OEA will be adjusting their population projections in 2002 based on 2000 Census data.

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Yesterday Scenario Development Types and Densities, April 2, 2002

| | Designations | Jurisdiction |
|--|--|--|
| Commercial Center or Corridor | | |
| Average 35 Employees/Net Acre (28 Gross) | Community Commercial | Westfir |
| | Commercial/NE Employment Center | Veneta |
| | Commercial | Eugene-Springfield, Veneta, Oakindge, Lewell, Junction Circ. Creswell, Rural |
| | Major Retail Center | Eugene-Springfield |
| | Tourist and Community Commercial | Cottage Grove |
| | Central Business District | Cottage Grove. Coburg |
| | Highway Commercial | Cohurg |
| Campus | | |
| iverage 15 Employees/Net Acre (12 Gross) | Campus Industrial, University Research | Eugene-Springfield |
| Trends 12 dispersion in Automatical Strategy | Professional Technical | Junction Circ |
| | Commercial Resort Overlan | Cressell |
| | Metical Park | Cottage Grove |
| Industrial/Office | | |
| Average 13 Employees/Net Acre (10 Gross) | Industrial/Commercial | Veneta |
| The state of the s | Light Medium Industrial | Eugene-Springfield |
| | Industrial | Cottage Grove |
| | Manufacturing Research | Lovell |
| | Light Industrial | Coburg |
| ow Density Employment | | |
| Low Density Employment Average 5 Employers/Net Acre (4 Gross) | Industrial | Junction City: Creswell, Rural |
| treade a muhiciaent ser serie (a Charri | Heavy Industrial | Oskridge, Eugme-Springfield |
| | Lumind Industrial Aggregate Extraction | Oaknage Calgare Springstein |
| | Special Heavy Industrial, Rural Industrial, Rural Commorcial. | Eugme-Springfield |
| | Government and Education, AO - Airport, Sand and Gravel | |
| | | |
| | Public | Veneta |
| | Public and Government | Oskridge Westfir |
| | Public Facility Government | Crewell |
| Parks and Open Space & Public Facilities | | |
| | Flood Potential | Westfir |
| type. Privately-owned lands designated for parks and open space | Parks. Recrustion, and Open Space: Land/Regional and | Westfir, Veneta. Oakridge, Eugene- |
| were assumed to develop according to plan designation for the Blase | Community Park: Parks and Recreation | Springfield, Lowell, Creswell, Coburg. |
| Case Scenario | | Contage Grove: Rural |
| | Public/Greenway and NE Employment Center/Greenway | Veneta |
| | Public Facility | Rural |
| | Natural Resource: Airport Reserve | Eugene-Springfield |
| | Public Land and Open Land: Public | Lowell, Junction City |
| | NR - Natural Resource | Rural |
| | Public Quasi-Public | Cottage Grove |
| | Public Water Service | Coburg |
| | | |
| | | |
| Average 16 Units/Net Acre (10 9 Gross): Multi-family attached: 35 | The state of the s | Westfit, Oaknoge |
| Average 16 Units/Net Acre (10.9 Gross); Multi-family attached, 35 | Commercial General Residential | Veneta |
| Average 16 Units/Net Acre (10.9 Gross); Multi-family attached, 35 | The state of the s | |
| Average 16 Units/Net Acre (10 9 Gross): Multi-family attached: 35 | Commercial General Residential | Veneta |
| Average 16 Units/Net Acre (10.9 Gross); Multi-family attached, 35 | Commercial General Residential Commercial Residential | Veneta Junction Cen |
| Average 16 Units/Net Acre (10.9 Gross); Multi-family attached, 35 | Commercial General Residential Commercial Residential High and Medium Denairi, Residential Mixed Use | Veneta Junction City Eugene-Springfield |
| Average 16 Units/Net Acre (10.9 Gross); Multi-family attached: 35 Employees/Net Acre (28 Gross) | Commercial General Residential Commercial Residential High and Medium Dentire, Residential Mixed Use Commercial Mixed Use | Veneta Junction Cer- Eugene-Springfield Eugene-Springfield |
| Average 16 Units/Net Acre (10.9 Gross): Multi-family attached: 35 Employmest/Net Acre (24 Gross) Mixed-Use Employment Center | Commercial General Residential Commercial Residential High and Medium Denter, Residential Mixed Use Commercial Mixed Use Residential Professional | Veneta Junction Cer- Eugene-Springfield Eugene-Springfield |
| Average 16 Units/Net Acre (20 9 Gross): Multi-family attached: 35 Employment/Net Acre (24 Gross) Mixed-Use Employment Center Average 16 Units/Net Acre (10 9 Gross): Multi-family attached: 23 | Commercial General Residential Commercial Residential High and Medium Denter, Residential Mixed Use Commercial Mixed Use Residential Professional | Veneta Junction Cer. Eugene-Springfield Eugene-Springfield Cottage Grove |
| Average 16 Units/Net Acre (20 9 Gross): Multi-family attached: 35 Employment/Net Acre (24 Gross) Mixed-Use Employment Center Average 16 Units/Net Acre (10 9 Gross): Multi-family attached: 25 Employment/Net Acre (20 Gross): | Commercial/General Residential Commercial/Residential High and Medium Denier: Residential Missed Use Commercial Missed Use Residential Professional Light-Medium Industrial Missed Use | Veneta Junction Cers Eugene-Springfield Eugene-Springfield Cottage Grove Eugene-Springfield |
| Average 16 Units/Net Acre (20 9 Gross): Multi-family attached: 35 Employees/Net Acre (28 Gross) Mixed-Use Employment Center Average 16 Units/Net Acre (10 9 Gross): Multi-family attached: 23 Employees/Net Acre (20 Gross) High Density Urban Residential | Commercial General Residential Commercial Residential High and Medium Denzer, Residential Mixed Use Commercial Mixed Use Residential Professional Light-Medium Industrial Mixed Use Industrial/NE Employment Center | Veneta Sunction Cery Eugene-Springfield Eugene-Springfield Cottage Grove Eugene-Springfield Veneta |
| Average 16 Units/Net Acre (28 Gross): Multi-family attached: 35 imploymes/Net Acre (28 Gross) Mixed-Use Employment Center Average 16 Units/Net Acre (10 9 Gross): Multi-family attached: 23 imploymes/Net Acre (20 Gross) High Density Urban Residential | Commercial/General Residential Commercial/Residential High and Medium Denier: Residential Missed Use Commercial Missed Use Residential Professional Light-Medium Industrial Missed Use | Veneta Junction Cers Eugene-Springfield Eugene-Springfield Cottage Grove Eugene-Springfield |
| Average 16 Units/Net Acre (28 Gross): Multi-family attached: 35 Employees/Net Acre (28 Gross) Mixed-Use Employment Center Average 16 Units/Net Acre (10 9 Gross): Multi-family attached: 25 Employees/Net Acre (20 Gross) High Density Urban Residential Average 35 Units/Net Acre; (23.3 Gross): Apartments | Commercial General Residential Commercial Residential High and Medium Detacty Residential Missed Use Commercial Missed Use Residential Missed Use Residential Professional Light-Medium Industrial Missed Use Industrial/NE Employment Center High Density Residential (includes group quarters in Eugene- | Veneta Sunction Cery Eugene-Springfield Eugene-Springfield Cottage Grove Eugene-Springfield Veneta |
| Average 16 Units/Net Acre (20 9 Gross): Multi-family attached: 25 Employment/Net Acre (24 Gross) Mixed-Use Employment Center Average 16 Units/Net Acre (10 9 Gross): Multi-family attached: 25 Employment/Net Acre (20 Gross) High Density Urban Residential Average 35 Units/Net Acre (23 3 Gross): Apartments Medium Density Urban Residential | Commercial General Residential Commercial Residential High and Medium Detacty Residential Missed Use Commercial Missed Use Residential Missed Use Residential Professional Light-Medium Industrial Missed Use Industrial/NE Employment Center High Density Residential (includes group quarters in Eugene- | Veneta Sunction Cery Eugene-Springfield Eugene-Springfield Cottage Grove Eugene-Springfield Veneta |
| Average 16 Units/Net Acre (10.9 Gross): Multi-family attached: 35 Employees/Net Acre (24 Gross) Mixed-Use Employment Center Average 16 Units/Net Acre (10.9 Gross): Multi-family attached: 25 Employees/Net Acre (20 Gross) High Density Urban Residential Average 35 Units/Net Acre (23.8 Gross): Apartments Medium Density Urban Residential Average 16 Units/Net Acre (10.9 Gross): Max of single family. | Commercial General Residential Commercial Residential High and Medium Dentity Residential Missed Use Commercial Missed Use Residential Professional Light-Medium Industrial Missed Use Industrial/NE Employment Center High Density Residential (includes group quarters in Eugene- Springfield)) | Veneta Junction Cer Eugene-Springfield Eugene-Springfield Cottage Grove Eugene-Springfield Veneta Eugene-Springfield |
| Average 16 Units/Net Acre (20 9 Gross): Multi-family attached: 25 Employment/Net Acre (24 Gross) Mixed-Use Employment Center Average 16 Units/Net Acre (10 9 Gross): Multi-family attached: 25 Employment/Net Acre (20 Gross) High Density Urban Residential Average 35 Units/Net Acre; (23.8 Gross): Apartments Medium Density Urban Residential Average 16 Units/Net Acre; (10 9 Gross): Max of single family. | Commercial General Residential Commercial Residential High and Medium Density Residential Missed Use Commercial Missed Use Residential Missed Use Residential Professional Light-Medium Industrial Missed Use Industrial/NE Employment Center High Density Residential (includes group quarters in Eugene- Springfield)) Potential Medium Density Residential High Density Residential | Veneta Junction Cery Eugene-Springfield Eugene-Springfield Cottage Grove Eugene-Springfield Veneta Eugene-Springfield Outside Cottage Grove Cottage Grove |
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| Average 16 Units/Net Acre (28 Gross): Multi-family attached: 25 Employment/Net Acre (28 Gross) Mixed-Use Employment Center Average 16 Units/Net Acre (10 9 Gross): Multi-family attached: 25 Employment/Net Acre (20 Gross) High Density Urban Residential Average 35 Units/Net Acre; (23 3 Gross): Apartments Medium Density Urban Residential Average 16 Units/Net Acre; (10 9 Gross): Mix of single family, intached and detached: apartments, and manufactured housing. Low Density Urban Residential | Commercial General Residential Commercial Residential High and Medium Density Residential Missed Use Commercial Missed Use Residential Missed Use Residential Professional Light-Medium Industrial Missed Use Industrial/NE Employment Center High Density Residential (includes group quarters in Eugene- Springfield)) Potential Medium Density Residential High Density Residential | Veneta Junction Cery Eugene-Springfield Eugene-Springfield Cottage Grove Eugene-Springfield Veneta Eugene-Springfield Outside Cottage Grove Cottage Grove |
| Average 16 Units/Net Acre (20 9 Gross): Multi-family attached: 25 Employmen/Net Acre (24 Gross) Mixed-Use Employment Center Average 16 Units/Net Acre (20 9 Gross): Multi-family attached: 25 Employmen/Net Acre (20 Gross) High Density Urban Residential Average 35 Units/Net Acre; (23.8 Gross): Apartments Medium Density Urban Residential Average 16 Units/Net Acre; (10.9 Gross): Max of simple family, attached and detached: apartments, and manufactured housing. Low Density Urban Residential Average 6.7 Units/Net Acre; (4.5 Gross): Single-family detached | Commercial General Residential Commercial Residential High and Medium Denzio, Residential Missed Use Commercial Missed Use Residential Professional Light-Medium Industrial Missed Use Industrial/NE Employment Center High Density Residential (includes group quarters in Eugene- Springfield)) Potential Medium Density Residential High Density Residential Medium Density Residential Medium Density Residential | Veneta Junction Cery Eugene-Springfield Eugene-Springfield Cottage Grove Eugene-Springfield Veneta Eugene-Springfield Outside Cottage Grove Cottage Grove |
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| Average 16 Units/Net Acre (20 Gross): Multi-family attached: 25 Employment/Net Acre (24 Gross) Mixed-Use Employment Center Average 16 Units/Net Acre (10 9 Gross): Multi-family attached: 25 Employmen/Net Acre (20 Gross) High Density Urban Residential Average 35 Units/Net Acre (23 8 Gross): Apartments Medium Density Urban Residential Average 16 Units/Net Acre (10 9 Gross): Mos of single family, attached and denached: aparaments, and manufactured housing Low Density Urban Residential Average 6.7 Units/Net Acre (4.5 Gross): Single-family detached and attached and manufactured housing Residential Subdivision | Commercial/General Residential Commercial/Residential High and Medium Denzey Residential Missed Use Commercial Missed Use Residential Professional Light-Medium Industrial Missed Use Industrial/NE Employment Center High Density Residential (includes group quarters in Eugene-Springfield)) Potential Medium Donairy Residential High Density Residential Urban Residential Urban Residential General Residential Residential Low Density Residential | Veneta Junction Cery Eugene-Springfield Eugene-Springfield Contage Grove Eugene-Springfield Veneta Eugene-Springfield Oukindge Contage Grove Eugene-Springfield, Junction City Oukindge Veneta Cottage Grove Eugene-Springfield Westfir |
| Average 16 Units/Net Acre (20 Gross): Multi-family attached: 25 Employment/Net Acre (24 Gross) Mixed-Use Employment Center Average 16 Units/Net Acre (10 9 Gross): Multi-family attached: 25 Employmen/Net Acre (20 Gross) High Density Urban Residential Average 35 Units/Net Acre (23 8 Gross): Apartments Medium Density Urban Residential Average 16 Units/Net Acre (10 9 Gross): Mos of single family, attached and denached: aparaments, and manufactured housing Low Density Urban Residential Average 6.7 Units/Net Acre (4.5 Gross): Single-family detached and attached and manufactured housing Residential Subdivision | Commercial General Residential Commercial Residential High and Medium Densor, Residential Missed Use Residential Professional Light-Medium Industrial Missed Use Industrial/NE Employment Center High Density Residential (includes group quarters in Eugene-Springfield)) Potermal Medium Density Residential High Density Residential Medium Density Residential Medium Density Residential Urban Residential Comma Residential Low Density Residential Low Density Residential Low Density Residential Low Density Residential Residential Low Density Residential Residential Low Density Residential Residential Low Density Residential Residential Residential Low Density Residential Residential Residential Single Family Residential Residential SF Residential | Veneta Junction Cery Eugene-Springfield Eugene-Springfield Contage Grove Eugene-Springfield Veneta Eugene-Springfield Oukindge Contage Grove Eugene-Springfield, Junction City Oukindge Veneta Cottage Grove Eugene-Springfield Westfir |
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| Mixed-Use Community Center Average 16 Units/Net Acre (10.9 Gross). Multi-family attached. 25 Employees/Net Acre (28 Gross) Mixed-Use Employment Center Average 16 Units/Net Acre (10.9 Gross). Multi-family attached. 25 Employees/Net Acre (20 Gross). Multi-family attached. 25 Employees/Net Acre (20 Gross). Apartments Medium Density Urban Residential Average 15 Units/Net Acre (23.8 Gross). Apartments Medium Density Urban Residential Average 16 Units/Net Acre (10.9 Gross). Mix of single family. attached and denached. apartments, and manufactured housing. Low Density Urban Residential Average 6.7 Units/Net Acre (4.5 Gross). Single-family detached and exached and manufactured housing Residential Subdivision Average 4.3 Units/Net Acre (3.4 Gross) | Commercial/General Residential Commercial/Residential High and Medium Denzey Residential Missed Use Commercial Missed Use Residencial Professional Light-Medium Industrial Missed Use Industrial/NE Employment Center High Density Residential (includes group quarters in Eugene- Springfield)) Potential Medium Density Residential High Density Residential Working Density Residential Urban Residential Comma Residential Low Density Residential Need Residential Residential Low Density Residential | Veneta Junction Cer. Eugene-Springfield Eugene-Springfield Cottage Grove Eugene-Springfield Veneta Eugene-Springfield Veneta Eugene-Springfield Oakindge Cottage Grove Eugene-Springfield, Junction Ciri, Oukindge Veneta Cresivell Eugene-Springfield Westfir Veneta Junction Ciri Cottage Grove Lowell |
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Take out Oaklea in JC

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Today Scenario Development Types and Densities, April 2, 2002

| Development Type | City Comprehensive Plan and Rural Zoning Designations | Jurisdiction |
|--|--|--|
| Commercial Center or Corridor | | le: a |
| Average 15 Employees Net Adm (24 Grows) | Consults Conseiled | Westle |
| | Conservativit Employment Center | Veneta |
| | Contraction | Engene-Springfield, Venera, Oxazsipe, Lovell, Janusson Cos, Creenell, |
| | 11 Da. (7-11) | Rurei |
| | Maior Retail Center | Esque-Springsheld |
| | Tourist and Community Commercial | Cottage Corne |
| | Certral Business District | Cottage Cotors, Coloury |
| | Highway Commercial | Cohurs |
| Campus | | |
| overage 25 Employaes/Net Acce (2) Cross- | Campus Indiatrial, University Research | Eugene-Sproudield |
| The state of the s | Professorial Technical | Junction Cats |
| | Compensal Reson Cheria | Cresell |
| | | |
| | Medical Parts | Cottage Grove |
| Industrial/Office | | |
| Average 13 Employees/Net Aute: 12 Gross- | Industral Congressa | Venna |
| | Light Melium Industrial | Expre-tornalists |
| | Internal | Cotage Grove |
| | The state of the s | |
| | Manufacturing/Research | Lovell |
| | Light Industrial | Cotoury |
| Low Density Employment | | |
| Average 7 Ecopionaes/Not Acre () Cossos | Internal | January Crit, Creswell, Russi |
| | Herry Industrial | Oskystye, Eugene-Sprougield |
| | Latined Industrial, Aggregate Extraction | Okinder |
| | | |
| | Special Heavy Industrial, Rural Industrial, Rural Commercial, | Eugene-Springfield |
| | Government and Education, AO - Aurort, Sand and Oravel | |
| | | |
| | Public | Victoria |
| | Public and Government | Onizedge, Westle |
| | Public Facility Construents | Crevell |
| Parks and Open Space & Public Facilities | | |
| No population or employment are allocated to this development | Flood Punnisal | Wester |
| type. Privately-evened lands designated for parks and open space | | |
| were assumed to develop assurding to plan designation for the | Community Parks and Recognition | Westle, Venna, Oktober. Eugene-Springfield, Lawell, Creswell, Colo. Conage Geore, Rural |
| | Public Greens as and NT. Employment Center Greens as | Veneta |
| | park land in Parks Master Plan | - Commander of the Comm |
| | Public Facility | Euri |
| | A COLUMN TO THE PARTY OF THE PA | |
| | Natural Resource: Autourt Reserve | Expens-Springlish |
| | Public Land and Open Land, Public | Lovell, Junior Cin |
| | NR - Natural Resource | Rurel |
| | Public Queri-Public | Cottage Grove |
| | Public Water Service | Cithay |
| N- 4-4 | | |
| Node* | | |
| Assumes redinationness of notes of Average In Units Net Auto | 14 Naies in Adepted TransPlan | Eugene-Sproglield |
| (14 Gross), 31 Employees Net Aury (28 Gross) | | |
| | | |
| Mised-Use Community Center | | |
| Average 16 Usus/Net Acre : 10 9 Groves: Multi-tertuly attached. | Mined Use | Weetlir, Ostonige |
| 35 Employmen/Net Agre (28 Gross) | Compensal Omeral Residence | Veneta |
| | Competial Revolution | Justine Co. |
| | High and Medium Density Resignmed Moved Use | Eupew-ferogrield |
| | Mindel Use designated areas in relivement plans | Springfield |
| | | |
| | Contributed Mined Use | Eugene-Spragfield |
| | Residential Professional | Cottage Grove |
| Mixed-Use Employment Center | | |
| Average 16 Utsta/Net Azre (10.9 Crima), Mulis-samuty assesses. | Light-Medium Industrial Moved Use | Eugene-Igrungsield |
| | | |
| As an inches and a second seco | | |
| A SECOND | Industrial NE Employment Center | Veneta |
| 25 Englisy wealful Acre (20 Gross) | Mond Use designated areas or minement plans | Springfield |
| 25 Englisy wealful Acre (20 Gross) | | |
| 25 Engineen Met Aure (20 Gross) High Density Urban Residential | Mined Use designment areas or retinement plans | Sproyfield |
| 25 Engineen Met Aure (20 Gross) High Density Urban Residential | | |
| 25 Englanmen Met Autr (20 Gross) High Density Urban Residential Average 35 UnionNet Autr, (23 8 Gross), Apartments | Mond the designand area or relinement plans Thus Detain Residential sociales group quarters in Eugene- | Sproyfield |
| 25 Englaneschie Auer (20 Genas) High Density Urban Residential Average 35 Unus Net Auer, (2) 1 Genas: Apartmena Medium Density Urban Residential | Monad Use designated scree in refinement plans Bligh Detain Residential contrains group queriers in Engine- Sennydieldh | Springfield Eugene-Springsield |
| 25 Englishman Stat Acre (20 Gross) High Density Urban Residential Average 35 Usuadien Acre, (23 8 Gross), Apertoma Medium Density Urban Residential Average 16 Usuadien Acre, (10 9 Gross), Mrs. of single tamps. | Mined Use designand scree in retinement plans Stips Dettors Residential controlling group queries in Expren- Sennylields Priemal Medium Densin Residential | Springfield Eugene-Springsield Chandys |
| 25 Englishman Set Autr (20 Gross) High Density Urban Residential Average 35 Unuables Autr, (23 8 Gross), Apertoma Medium Density Urban Residential Average 16 Unuables Autr (10 9 Gross), Mys of single tamps, | Monad Use designated scree in refinement plans Bligh Detain Residential contrains group queriers in Engine- Sennydieldh | Springfield Eugene-Springsield |
| 25 Englishman Set Autr (20 Gross) High Density Urban Residential Average 35 Unuables Autr, (23 8 Gross), Apertoma Medium Density Urban Residential Average 16 Unuables Autr (10 9 Gross), Mys of single tamps, | Mined Use designand scree in retinement plans Stips Dettors Residential controlling group queries in Expren- Sennylields Priemal Medium Densin Residential | Springfield Eugene-liprografield Chilosope |
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| 25 Employmenthal Aury (20 Gross) High Density Urban Residential Average 35 Union-bin Aury, (23 % Gross). Apartmenta Average 35 Union-bin Aury, (23 % Gross). Mys of origin tamon, attached and descined, apartmenta, and manufactured towards Transition Zoning and Accessary Dwellings | Minad Use designated scree on refinement plans Bligh Detroit, Residential controller group quarters in Emptoe- Screngfield? Promisel Medium Densith Residential High Densith Residential | Springfield Eugene-liprograph Change Conage Cross Eugene-liprographic, January Cin |
| 25 Employmenthal Aury (20 Gross) High Density Urban Residential Average 35 Union-bin Aury, (23 % Gross). Apartmenta Average 35 Union-bin Aury, (23 % Gross). Mys of origin tamon, attached and descined, apartmenta, and manufactured towards Transition Zoning and Accessary Dwellings | Mined the designand scree in minement plans Step Detroit, Residential cocludes group queries in Euptre- Scringfields Priemas Medium Detroit, Residential High Detroit, Residential Minister Detroit, Residential | Springfield Eugene-lipringsield Chanage Contage Grane |
| 25 Employment bloth Autor (20 Genes) High Density Urban Residential Amenga 35 Union-bies Acts, (23 & Genes). Apartmenta Medium Density Urban Residential Amenga 16 Union-bies Acts (10 % Genes). May of unique tamon, machinel and desched, spartments, and manufactured towards Transition Zoning and Accessary Dwellings | Monad Use designated scree in relinement plans Bligh Detain Residential contribute group quarters in Engine- Seringfieldh Financial Medium Densith Residential High Densith Residential Minister Densith Residential Lori Densith Residential ions that can have acceptors distillings | Springfield Eugene-Springsield Chilotye Carage Crose Eugene-Springfield, January Cin |
| High Density Urban Residential Average 35 Usea-Net Act, 23 8 Grass: Apertuma Medium Density Urban Residential Average 16 Usea-Net Act, 123 9 Grass: My of supple sample, resident and density Orban and manuscramd towards Transition Zoning and Accessary Dwellings Double settad density | Mined the designand array in minement plans Bligh Detain Residential (pictudes group quarters in Engine- Seringfield) Praemial Medium Densin Residential High Densin Residential Minister Densin Residential Low Densin Residential lins that can have accessors divellings 15.300-9.300 pg. 51 and lins that shir more minimates designation | Springfield Eugene-liprograph Change Conage Cross Eugene-liprographic, January Cin |
| High Density Urban Residential Assessed 35 Usea-Net Act, 23 8 Grass: Apertuma Medium Density Urban Residential Assessed 16 Usea-Net Act, 123 9 Grass: My of supple target, translated and deached, operturents, and manufactured towards Transition Zoning and Accessary Dwellings Double settad density | Mined the designand array in minement plans Bligh Detain Residential (pictudes group quarters in Engine- Seringfield) Praemial Medium Densin Residential High Densin Residential Minister Densin Residential Low Densin Residential lins that can have accessors divellings 15.300-9.300 pg. 51 and lins that shir more minimates designation | Springfield Eugene-Springsield Chilotye Carage Crose Eugene-Springfield, January Cin |
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| S Employmenthin Acre (20 Gross) High Density Urban Residential Normal 23 Unuables Acre, (23 8 Gross). Apertmenta Medium Density Urban Residential Normal 16 Unuables Acre, (23 9 Gross), Mrs. of ongle tamon, nached and drawled, apartments, and manufactured towards Transition Zoning and Accessary Dwellings Noble settal density Low Density Urban Residential Normal Surger of Tunusban Acre of 3 Gross), Surger camon densited | Monad Use designated scree in refinement plans Bligh Dettain Residential contribute group quarters in Engine- Sennglishin Financial Medium Densiti Residential High Detain Residential Ministra Detain Residential Ministra Detain Residential into that our harm societion diveilings (5.000-5.000 sq. 5) and lots that shall more diseases designation (Tristorium Zones Linkan Residential Central Residential Residential | Springlield Eugene-Springlield Cokanage Contage Grove Eugene-Springlield, January Con Springlield Owknitge Veneus Crewell |
| 25 Employment Med Aury (20 Gross) High Density Urban Residential Average 35 Unuables Aury (23 8 Gross). Apertments Medium Density Urban Residential Average 16 Unuables Aury (10 9 Gross), Mos of ongle tamon, reached and drawled, apertments, and manufactured towards Transition Zoning and Accessary Dwellings Double situal density. Low Density Urban Residential Average 8.7 Unuables Aury (4.5 Gross), Supplements densited | Monad the designand serve in minemen plans Bligh Derson Residential contribes group quarters in Engine- Seringfield) Financial Medium Densin Residential High Densin Residential Minister Densin Residential Low Densin Residential into that can have societion divellings in 300-5 500 sq. 25 and loss that abor more observer designation. (Transmont Zone) | Springlield Eugene-Springlield Cokanage Contage Grove Eugene-Springlield, January Con Springlield Owknitge Veneus Crewell |
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AUG 0 7 2003
ATER RESOURCES DEPT.



SPRINGFIELD UTILITY BOARD

Water Service Center 202 South 18th Street Springfield, Oregon 97477-5240 (541) 726-2396 Fax (541) 747-7348

JUL 1 7 2003
WATER RESOURCES DEPT SALEM, OREGON

July 16, 2003

Cory Engel
Water Rights Processing Technician
Water Resources Department
158 12th Street, NE
Salem OR 97301-4172

RE: Application # S-85336 Time Out Request

Dear Cory:

The Springfield Utility Board is requesting a 21-day administrative time out for the above referenced applications. We are going to submit additional information to Water Resources Department regarding the application, but we cannot complete the documents and get the information to your department by July 18, 2003, as per your letter of June 17, 2003.

Please call me if you have any questions about this request.

Sincerely,

Ken Cerotsky

Director - Water Division

KC:mkm

cc: Bart McKee, SUB Project Engineer Water Division

David Filippi



Water Resources Department

Commerce Building 158 12th Street NE Salem, OR 97301-4172 503-378-3739 FAX 503-378-8130

June 17, 2003

Ken Cerotsky Springfield Utility Board 202 S 18th St Springfield OR 97477

RE: Application S-85336

Dear Mr. McKee,

We have received your letter dated June 5, 2003 and accompanying maps.

Your application indicates that it is intended to satisfy demands until 2017. However, your water management and conservation plan on file with the Department indicates that, with your existing water rights, the 2017 deficit would be only 9.35 cfs (6.04 mgd).

As a result, we are unable to find based upon the information currently available to us that your anticipated reasonable municipal water needs exceed 9.35 cfs during the period identified in your application. Unless further information is provided which documents a basis for the requested rate (40 cfs), it is likely that at the next stage of processing (the Proposed Final Order), the Department will propose limiting the rate allowed under this application to 9.35 cfs.

We are continuing to review your application, and expect that a Proposed Final Order will be prepared after 30 days from the date of this letter. Please provide the requested documentation on or before Friday, July 18, 2003. If you cannot provide it before this date, you may request that we withhold processing of your application for a period of up to 180 days. If you do not provide the information or request an administrative hold before July 18, we expect to proceed with a Proposed Final Order proposing to limit the diversion rate as described above.

If you have any questions regarding the necessary documentation, please contact Doug Parrow at 503-378-8455, extension 235. If you have questions relating to other elements of the processing of your application, please feel free to call me at 503-378-8455, extension 324.

Sincerely,

Mr. Cory C. Engel Water Right Specialist

c: File

Doug Parrow



SPRINGFIELD UTILITY BOARD

Water Service Center 202 South 18th Street Springfield, Oregon 97477-5240 (541) 726-2396 Fax (541) 747-7348

June 5, 2003

Mr. Cory C. Engel Water Right Processing Technician Water Resources Department Commerce Building 158 12th Street, NE Salem, OR 97301-4172 RECEIVED

JUN - 6 2003

WATER RESOURCES DEPT. SALEM, OREGON

RE: Additional map information requested in OWRD letter dated 5/16/032; Surface Water Right Application # S-85336, McKenize River by Springfield Utility Board (SUB).

Dear Cory:

Enclosed is the additional information you requested for the new surface water right submitted to you in our letter of November 6th, 2002. In your letter of 5/16/03, you had asked for a map showing the location of the point at which water will be discharged into Cedar Creek, referenced to a public land survey.

I have enclosed 6 copies a the requested map for your review. The copies are a portion of the USGS map in the area. The map shows the point of diversion for the mitigation to Cedar Creek. The point is an existing gate structure owned and controlled by the Cedar Creek Irrigation District. On the same map, I have shown the point of diversion of the proposed surface water right (S-85336).

The two maps together (new USGS map showing the Cedar Creek point of diversion and the more detailed map submitted with the earlier application) will compliment one another.

Please contact me at 541-746-8451, #3731 if you have any questions about this information.

Sincerely,

Ken Cerotsky

Director - Water Division

KC:mkm



Water Resources Department

Commerce Building 158 12th Street NE Salem, OR 97301-4172 503-378-3739 FAX 503-378-8130

May 16, 2003

VIA CERTIFIED MAIL

BART MCKEE SPRINGFIELD UTILITY BOARD 202 S 18TH ST SPRINGFIELD, OR 97477

Reference: File S-85336

Dear Applicant:

THIS IS NOT A PERMIT AND IS SUBJECT TO CHANGE AT THE NEXT PHASE OF PROCESSING.

This letter is to inform you of the preliminary analysis of your water use permit application and to describe your options. In determining whether a water use permit application may be approved, the 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 you have supplied, the Water Resources Department has made the following preliminary determinations:

Initial Review Determinations:

- The proposed use is not prohibited by law or rule, except as otherwise noted below.
- 2. The application proposes the use of 40.0 cubic feet per second (CFS) for municipal use, including 3.0 CFS to augment streamflow in Cedar Creek as mitigation for flow reduction resulting from diversions proposed in applications G-15241, G-15243, and G-15244. The Willamette Basin Program (OAR 690-502-0010(15)) defines "municipal use" as "the delivery and use of water through the water service system of an incorporated municipality". Because the 3.0 CFS of water proposed for streamflow augmentation would not be delivered through the water service system of an incorporated municipality, it is not municipal use under the Willamette Basin Program.
- Under OAR 690-502-0080(1)(e), the Willamette Basin Program, the use of water from MCKENZIE RIVER, A TRIBUTARY OF WILLAMETTE RIVER for MUNICIPAL

USE is allowable. However, the Willamette Basin Program does not allow STREAMFLOW AUGMENTATION IN CEDAR CREEK.

- 4. Water in the amount of 40.0 CUBIC FEET PER SECOND, BEING 37.0 CUBIC FEET PER SECOND FOR MUNICIPAL USE AND 3.0 CUBIC FEET PER SECOND FOR STREAMFLOW AUGMENTATION is available year-round.
- 5. The rate of water proposed for streamflow augmentation, 3.0 CFS, appears to be based upon a privately-commissioned analysis (Western Groundwater Services, <u>Supplementary Technical Analysis for Permit Application Nos. G-15241, G-15243, And G-15244</u>, October 8, 2002, pg. 6). Prior to permit issuance, further review may be required by the Department to confirm that this rate will adequately mitigate flow reduction resulting from diversions proposed in applications G-15241, G-15243, and G-15244.

Summary of Initial Determinations

The use of 37.0 CUBIC FEET PER SECOND from MCKENZIE RIVER for MUNICIPAL USE may be allowed year-round. However, 3.0 CUBIC FEET PER SECOND FOR STREAMFLOW AUGMENTATION IN CEDAR CREEK is not allowable. At this stage of processing, it appears unlikely that a permit approving this application would include streamflow augmentation.

Please reference the application number when sending any correspondence regarding the conclusions of this initial review. Comments received within the comment period will be evaluated at the next phase of the process.

At this time, you must decide whether to proceed or to withdraw your application as described below.

Withdrawal Refunds:

If you choose not to proceed, you may withdraw your application and receive a refund (minus a \$50 processing charge per application.) To accomplish this you must notify the Department in writing by Friday, May 30, 2003. For your convenience you may use the enclosed "STOP PROCESSING" form.

To Proceed With Your Application:

If you choose to proceed with your application, you do not have to notify the Department. Your application will automatically 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.

Additional Information Required:

Additional information is required to process your application. Please provide the following item(s):

 A modified map which includes the location of the point at which water will be discharged into Cedar Creek, referenced to a public land survey corner.

Please submit this information no later than June 19, 2003. If you are unable to submit this information, you may request an administrative hold for up to an additional 180 days. You must submit the request in writing, stating how much more time you will need and why you need additional time. If an administrative hold is granted, your application will not be processed further until the requested information is received or the extended deadline has passed.

If we do not receive the items requested above or a request for an administrative hold by this date, we may reject your application consistent with ORS 537.153. If your application is rejected, any fees submitted in excess of the examination fee will be refunded; however, the examination fee is non-refundable and will not be returned. In addition, the priority date associated with your application will be lost.

If A Permit Is Issued It Will Likely Include The Following Conditions:

- 1. Measurement, recording and reporting conditions:
 - A. Before water use may begin under this permit, the permittee shall install a meter or other suitable measuring device as approved by the Director. The permittee shall maintain the meter or measuring device in good working order, shall keep a complete record of the amount of water used each month and shall submit a report which includes the recorded 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.
 - B. The permittee shall allow the watermaster access to the meter or measuring device; provided however, where the meter or measuring device is located within a private structure, the watermaster shall request access upon reasonable notice.
- 2. The permittee shall install, maintain, and operate fish screening to prevent fish from entering the proposed diversion. The permittee shall also install a fishway at the obstruction that will provide adequate upstream and downstream passage for fish. The permittee may submit evidence that the Oregon Department of Fish and Wildlife (ODFW) has determined screens and/or fishways are not necessary. The required screens and fishways are to be in place, functional, and approved by ODFW before diversion of any water.

- 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.
- 4. The use may be restricted if the quality of the source stream or downstream waters decrease to the point that those waters no longer meet existing state or federal water quality standards due to reduced flows.
- 5. The permittee shall not divert or pump more than 450 million gallons of water during any month under this permit, in combination with any other water right held by the permittee, prior to Department authorization of the diversion of more water through approval of an updated water management and conservation plan.
- 6. The priority date for this application is November 08, 2002.

WARNING: This initial review does not attempt to address various public interest issues such as sensitive, threatened, or endangered fish species. These issues will be addressed as the Department reviews public comments and prepares a proposed final order. You should be aware that, if significant public interest issues are found to exist, such a finding could have an impact on the eventual outcome of your application.

Information obtained from the Department of Environmental Quality (DEQ) indicates that the source of water identified in your application is "Water Quality Limited", which means that there are water quality concerns. DEQ will be looking at information from your application to see if additional conditions or restrictions are needed to protect the water quality situation. One possible outcome is that the Water Resources Department will propose in the proposed final order that your application be denied. You are encouraged to contact John Blanchard at 541-776-6010 ext 240 at DEQ to discuss the specifics of your application. Often, this information exchange can allow the water use to occur and at the same time keep the water quality situation from worsening.

The water source identified in your application is in an area that has an approved Agricultural Water Quality Management Area Plan. These plans are have been developed by the Oregon Department of Agriculture (ODA) with the cooperation of local landowners and other interested stakeholders. These plans help make sure that current and new appropriations of water are done in a way that does not adversely harm the environment. You are encouraged to contact Paul Measeles, (503) 986-4778 at the ODA to learn more about the plan and how it may affect your proposed water use.

If you have any questions:

Questions about the status of your application, processing timelines, or your upcoming Proposed Final Order should be directed to our Water Right Information Group at 503-378-8455 extension 201. Feel free to call me at 503-378-8455 extension 324 if you have any questions regarding the contents of this letter. Please have your application number available if you call. Address all

other correspondence to: Water Rights Section, Oregon Water Resources Department, 158 12th ST. NE Salem, OR 97301-4172, Fax: 503-378-6203.

Sincerely,

Mr. Cory C. Engel

Water Right Processing Technician

enclosures:

Flow Chart of Water Right Process

Stop Processing Form

S-85336 wab 2-528

pou 2-528

APPLICATION FACT SHEET

Mail to: Applicant, Watermaster, District Biologist (ODFW)

If necessary, also mail to: Regional Water quality manager (DEQ), and DOA

Application File Number: S-85336

Applicant: BART MCKEE SPRINGFIELD UTILITY BOARD

County: Lane

Watermaster: 2

Priority Date: November 08, 2002

Source: MCKENZIE RIVER, A TRIBUTARY OF WILLAMETTE RIVER

Use: MUNICIPAL USE AND STREAMFLOW AUGMENTATION IN CEDAR CREEK

Quantity: 40.0 CUBIC FEET PER SECOND, BEING 37.0 CUBIC FEET PER SECOND FOR

MUNICIPAL USE AND 3.0 CUBIC FEET PER SECOND FOR STREAMFLOW

AUGMENTATION

Basin Name & Number: Willamette, #2

Stream Index Reference: Volume 2 MCKENZIE R MISC

Point of Diversion Location: NWSW SECTION 26, T17S, R2W, W.M.; 250 FEET SOUTH & 972

FEET EAST FROM THE WEST 1/4 CORNER OF SECTION 26

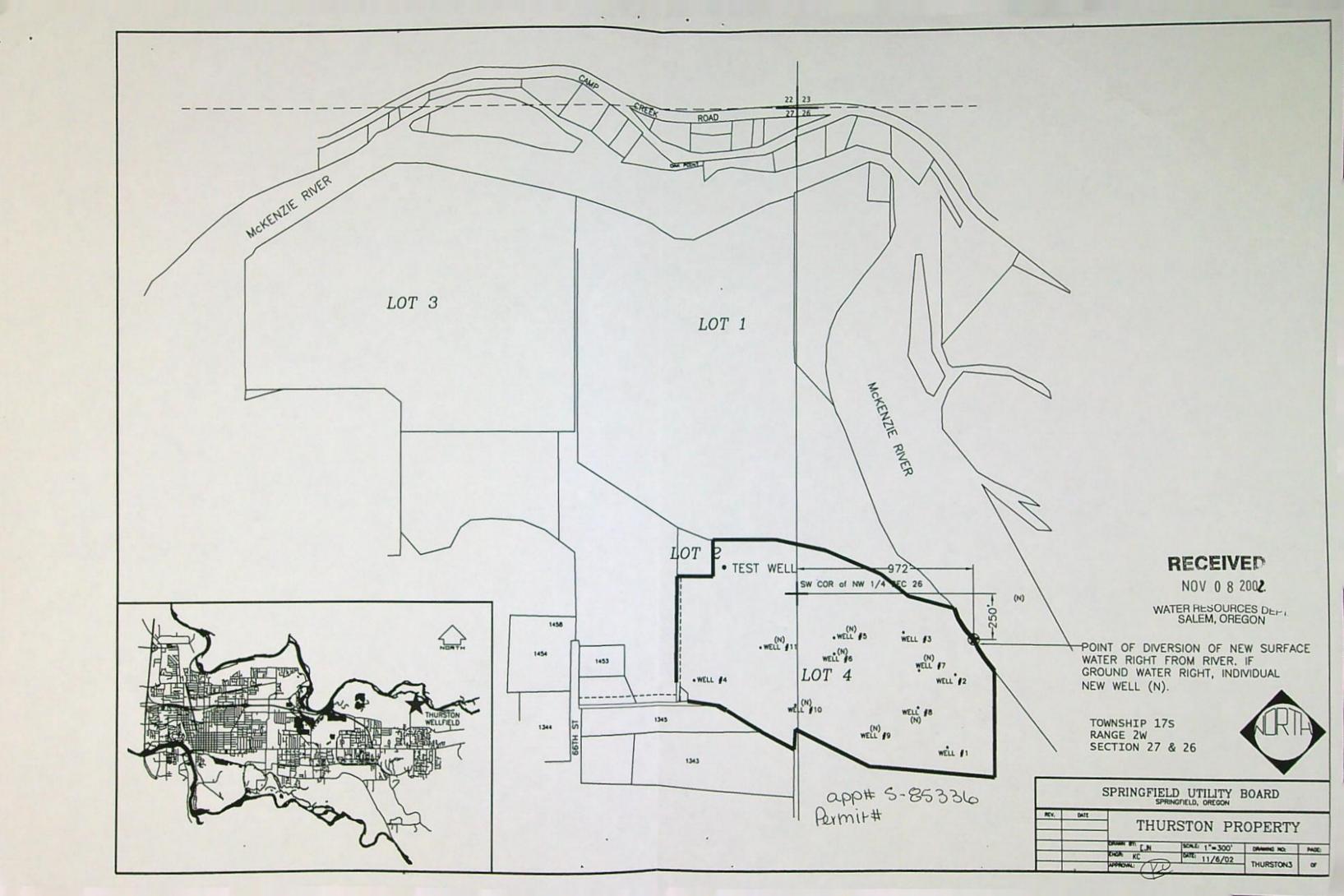
Place of Use: MUNICIPAL USE: Within the service area of City of Springfield. STREAMFLOW

AUGMENTATION: As yet unspecified.

14 DAY STOP PROCESSING DEADLINE DATE: Friday, May 30, 2003

PUBLIC NOTICE DATE: Tuesday, May 20, 2003

30 DAY COMMENT DEADLINE DATE: Thursday, June 19, 2003



Mailing List for IR Copies

Application #S-85336

Original mailed to:

Applicant: BART MCKEE SPRINGFIELD UTILITY BOARD, 202 S 18TH ST, SPRINGFIELD, OR 97477

Copies sent to:

1. WRD - File # S-85336

2. WRD - Water Availability: Ken Stahr

IR, Map, and Fact Sheet Copies sent to:

3. WRD - Watermaster # 2

4. WRD - Regional Manager: NWR

5. WRD: Marc Norton

6. ODFW District Biologist: Jeff Ziller

7. DEQ: John Blanchard

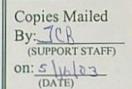
& DOA (Salem): Jim Johnson

Q. DOA (N.Salem/Keizer): Paul Measeles

Copies sent to Other Interested Persons (CWRE, Agent, Well Driller, Commenter, etc.)

COPYGIT IS

ID# CE



IR Date: May 16, 2003



Application for a Permit to Use Surface Water

Please type or print in dark ink. If your application is found to be incomplete or inaccurate, we will return it to you. If any requested information does not apply to your application, insert "n/a." Please read and refer to the instructions when completing your application. Thank you.

| | 1. A | PPLICANT INFORMATION | |
|--|--|---|--|
| | | | NOV 0 8 2002 |
| A. Individuals | | | WATER RESOURCES DE SALEM, OREGON |
| Applicant: | First | | Last |
| | resc | | |
| Co-applicant: | First | | Last |
| Mailing address: | | | |
| walling address. | | | |
| | City | State | Zip |
| Phone: | Home | | |
| | Home | Work | Other |
| *Fax: | | *E-Mail address: | |
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| Corporations, associate Name of organizations and title of | tions, firms, partners tion; SPRING person applying: | PART MCKES PE | |
| Corporations, associate Name of organizations Name and title of Mailing address of | tions, firms, partners ation; SPRING person applying: of organization: | FIELD UTILITY BO | ARD (SUB) - STAFF GREINGER STREET |
| Corporations, associate Name of organizations and title of | tions, firms, partners ation; SPRING person applying: of organization: | BART MCKEE PE 202 S. 18th | ARD (SUB) - STAFF GREINGER STREET |
| Name of organizations, association of organization of organization of the control | tions, firms, partners ation; _SPRING person applying: of organization: EIELO cay | BART MCKES PE 202 S. 18th OR State | ARD (SUB) - STAFF GREINGER STREET |
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| Name of organizations, associations of organizations and title of Mailing address of SPRING Phone: 541-7 Phone: 541-7 Optional information | tions, firms, partners ation; SPRING person applying: of organization: FIELD Cay 146-8451 Day | PART MCKETE P.E. 202 S. 18th OR State Evening | ARD (SUB) - STAFF GREINGER STREET 97477 |

2. SOURCE AND PROPERTY OWNERSHIP

A. The Proposed Source of Water

| name of the stream or lake it flows in | Br Tributary to: WILLAMOTTE RIV | in |
|---|---|--------------|
| | | |
| | Tributary to: | |
| Source 3: | Tributary to: | |
| Source 4: | Iributary to: | |
| B. Property Ownership | | |
| Do you own all the land where you p | propose to divert, transport, and use water? | |
| No Please check the appro | opriate box below. | |
| | ement or written authorization permitting according written authorization or an easement permit | |
| List the names and mailing addresse | es of all affected landowners.* | |
| SEE ATTACHED COPY | OF CITY CHARTER | |
| *If more than 25 landowners are involved, | a list is not required. See instructions. | |
| | 3. WATER USE | |
| | re details on "type of use" definitions, how to expres ater source you propose to use. You must fill out a s tion for that type of use. | |
| A. Type(s) of Use(s) See list of beneficial uses in the instruction | 15. | |
| If your proposed use is dom of households to be supplied. | | |
| ☐ • If your proposed use is irrigation | ation, please attach Form I | |
| ☐ • If your proposed use is mini | ng, attach Form R | |
| If your proposed use is mun | icipal or quasi-municipal, attach Form M | DECE |
| | mercial/industrial, attach Form Q | NOV 0 8 2002 |

B. Amount of Water

Provide the amount of water you propose to use from each source, for each use, in cubic feet-persecond (cfs) or gallons-per-minute (gpm). If the proposed use is from storage, provide the amount in acre-feet (af):

(1 cfs equals 448.8 gpm. 1 acre-foot equals 325,851 gallons or 43,560 cubic feet)

| Source | | USE | Amount |
|---|--|--------------------------|-------------------------|
| McVERTE RIVER | 40 (| cts | af |
| | | | |
| C. Period of Use Indicate the time of year you | anness to use the use | to At Von | |
| (For seasonal uses like irrigation g | to dates when water use | would begin and end, e. | g. March 1-October 31.) |
| D. Acreage | | | |
| If you will be applying water to | | al number | |
| of acres where water will be a (This number should be consistent | | | + · |
| | | | |
| | | | |
| | 4. WATER MAN | NAGEMENT | |
| A. Diversion | | | |
| What method will you use to | divert water from the s | source? | |
| X Pump (give horsepo | wer and pump type) | UNKNOWD AT - | THIS POINT |
| ☐ Head-gate (give dim | ensions) | | |
| □ Other means (descri | be) | | |
| B. Monitoring How will you monitor your div (allowed rate and duty) and you | ersion to be sure you ou are not wasting wa | are within the limits of | of your water right |
| □ Weir | X Meter | □ Periodic S | ampling |
| Other (describe) | | | |

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| - Ditoli of co | inal (give | average width and depth) | |
|--|--|--|--|
| Width | The state of the s | Depth | |
| ALCONO. | | to be lined? □ Yes | |
| | | 1748 | |
| □ Pipe (give | diameter | and total length) | |
| Diameter_ | 170 | Length | |
| Other (des | cribe) | MUNICIPAL DISTRIBUTTO | a system |
| | vill you use | to apply water to your place of use | J. A. |
| | pplication | method (check all that apply): | □ Lew property enrighter |
| □ Flood | | ☐ High-pressure sprinkler | |
| □ Drip □ Hand lines | | ☐ Water cannons ☐ Wheel lines | □ Center pivot system |
| The second second | | pipe with furrows | |
| □ Siphon tube | SKIII TO SKI | pipe with fullows | |
| Other descr | | | |
| | | | |
| Distribution method | d | | |
| Distribution method | d | ce In-line storage (tank or pon | d) Open canal |
| Distribution method Direct pipe f Conservation What methods will tion method? Have | from source you use to you con | | oose this distribution or applica apply, distribute or use water? |
| Distribution method Direct pipe f Conservation What methods will tion method? Have For example, if you | from source to you use to you con u are using | o conserve water? Why did you ch | oose this distribution or applica apply, distribute or use water? irrigation, explain. |
| Distribution method Direct pipe f E. Conservation What methods will tion method? Have For example, if you | from source to you use to you con u are using | o conserve water? Why did you ch sidered other methods to transport, g sprinkler irrigation rather than drip | oose this distribution or applica apply, distribute or use water? irrigation, explain. |
| Distribution method Direct pipe f E. Conservation What methods will tion method? Have For example, if you | from source to you use to you con u are using | o conserve water? Why did you chesidered other methods to transport, sprinkler irrigation rather than drip | oose this distribution or applica apply, distribute or use water? irrigation, explain. |
| Distribution method Direct pipe f E. Conservation What methods will tion method? Have For example, if you | from source to you use to you con u are using | o conserve water? Why did you chesidered other methods to transport, sprinkler irrigation rather than drip | oose this distribution or applica apply, distribute or use water? irrigation, explain. |
| Distribution method Direct pipe f Conservation What methods will tion method? Have For example, if you | from source to you use to you con u are using | o conserve water? Why did you chesidered other methods to transport, sprinkler irrigation rather than drip | oose this distribution or applica apply, distribute or use water? irrigation, explain. |
| Distribution method Direct pipe f Conservation What methods will tion method? Have For example, if you | from source to you use to you con u are using | o conserve water? Why did you chesidered other methods to transport, sprinkler irrigation rather than drip | oose this distribution or applica apply, distribute or use water? irrigation, explain. |

Protection Practices

In granting permission to use water from a stream or lake, the state encourages, and in some instances requires, careful control of activities that may affect the waterway or streamside area. See the instruction guide for a list of possible permit requirements from other agencies. Please indicate any of the practices you plan to undertake to protect water resources.

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| PACE . | |
|--|---|
| | |
| Excavation or clearing areas. Describe planning | ing of banks will be kept to a minimum to protect riparian or streamside ned actions: WILL MIRT REQUIREMENTS IN PLACE |
| □ Operating equipmer aquatic life. Describe: | nt in a water body will be managed and timed to prevent damage to |
| □ Water quality will be products. Describe: | protected by preventing erosion and run-off of waste or chemical |
| Other: | |
| | |
| | 6. PROJECT SCHEDULE |
| dicate the anticipated dates yun, or is completed, please | s that the following construction tasks should begin. If construction has already |
| oposed date construct | tion will begin 2003 |
| roposed date construct | tion will be completed 2010 (FST.) |
| oposed date beneficial | water use will begin 2003 |
| - F auto politolola | |
| - Total acto politicida | |
| | 7. REMARKS |
| ou would like to clarify an | my information you have provided in the application, please do so here and reference |
| ou would like to clarify an specific application questi | my information you have provided in the application, please do so here and reference |
| ou would like to clarify an specific application questi | ny information you have provided in the application, please do so here and reference ion you are addressing. 3 GS TO BE USER TO REPLYCE WATER |
| ou would like to clarify an specific application questing the specific application (A) - 3 | ny information you have provided in the application, please do so here and reference ion you are addressing. 3 Cfs To BE USE TO REPLACE WATER EVEK (GWUDISW), WITH PEMPINIUS |
| ou would like to clarify an specific application questing to the control of the c | ny information you have provided in the application, please do so here and reference ion you are addressing. 3 Cfs To BE USSO TO REPLACE WATER EUK (GWUDISW) WITH REMAINING TO REQUESTED FOR GROWN WATER |
| ou would like to clarify an specific application questing to the common of the common | ny information you have provided in the application, please do so here and reference ion you are addressing. 3 Cfs To BE USE TO REPLACE WATER EVEK (GWUDISW), WITH PEMPINIUS |

8. MAP REQUIREMENTS

The Department cannot process your application without accurate information showing the source of water and location of water use. You must include a map with this application form that clearly indicates the township, range, section, and quarter/quarter section of the proposed points of diversion and place of use. The map must provide tax lot numbers. See the map guidelines sheet for detailed map specifications.

9. SIGNATURE

By my signature below I confirm that I understand:

- I am asking to use water specifically as described in this application.
- Evaluation of this application will be based on information provided in the application packet.
- I cannot legally use water until the Water Resources Department issues a permit to me.
- · If I get a permit, I must not waste water.
- If development of the water use is not according to the terms of the permit, the permit
 can be canceled.
- The water use must be compatible with local comprehensive land use plans.
- Even if the Department issues a permit to me, I may have to stop using water to allow senior water right holders to get water they are entitled to, and

I swear that all information provided in this application is true and correct to the best of my knowledge:

Signature of Applicant

9/20/02

Signature of Co-applicant

Date

Before you submit your application be sure you have:

- Answered each guestion completely.
 - included a legible map which includes township, range, section.
 - included a Land Use Information Form or receipt stub signed by a local official.
- Included the legal description of all the property involved with this application. You may supply a copy of the deed, land sales contract, or title insurance policy, to meet this requirement.
- Included a check payable to the Oregon Water Resources Department for the appropriate amount.

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SPRINGFIELD UTILITY BOARD

Water Service Center 202 South 18th Street Springfield, Oregon 97477-5240 (541) 726-2396 Fax (541) 747-7348

November 6, 2002

Mr. Cory C. Engel Water Right Processing Technician Water Resources Department Commerce Building 158 12th Street, NE Salem, OR 97301-4172

RE: File G-15241, G-15243, G-15244; New Surface Water Right Application

Dear Cory:

The purpose of this letter is to: (1) provide supplementary information for pending applications G-15241, G-15243 and G-15244; (2) initiate a new application for a municipal surface water right from the McKenize River;

1. Supplementary Information, G 15241,15243, 15244.

As you recall, SUB submitted a water right application over a year ago for several new ground water sources. Our ground water applications were denied due to concerns about potential surface water influence on Cedar Creek. We have been working with Mark Norton during the "time out" period in order to provide him supplemental information about our ground water applications.

Attached is a report from Mark Cunnane, our consulting hydrogeologist. According to the work completed by Mr. Cunnane, we will be taking some water from Cedar Creek. Mr. Cunnane's report quantifies the surface water influence. We request a review of the information. If the information is acceptable, we want to proceed with the ground water application process for all the wells. We recognize there is a potential linkage to a new surface water right. The new surface water right is discussed in the following paragraphs. Please contact me at your earliest convenience to review your decision about this new information.

2. New Municipal Surface Water Right Application

Part of the new surface water application is intended to fully replace all the water drawn from Cedar Creek through the wells in the Thurston Wellfield and Middle School Wells. The water right applications associated with the wells have been assigned the referenced numbers G-15241,15243, 15244.

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A portion of the new water right on the McKenize River would be used to divert water into Cedar Creek from the McKenize River. The details of the diversion process are still to be worked out with the Cedar Creek Irrigation Association and the local watermaster. At this time, Cedar Creek stream flow is controlled by the Cedar Creek Irrigation Association head gate, located approximately 5 miles upstream of the Thurston Wellfield.

The remainder of the surface water right application is to support the long-term future growth in the Springfield area. I have enclosed the appropriate application fee for 40 cfs. I will submit the land use information form soon. Please contact me at 541-746-8451, #3731 if you have any questions about the new application.

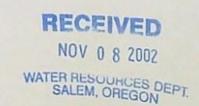
Sincerely,

Ken Cerotsky

Director - Water Division

Cc: Mr. Mark Cunnane Mr. David Filippi

KC:mkm



SUPPLEMENTARY TECHNICAL ANALYSIS FOR PERMIT APPLICATION NOS. G-15241, G-15243 AND G-15244

Western Groundwater Services LLC

October 2002

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WATER RESOURCES DEPT. SALEM, OREGON

app# 5-85336

Western Groundwater Services 6595 Bear Claw Lane Bozeman, MT 59715 Telephone: (406) 585-5947 Fax: (406) 522-8653

WESTERN GROUNDWATER SERVICES

SUPPLEMENTARY TECHNICAL ANALYSIS FOR PERMIT APPLICATION NOS. G-15241, G-15243, AND G-15244

Prepared for:

Springfield Utility Board Springfield, Oregon



October 8, 2002

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WATER RESOURCES DEPT. SALEM, OREGON

Groundwater Development and Management Services

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1 INTRODUCTION

This report provides supplementary analysis and interpretations concerning three groundwater right permit applications submitted to the Oregon Water Resources Department. Springfield Utility Board (SUB) has submitted the applications for municipal water use through vertical wells installed into an alluvial aquifer. The applications are summarized in Table 1-1. The wells considered in these applications are located in the Thurston area of Springfield. Two of the wells are located at Thurston Middle School, and the remainder of the wells are located on SUB property, referred to as the Thurston Wellfield.

The intention of this report is to assess potential stream flow depletion that occurs as a result of groundwater pumping from the wells. Figure 1-1 provides a location map for the wells and shows the location of Cedar Creek and the McKenzie River with respect to the well locations. Potential stream flow depletion of these two surface waters was evaluated by groundwater computer modeling.

TABLE 1-1
WATER RIGHT APPLICATIONS SUMMARY

| Application Permit No. | Well Name | Rate (gpm) | |
|-------------------------------------|---------------------------|------------|---------|
| G-15241 | Thurston Middle School #1 | 400 | |
| | Thurston Middle School #2 | 400 | |
| NAME OF THE OWNER, THE PARTY OF | Thurston Wellfield #5 | 600 | 2000 |
| G-15243 | Thurston Wellfield #6 | 600 | 2200 9 |
| | Thurston Wellfield #7 | 400 | 1 4.10 |
| | Thurston Wellfield #10 | 600 | |
| | Thurston Wellfield #8 | 600 | 180091 |
| G-15244 | Thurston Wellfield #9 | 600 | 1 4,0 |
| | Thurston Wellfield #11 | 600 | |
| And the second second second second | Total | 4,800 | 10.7cfs |
| 5242 | 16th & Ost well | 1000 gpm | |
| 2 GROUNDWATER MOD | ELING | 5000 on 12 | ,9 cts |

1666666666666666

SUB has previously developed and applied a MODFLOW application which extends into the Thurston area. This existing groundwater model was considered the best tool for evaluating potential stream flow depletion. The model was originally developed for a wellhead protection project (Golder 1995). It was later used for evaluating well locations in the Thurston Wellfield (Western Groundwater Services 2000), for which a smaller domain version of the model was created. This latter model was used as the basis for assessing potential stream flow depletion in the Thurston area.

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¹ MODFLOW is the common name of the U.S. Geological Survey's 3-dimensional groundwater flow code. The version used in this application was MODFLOW-2000 (USGS Open File Report 00-184) and was operated using the Visual MODFLOW (3.0.0) graphical user-interface prepared by Waterloo Hydrogeologic, Inc., Waterloo, Ontario, Canada.

2.1 Setup

Figure 2-1 provides a map of the model domain and shows the locations of boundary conditions. The model consists of three-layers, of which only the top layer one is shown on Figure 2-1. The boundary conditions include constant head values located upstream on the east side of the area. River boundary cells are located internal to the model representing the McKenzie River and Cedar Creek. General head boundary cells are located on the west margin and represent a swamp-like area adjacent to the Thurston Wellfield. Each well, existing and proposed, was individually represented in the model at its location.

The distribution of hydraulic conductivity is shown for the top layer one on Figure 2-2. There are two properties used, one applying to older alluvial deposits and one applying to younger alluvial deposits related to the McKenzie River (see approximately the distribution of the Qg1, Qg2, and Qalc formations shown on Figure 1-1). The transition from higher to lower conductivity zones is based in part on the well testing data for the Thurston, Platt and Thurston Middle School wells. The values for horizontal and vertical conductivity are annotated onto the figure and are based on well pumping tests, as documented in Golder (1995) and Western Groundwater Services (2000). The lower layers (nos. 2 and 3) are assigned hydraulic properties for the older alluvial deposits throughout the entire layer (Kh = 30 ft/d, and Kv = 3 ft/d).

For the present application of the model, vertical conductivity of the river bed material was a key model input. This parameter is not measured at any location in the area, and rarely is it determined in the practice of hydrogeology. A vertical conductivity value of 10 ft/d was used for both Cedar Creek and the McKenzie River. This value corresponds to fine sand and silt and is considered reasonable for both streams. Because the same value is used for both streams, any bias in the results should be avoided.

2.2 Calibration

The model was not re-calibrated for the present application. Review of the model was completed, however, to ensure that the results obtained appear reasonable for the groundwater flow system of the Thurston area. A detailed calibration of the model is not considered necessary for the present application because the results are used to determine proportions of potential stream flow depletion (i.e., Cedar Creek v. McKenzie River) rather than absolute rates of depletion.

2.3 Simulation Results

The Zone Budget utility of MODFLOW was used to assess stream flow depletion of Cedar Creek and the McKenzie River. This utility allows the user to specify a region of the model for water balance data output. In this application, the river boundary cells of Cedar Creek and the McKenzie River were designated as two zones for water balance output. Potential stream flow depletion was assessed based on the river leakage component of the water balance in these two zones.

2.3.1 Baseline Conditions

The computer model was run in a steady-state mode, and therefore all results pertain to conditions of continuous pumping. The model was first run under the existing pumping conditions, which include operation of Thurston Wellfield Nos. 1 to 4 and Platt Nos. 1 and 2. Table 2-1 lists the pumping rates that were used in the model for these wells.

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TABLE 2-1 MODEL PUMPING RATES FOR EXISTING WELLS

| Well Name | Model Pumping Rate (gpm) |
|-----------------------|--------------------------|
| Thurston Wellfield #1 | 797 |
| Thurston Wellfield #2 | 1201 |
| Thurston Wellfield #3 | 497 |
| Thurston Wellfield #4 | 202 |
| Platt #1 | 251 |
| Platt #2 | 448 |
| Total | 3,396 |

The River Leakage Zone Budget output for this baseline simulation is shown in Table 2-2. These results form the basis for determining proportionate stream flow depletion. Net River Leakage (to groundwater) will increase when additional pumping wells are added to the model². The additional pumping wells will result in more leakage to groundwater from Cedar Creek and less discharge to the channel of the McKenzie River. By subtraction of the values in Table 2-2 from the same output of simulations run with additional pumping wells, the affects of the additional pumping wells on stream flow can be assessed³.

TABLE 2-2 BASELINE CONDITIONS

| Parameter | Water Balance Output (cubic feet per second - cfs) | | |
|-----------------------------------|--|----------------|-------|
| | Cedar Creek | McKenzie River | Total |
| River Leakage to Groundwater (in) | 6.69 | 18.44 | 25.13 |
| River Leakage to Channel (out) | 1.03 | 23.15 | 24.19 |
| Net River Leakage (in - out) | 5.66 | -4.72 | 0.95 |

2.3.2 Thurston Middle School Wells, Permit No. G-15241

This simulation output is based on pumping from the aquifer per the baseline conditions (Thurston Wellfield Nos. 1 to 4 and Platt Nos. 1 and 2) plus the two wells at Thurston Middle School, designated Thurston Middle School Nos. 1 and 2. The rates for these wells are each 400 gpm, as shown in Table 1-1.

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² River Leakage is a component of the water balance with both input and output values. River Leakage input (in) pertains to a contribution of flow to the groundwater system. River Leakage output (out) pertains to a contribution of flow to a stream channel from groundwater. As used here, Net River Leakage (in – out) is the net contribution of flow through this water balance component to groundwater. Thus, a negative value indicates a net discharge from groundwater to a channel (gaining stream), whereas a positive value indicates a net discharge from the stream channel to groundwater (losing stream).

³ Stream Flow Depletion (SFD) is computed as SFD = (Net River Leakage)_{wells} - (Net River Leakage)_{baseline}, where the subscript "wells" refers to a simulation with additional wells beyond the "baseline" conditions.

Table 2-3 shows the results of the simulation with comparison to the baseline conditions. The actual water balance pertaining to Cedar Creek and the McKenzie River accounts for only 1.52 cfs of the 1.78 cfs produced from the wells (800 gpm total). The remaining 0.26 cfs is accounted for in the other boundary conditions of the model⁴. It is assumed to be equally distributed to Cedar Creek and the McKenzie River. The simulation results indicate that of the well discharge, 92% is "obtained" from Cedar Creek and 8% is "obtained" from the McKenzie River. No distinction is made between induced leakage from the channel and interception of groundwater discharge to the channel.

TABLE 2-3
THURSTON MIDDLE SCHOOL WELL NOS. 1 AND 2

| Parameter | Water Balance Output (cubic feet per second - cfs) | | |
|-----------------------------------|--|----------------|-----------|
| | Cedar Creek | McKenzie River | Total |
| River Leakage to Groundwater (in) | 7.95 126 | 18.48 | 26.43 |
| River Leakage to Channel (out) | 0.89 | 23.07 | 23.96 |
| Net River Leakage (in - out) | 5.60 7.06 1,40 | -4.59 | 2.47 |
| Stream Flow Depletion | 1.39- | 0.13 | 1.52 1.78 |
| Proportion (%) | 92% | 8% | |

2.3.3 Thurston Wellfield Well Nos. 5, 6, 7 and 10, Permit No. G-15243

This simulation output is based on the baseline conditions (see above) plus additional pumping from Thurston Wellfield Well Nos. 5, 6, 7 and 10. The pumping rates for these wells are listed in Table 1-1. These results (Table 2-4) show that potential stream flow depletion is distributed as 13% from Cedar Creek and 87% from the McKenzie River.

TABLE 2-4
THURSTON WELLFIELD WELL NOS. 5, 6, 7 AND 10

| Parameter | Water Balance Output (cubic feet per second - cfs) | | |
|-----------------------------------|--|----------------|-------|
| | Cedar Creek | McKenzie River | Total |
| River Leakage to Groundwater (in) | 7.09 | 21.20 | 28.29 |
| River Leakage to Channel (out) | 0.99 | 22.81 | 23.80 |
| Net River Leakage (in - out) | 6.11 | -1.61 | 4.50 |
| Stream Flow Depletion | 0.45 | 3.10 | 3.55 |
| Proportion (%) | 13% | 87% | |

229 pm

2.3.4 Thurston Wellfield Well Nos. 8, 9 and 11, Permit No. G-15244

This simulation output is based on the baseline conditions (see above) plus additional pumping from Thurston Wellfield Well Nos. 8, 9 and 11. The pumping rates for these wells are listed in Table 1-1. These results (Table 2-5) are nearly identical to those for Permit No. G-15243. Eighty-seven percent of the potential stream flow depletion occurs in the McKenzie River, whereas 13% occurs in Cedar Creek.

⁴ This same finding applies to subsequent simulations. The quantity of "unaccounted" water varies due to variation in well pumping rates, but the explanation for its occurrence is the same.

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TABLE 2-5
THURSTON WELLFIELD WELL NOS. 8, 9 AND 11

| Parameter | Water Balance Output (cubic feet per second - cfs) | | |
|-----------------------------------|--|----------------|-------|
| | Cedar Creek | McKenzie River | Total |
| River Leakage to Groundwater (in) | 7.08 | 20.92 | 28.00 |
| River Leakage to Channel (out) | 0.99 | 22.85 | 23.83 |
| Net River Leakage (in - out) | 6.09 | -1.92 | 4.17 |
| Stream Flow Depletion | 0.43 | 2.79 | 3.22 |
| Proportion (%) | 13% | 87% | |

18009PM 4 cfs

2.3.5 Total Potential Stream Flow Depletion Effects

A final simulation was run with the entire group of wells proposed under Permit Nos. G-15241, G-15243, and G-15244. In this simulation, each of these wells, plus those pertaining to baseline conditions, were set to active mode at the pumping rates listed in Tables 1-1 and 2-1.

Model output from this simulation is shown in Figure 2-3, including groundwater pathlines to the new well locations. These results show that potential stream flow depletion occurs by a combination of leakage from the channel and interception of regional groundwater that would otherwise discharge into the channel. In particular, most groundwater produced from the Thurston Middle School wells appears to be from regional groundwater flow.

The simulation water balance results are presented in Table 2-6. These results indicate a distribution of 28% from Cedar Creek and 72% from the McKenzie River. Based on the total rate of the permits of 10.695 cfs (4,800 gpm), 2.995 cfs is related to Cedar Creek and 7.700 cfs is related to the McKenzie River.

TABLE 2-6
TOTAL POTENTIAL STREAM FLOW DEPLETION

| Parameter | Water Balance Output (cubic feet per second - cfs) | | |
|-----------------------------------|--|----------------|-------|
| | Cedar Creek | McKenzie River | Total |
| River Leakage to Groundwater (in) | 8.82 | 23.71 | 32.53 |
| River Leakage to Channel (out) | 0.84 | 22.44 | 23.29 |
| Net River Leakage (in - out) | 7.97 | 1.27 | 9.24 |
| Stream Flow Depletion | 2.31 | 5.98 | 8.30 |
| Proportion (%) | 28% | 72% | |

3 CONCLUSIONS

- SUB has proposed to install new wells in the Thurston area with a total maximum capacity of 4,800 gpm (10.695 cfs). The actual developed capacity will be determined when the wells are installed and will be corrected on the completion reports. At this time, it may also be necessary to make corrections to potential stream flow depletion proportions between Cedar Creek and the McKenzie River.
- Groundwater computer modeling using MODFLOW was performed to assess the proportions of the new appropriations related to stream flow depletion in Cedar Creek and the McKenzie River, which

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are the two nearest surface waters to the proposed wells. The results of groundwater flow modeling typically provide an estimate of the average conditions that may occur.

 Based on model output, approximately 28% of the appropriation discharge is related to Cedar Creek, whereas approximately 72% of the discharge is related to the McKenzie River. The total potential stream flow depletion effects are therefore distributed as approximately 2.995 cfs for Cedar Creek and approximately 7.700 cfs for the McKenzie River.

4 REFERENCES

2333333333333333333

Frank, F. J. (1973) Ground Water in the Springfield-Eugene Area, Southern Willamette Valley, Oregon, U.S. Geological Survey Water-Supply Paper 2018.

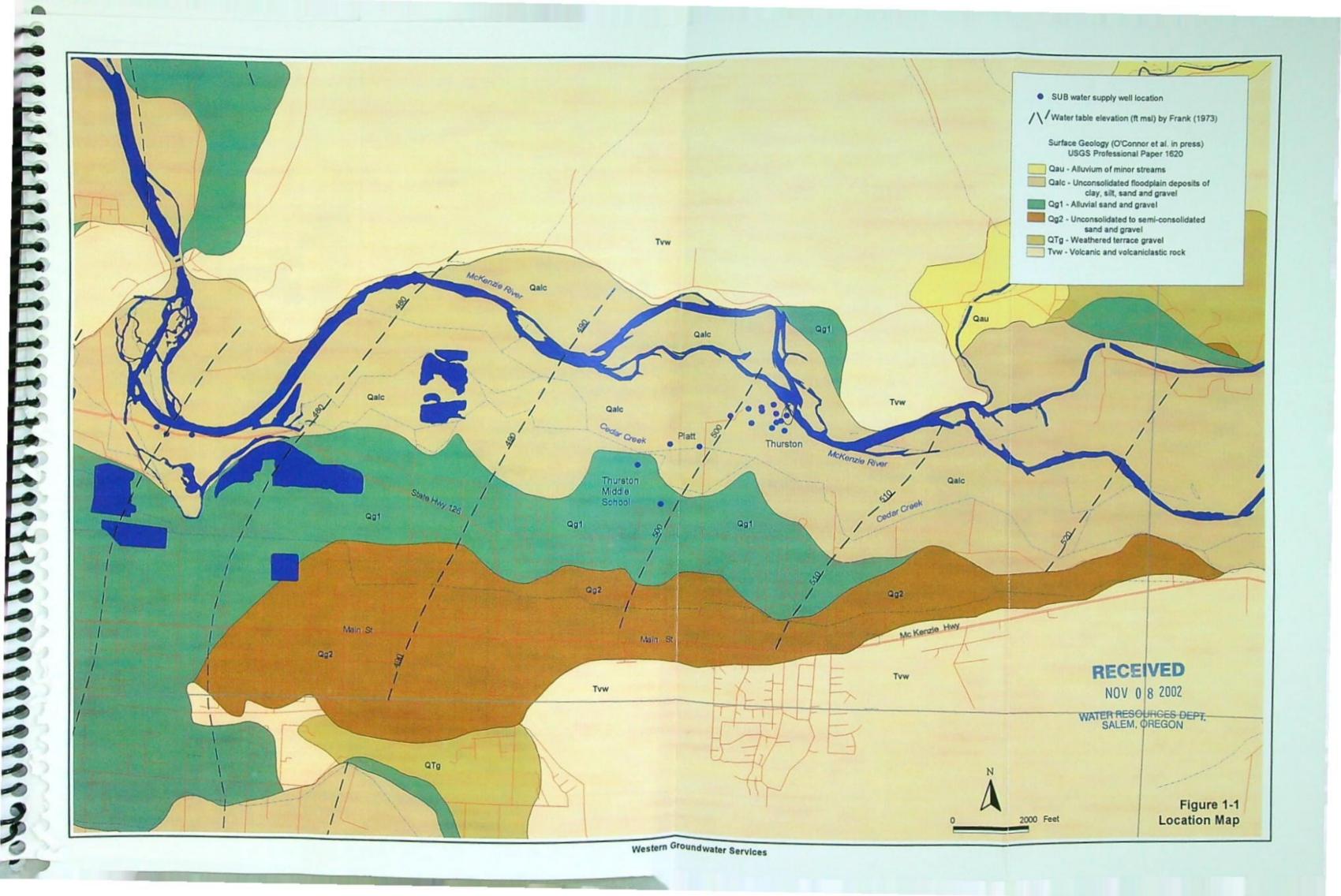
Golder Associates Inc. (1995) Wellhead Protection Area Delineation Report, Project No. WHPA-2, report to Springfield Utility Board and Rainbow Water District prepared by Golder Associates Inc., Redmond, WA.

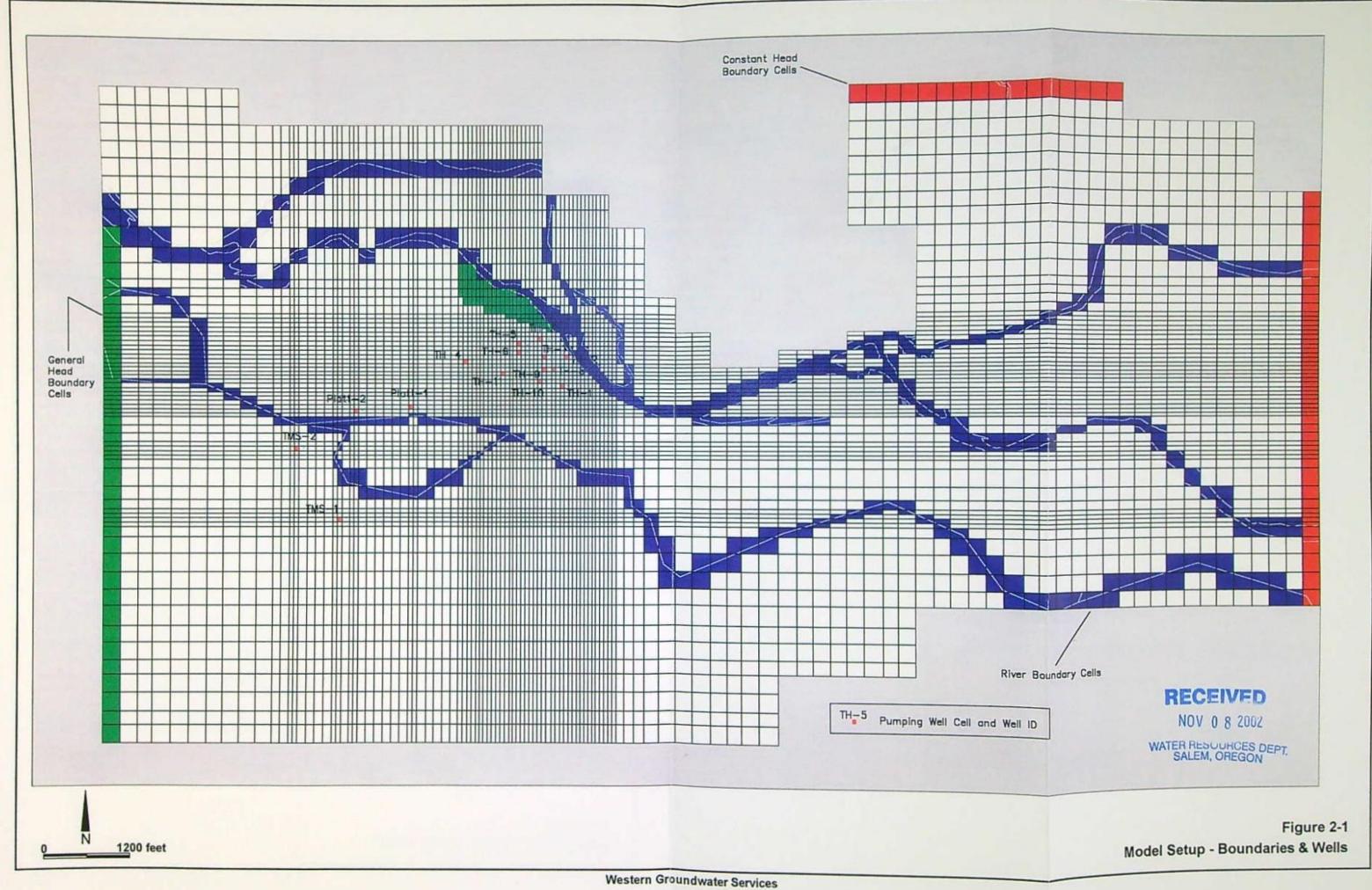
O'Connor, J.E., Sarna-Wojcicki, A.M., Wozniak, K.C., Polette, D.J., and Fleck, R.J., 2001, Origin, extent, and thickness of Quaternary geologic units in the Willamette Valley, Oregon: U.S. Geological Survey Professional Paper 1620.

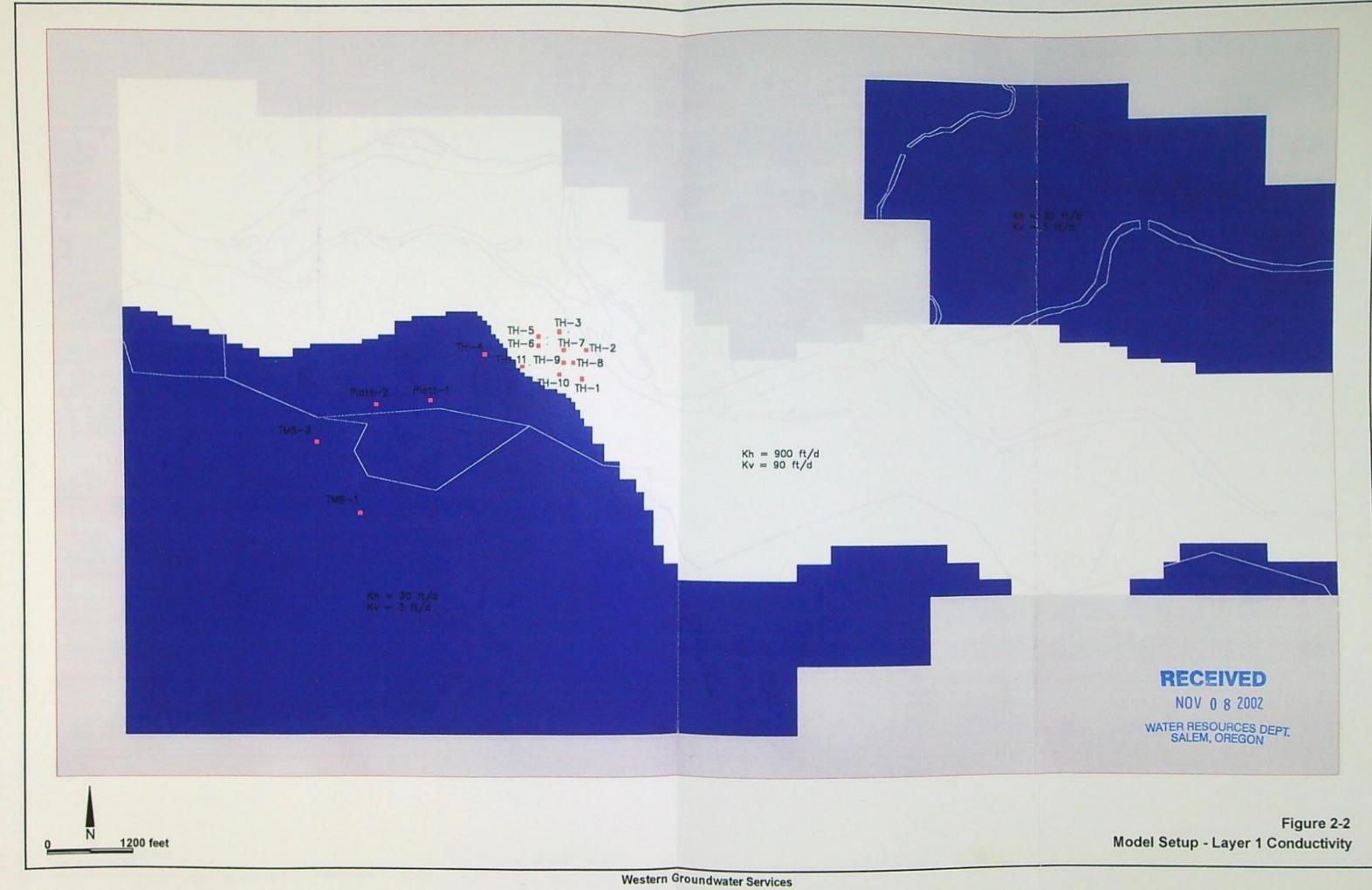
Western Groundwater Services, LLC (2000) Thurston Wellfield Expansion Steady-State Groundwater Model, report to Springfield Utility Board prepared by Western Groundwater Services, LLC, Bozeman, MT.

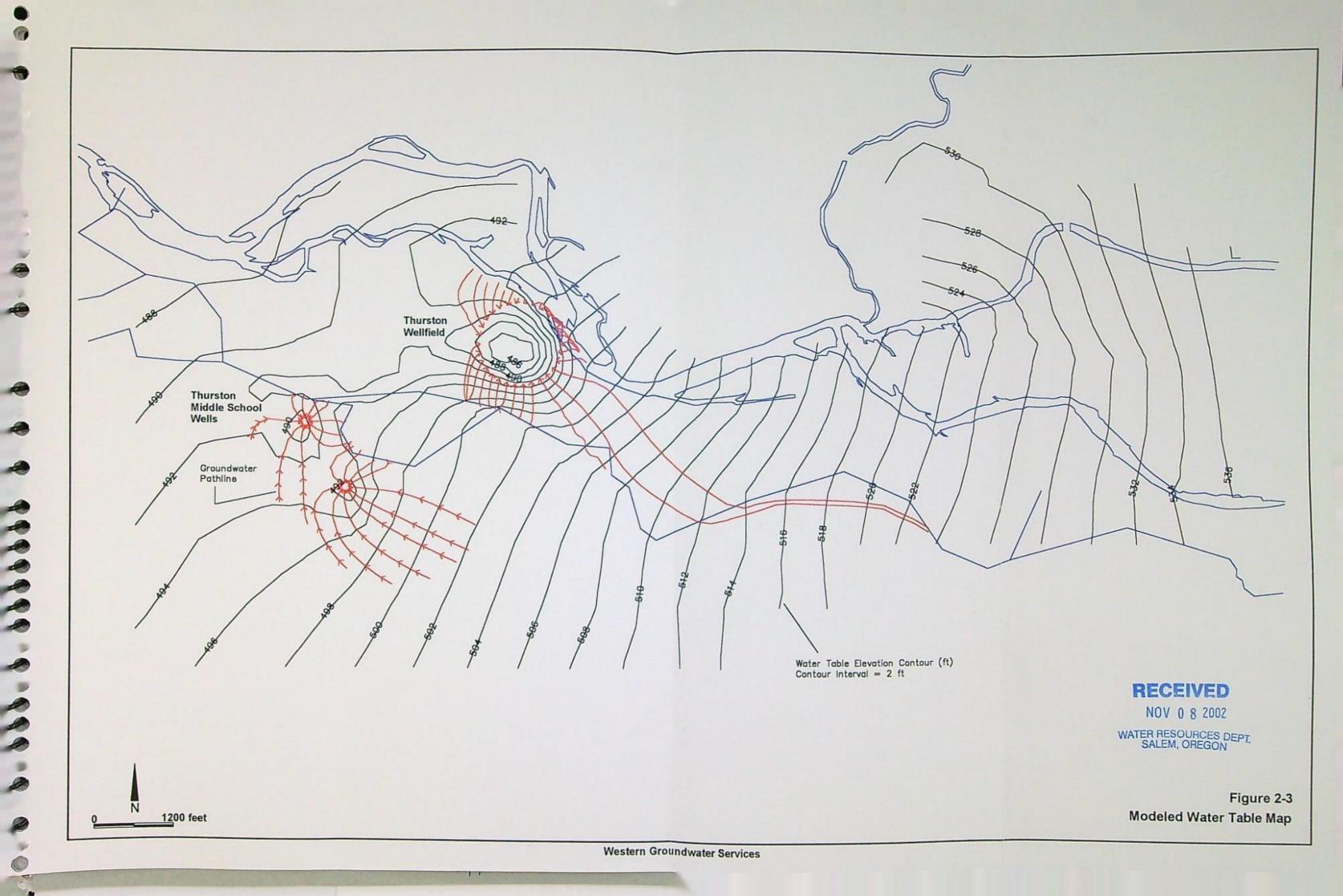
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Springfield Charter

ARTICLE V. RECORDER; TREASURER

- Section 34. Recorder as Clerk of Council. The duties of the recorder as clerk of the council shall be prescribed by the common council. (Sec. 20.)
- Section 35. Recorder Pro Tem. In the absence of the recorder, or if he be from any cause unable to act, the mayor may designate any person having the qualifications of a recorder to act in his stead, who shall forthwith take the oath of office and perform the duties of recorder during such temporary absence or inability and he shall receive his same salary as the recorder, to be deducted from the salary and fees of that officer; and the order of the mayor appointing such person shall be filed in the office of the recorder. (Sec. 44.)
- Section 36. Treasurer-Functions. The treasurer shall receive and keep the funds and moneys of the city and pay out the same upon a varrant signed by the mayor and attested by the recorder and no claim against the city shall be paid until audited and allowed by the common council. (Sec. 21.)
- Section 37. Treasurer—Punds. The treasurer must keep an account with the general fund, and a separate account with each special fund that may be raised for any specific object, and when a warrant is drawn on any particular fund it can only be paid out of such fund. (Sec. 22.)
- Section 38. Treasurer-Reports. The treasurer must make a report to the council of all moneys received and expended whenever required by the council. (Sec. 23.)
- Section 39. Recorder, Treasurer-Rules, Regulations. The common council may prescribe such additional rules and regulations for the recorder and treasurer, not inconsistent with this charter, as they may see fit. (Sec. 24.)

ARTICLE VI. UTILITY BOARD

Section 40. Utility Board--Establishment, Functions. 2 There is hereby created a board to be known as the City of Springfield Utility Board, hereinafter called the 'utility board,' which shall operate, maintain, supervise, and control, for and on behalf of the city of Springfield, Oregon, all electric, vater, and gas, properties, or any of them, which are now or which may hereafter be owned and operated by the city of Springfield, Oregon. Severage and sevage disposal property shall be operated, maintained, supervised and controlled by the Common Council and under its jurisdiction through the city manager. The utility board may build, install, construct, develop, acquire by purchase or by condemnation/eminent domain, operate, maintain, manage, supervise, control, finance, improve and extend one or more cable communications systems. (10-9-50, Sec. 1)

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App# 5-85336 NOV 0 8 2002

App# 5-85336 WATER RESOURCES DEPT.

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¹ Pursuant to charter, Section 19, the city manager and not the mayor would designate someone to act as recorder.

² Amended by the voters of Springfield at a Special Election held June 30, 1987.

Section 46. Utility Board--Povers. The utility board shall act for and on behalf of the city of Springfield in connection with all matters relating to the management, operation, acquisition, and financing of all electric, water and gas, properties now owned or hereafter acquired by the city of Springfield. The utility board shall have power on behalf of the city to borrow money, to issue and sell bonds, to acquire property, both real and personal, including the acquisition of utility properties or systems, to make additions, betterment, and extensions to any utility property owned and operated by the City, to establish rates, to adopt roles and regulations for the furnishing of service, to pay in lieu taxes to City, County, School District, or State, to employ a manager or managers to manage such properties and to fix his or their duties, as the utility board deem necessary to properly discharge its duties, and to do all other things necessary or convenient for the efficient operation and management of utility properties except severage and sevage disposal properties owned by the City of Springfield. Provided, that such utility board shall not have pover to sell or otherwise dispose of all or any part of such utility properties other than the properties which the utility board determines are no longer useful or necessary for the operation of such properties, and shall not have power to borrow money or issue bonds except as hereinafter provided without first obtaining the approval at a duly called and held election of the qualified voters of the city of Springfield, Oregon. The utility board shall have pover to borrow money either by the issuance of notes or bonds secured only by a pledge of revenues of the utility for which such funds are borroved in an amount not to exceed 25 percent of the original cost of such utility for the purpose of providing working capital, repairing damage, or making additions to such utility system. (10-9-50, Sec. 3).

Section 46E. Cable Communications Systems. The utility board is hereby authorized and empowered to build, install, construct, develop, acquire by purchase or by condemnation/eminent domain, operate, maintain, supervise, control, finance and manage one or more cable communications systems. In connection therevith the utility board shall have the power to contract, to borrow money, to issue and sell bonds, to subsidize cable communications with revenue from other utility operations, to acquire real and personal property including the acquisition of cable communications properties and systems, to make additions, improvement, betterments and extensions to any cable communications systems operated by the utility board, to establish rates, assessments and charges, to adopt rules and regulations for the furnishing of service, to pay in lieu taxes to City, County, School District or State, to pay franchise fees, to employ personnel including any technical or professional consultants, to employ a manager or managers to manage such cable communications systems and to fix the duties of such manager or managers, to apply for, accept and hold any licenses, certificates, franchises or permits, required by applicable law, to comply with any applicable local, State or Federal law or rule and to do all other things necessary or convenient for the installation.

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WATER RESOURCES DEPT, SALEM, OREGON

Amended by the voters of Springfield at a Special Election held November 5, 1974. *There is no Section 46A. This number was reserved for Charter amendment rejected by the voters March 27, 1984.

Amended by the voters of Springfield at a Special Election held June 30, 1987



- Background Information -

Oregon Water Resources Department

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WATER RESOURCES DEPT. SALEM, OREGON

FORM M

FOR MUNICIPAL AND QUASI MUNICIPAL WATER SUPPLIES

Unless otherwise noted, water use information should be in acre-feet per year (AFY).

1 acre-foot is equal to 325,851 gallons.

| Name of water | r supplier:_ 51 | PRINGFIELD U | THUTY BOARS | (SyB) |
|--|---|---|---|--------------------|
| | | served: CITY OF S | | |
| Present popu Contact county p | lation of service | area: 253,000 | | |
| Projected por (Cite source and y | oulation in 20 ye ear. For example: "20 | ars: ≈ 71,000 (c) ,595 Based upon 1995 Portland | State University projections.") | in Psu) |
| List present v | vater rights and | permits held: | | |
| Date of Issu | ATTACHED | atural Source of Water: | Amount Permitte | d: Utilization: |
| | | | | |
| Water Use | | | | |
| Average year Per-capita | dy demand: 2 | tion (in gallons): (Parce s by population to arrive at cons | 52000) = 153 | |
| Per-capita (Divide avera Peak seaso | daily consump a daily consump age annual water sale in (by month/day son per-capita o | tion (in gallons): (Parce | (53,00) = 153 umplion, then divide by 365 to total peak season dema | get daily values.) |
| Per-capita (Divide avera Peak seaso (Divide total Annual amou | a daily consump age annual water sale on (by month/day son per-capita of peak season demand | tion (in gallons): Porce s by population to arrive at cons y): 1/155 to 10/155 To daily consumption: | umplion, then divide by 365 to otal peak season demaid the peak.) | get daily values.) |
| Per-capita (Divide avera Peak seaso (Divide total Annual amou produ (diverte | a daily consump age annual water sale in (by month/day son per-capita of peak season demand int of water: ced: 3, 8 and or pumped) | tion (in gallons): Poces by population to arrive at cons y): 1/1/55 to 10/1/55 To daily consumption: by population and the number of | umplion, then divide by 365 to otal peak season demaid the peak.) | get daily values.) |
| Per-capita (Divide over) Peak seaso Peak sea (Divide total Annual amou produ (diverte delive | a daily consump age annual water sale in (by month/day son per-capita of peak season demand int of water: ced: 3, 8 and or pumped) | tion (in gallons): Porce s by population to arrive at cons y): 1/1/55 to 10/1/55. To daily consumption: by population and the number of 32, 500, 000 4 | umplion, then divide by 365 to otal peak season demaid the peak.) | get daily values.) |

| Request for Water |
|--|
| A. Discuss the reason(s) for your request for additional water |
| (e.g. loss of current supply, peak demand, growth, or other): O CONTINEED GROWTH) |
| DHEW TREATMENT REQUIREMENTS NECESSITATES DEVELOPMENT |
| OF ADDITIONAL & NEW SOURCES; B) MITIGATION FOR |
| GROWD WATER WITH DOAN ALS |
| B. How long is the amount of water requested in this application expected to meet future needs? |
| (e.g. until the year 2040) PROJECTED WATER NOSDS TO 2017+ |
| |
| C. Briefly discuss operation of water system and the most constraining component of the system: |
| G.W. & S. W. PLANT DELIVERS WATER TO CUSTOMERS FIRST |
| AND THEN TO STORAGE TRUKS. CONSTRAINING COMPONENTS |
| ARE SOURCE CAPACITY TO MOST PEAK DEMAND AND |
| TRANSMISSION LINE CAPACITY TO MOVE WATER TO CUSTOMER |
| D. Percentage of water use by type: |
| Residential: |
| |
| Unaccounted for use: 20% Industrial: 22% Other (specify use): -0 |
| Other (specify use). |
| E. List cost to implement proposed request. |
| Compare cost and benefits with other water supply, or combination of supply options. This should include water |
| efficiency measures such as replacing current showerheads with low-flow types. (Attach documentation, as available.) |
| MASTER WATER PLAN & CONSORVATION PLAN ON FILE |
| BUP DEPROVED, COSTS, TIMING OF NEW FACILITIES, AND |
| ACTERNATIVES EXAMINED ARE CONTAINED IN THE |
| TWO PLAN SUBMITTED AND PAPPROJED. |
| |
| F. How and by how much will your proposed water use efficiency programs increase efficiency? (Express as a percentage of per-capita consumption.) |
| APPROXIMATE SAUINGS OF 2 GALLOUS (2190) |
| |
| POR CAPITA PER YEAR. |
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| WATER RESOURCES DEPT. SALEM, OREGON |

| Source Name | Owner | Permit No. | Priority Date | Certificate No. | Water Right Amount (gpm) | Developed Capacity (gpm) | |
|----------------------------|---------|------------|------------------|--------------------|--------------------------------|--------------------------------|--------------------|
| Willamette Wellfield | SUB | | | | | 2000 | 6950 |
| No. 8 | | G-266 | 6/18/56 | 20-27979 | 896 | | |
| No. 1 | | GR-3134 | 6/16/59 | | 900 | | |
| No. 6 | | GR-3135 | 6/16/59 | | 1.250 | | |
| No. 4 | | GR-3136 | 6/16/59 | | 1,250 | | |
| No. 3 | | GR-3137 | 6/16/59 | | 1,250 | | |
| No. 7 | | GR-3138 | 6/16/59 | | 1,250 | * | 14 |
| No. 5 | | GR-3139 | 6/16/59 | | 600 | | ** |
| No. 2 | | GR-3140 | 6/16/59 | | 1.250 | | |
| No. 9 | | G-3027 | 8/30/65 | 27-35650 | 400 | | |
| No. 12 | | G-3073 | 11/1/65 | | 995 | | |
| No. 11 | | G-3074 | 11/1/65 | 27-35651 | 1,478 | | |
| No. 10 | | G-3075 | 11/1/65 | 27-35754 | 1.075 | | |
| No. 13/15 | | G-11558 | 5/4/91 | | 323 | | |
| SP Well | SUB | G-9989 | 7/12/82 | 51-56430 | 797 | 650 | |
| Maia Well | SUB | G-10349 | 1/20/84 | | 1.200 | 1,000 - | |
| Thurston Wellfield | SUB | | | | | 2.250 | |
| No. 1 | | G-3267 | 4/21/66 | 34-42085 | 797 | | |
| No. 2 | | G-4570 | 4/28/69 | 34-42086 | 1,201 | | |
| No. 3 | | G-4989 | 2/10/72 | 34-42088 | 497 | | |
| No. 4 | | G-9983 | 2/4/82 | 51-56427 | 251 | | |
| Platt Welffield | SUB | | | 11000 | | 650 | |
| No. 1 | | G-9984 | 2/4/82 | 51-56428 | 251 | | |
| No. 2 | | G-9985 | 2/4/82 | 51-56429 | 448 | | |
| Weyerhaeuser Wellfield | SUB/RWD | (12 TO S | UB) | | - | 2300 11 | 15 |
| No. A | | G-237 | 3/29/56 | 37-45301 | 483 246 | | |
| No. 1 | | G-237 | 3/29/56 | 37-45301 | 205 403 | | |
| No. 2 | | G-237 | 3/29/56 | 37-45301 | 886 203 | | |
| No. D | | G-237 | 3/29/56 | 37-45301 | 483 201 | | |
| No. 3 | | G-2795 | 12/16/64 | | 782 354 | | |
| Sports Way Well | SUB | G-12845 | 10/13/95 | | 2.000 | 1.500 | |
| TOTAL (gpm) TOTAL (mgd) | | | | | 21 993 9PM | 1425 | 14165 gpm 20.4 mgd |

NOV 0 8 2002 9 02

| | Receipt for Request for Land Use | Information |
|---|---|--|
| Name o | f water right applicant: SUB | |
| This receipt must present this form | t be signed by a local government representative and . This receipt must be included in the application fo | returned to the applicant at the time they |
| nent cannot pro | vide the requested land use information while the app | olicant waits. |
| ment cannot protect. City or County: Staff contact: | vide the requested land use information while the app | Phone: 541-734-1003 |

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WATER RESOURCES DEPT. SALEM, OREGON

app#5.85336



Oregon Water Resources Department Land Use Information Form

This information is needed to determine compatibility with local comprehensive plans as required by ORS 197.180. The Water Resources Department will use this and other information to evaluate the water use application. DO NOT fill out this form if water is to be diverted, conveyed, or used only on federal lands.

| | | s informatio | on about prop | osed water | pplicant — use. This section | | |
|---|--|--|--|--|--|--|---|
| | | ing an appli | ication for a v | vater right | with the Water | Resources Depu | irtment. |
| A. Applican | 100 mm 6 E | (an | | | > | (SUR | 1 |
| Name: | TRINGF | ieco | uricit | 7 5 | OARD | Cani | -/- |
| Address: | 202 5. | 184 | s ST | REET | | | |
| City: SPRI | NGFIELD |) | State: OR | Zip:9 | 1477 Day F | Phone: 764 | - 8451 |
| diverted, con "conveyed" if use on tax lo for municipal | de information iveyed, or used water is conv it. More than o | d. Check 'eyed (trans ne box ma ion uses w | 'diverted" if v sported) on by be checke within irrigation | water is d tax lot, ar ed. (Attach on districts | ots on or through iverted (taken) id "used" if waten extra sheets a s, may substituted below. | from its source er will be put to as necessary.) | e on tax lot, beneficial Applicants |
| Tax Lot I.D. | Plan Designat | ion (e.a. Run | al Residential/F | RR-5) | Water to be: | (check all that | annly) |
| | | | | | Diverted | ☐ Conveyed | Used |
| | | | | | Diverted | ☐ Conveyed | Used |
| | | | | | Diverted | ☐ Conveyed | |
| proposed to be | | eyed, or us | ed. CITY | u6B | CITY OF | | FUD LAN |
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Receipt for Request for Land Use Information

State of Oregon
Water Resources Department
Commerce Bldg.
158 12th St. NE
Salem, OR 97310-0210
(503)378-8455

NOV 1 3 2002
WATER RESOURCES DEPT.
SALEM, OREGON

app# 5-85336

| The following section must be complet located entirely within the city limits. additional forms as needed or feel free | For Local Government Use ed by a planning official from each cou In this case, only the city planning ag to copy. | nty and city lister | |
|--|--|--|---|
| A. Allowed Use — | | | |
| Check the appropriate box belo | w and provide requested inform | nation. | |
| allowed outright or a ordinance section(s) Abbrook A Land uses to be sen | wed by proposed water uses (in are not regulated by your compress). Go to see the compression of the compres | ection B "Appro cluding propos | Cite applicable val* below ed construction) |
| Type of Land Use Approval Needed (e.g. plan amendments, rezones, conditional use permits, etc.) | Cite Most Significant, Applicable Plan Policies & Ordinance Section References | Commence of the second | ue item that applies: Use Approval: |
| | | Obtained Obtained | ☐ Being pursued |
| | | Denied Obtained | ☐ Not being pursued ☐ Being pursued |
| | | ☐ Denied | ☐ Not being pursued |
| | | ☐ Obtained | ☐ Being pursued |
| | | ☐ Denied | ☐ Not being pursued |
| | | ☐ Obtained ☐ Denied | ☐ Being pursued ☐ Not being pursued |
| - B. Approval — Please provide printed name ar | And the Control of th | 1 | already been obtained. |
| - B. Approval | | Date: (C) | |
| - B. Approval | nd written signature. | | |
| Please provide printed name ar Name: Ward Title: Signature: C. Additional Comments Local governments are invited to | nd written signature. | cerns or make | 23/07 -3772 recommendations to |
| Please provide printed name are Name: Www. Title: Ssoc www. Signature: C. Additional Comments — Local governments are invited to the Department regarding this p | Phone: Secretary of the second | perns or make on a separate | recommendations to sheet. |
| Please provide printed name ar Name: Www. Title: Signature: C. Additional Comments Local governments are invited to | Phone: Septiment waits, signarys from the Water Resources Department of WRD will presume the land | perns or make on a separate on a separate on a separate on and detach the orthograph of the orthograph | recommendations to sheet. |
| Please provide printed name are Name: White Please provide printed name are Name: White Please provide printed name are Name: White Please provided Please provided Please | Phone: Second land use concoroposed use of water below, or letted while the applicant waits, signays from the Water Resources Department or WRD will presume the land mehensive plans. (See attached letter land water letter) | n and detach the artment's notice d use associated er.) | recommendations to sheet. |
| Please provide printed name are Name: White Please provide printed name are Name: White Please provide printed name are Title: Please provide printed name are Signature: Signature: Please ple | Phone: Septiment waits, signarys from the Water Resources Department of WRD will presume the land | n and detach the artment's notice d use associated er.) | recommendations to sheet. receipt stub as indate to return the with the proposed water |

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WATER RESOURCES DEPT. SALEM, OREGON

This receipt must be signed by a local government representative and returned to the applicant at the time they present this form. This receipt must be included in the application for a water right permit if the local government cannot provide the requested land use information while the applicant waits.

| City or County: LANG | | |
|------------------------|------|-----------------|
| Staff contact: WILLIAM | SAGE | Phone: 682-3807 |
| Signature: | | Date: |

RECEIVED BY LAND MANAGEMENT

OCT 1 1 2002 AM 7,8,9,10,11,12,1,2,3,4,5,6



Oregon Water Resources Department Land Use Information Form

This information is needed to determine compatibility with local comprehensive plans as required by ORS 197.180. The Water Resources Department will use this and other information to evaluate the water use application. DO NOT fill out this form if water is to be diverted, conveyed, or used only on federal lands.

| A. Application | PRING | FIE | an | I.T. | H | BOARD | (Sur |) |
|---|---|--|--|---|---|---|---|--|
| | | | | | | | Cooks |) |
| Address: | 202 | S. | 18 | F 5 | TREE | | | |
| City: SPR | MGFIE | 20 | | State: OR | Zip: | 37477 Day | Phone: 764 | - 8451 |
| B. Land an | | | | | | | | |
| conveyed" use on tax li for municipa | if water is ot. More that use, or in | used. conveye an one rigation | Check ed (tran box m uses v | "diverted" in esported) or ay be check within imigat | f water is n tax lot, ked. (Atta tion distri | diverted (taken and "used" if wa ich extra sheets | ugh which water i) from its source ater will be put to a as necessary.) rute existing and | e on tax lot beneficia Applicant |
| Toutetto | Plan Des | signation | (e.g. Ru | ral Residentia | VRR-5) | Water to be | : (check all that | amen/sy) |
| Tax Lot I.D. | | | | | | Diverted | | Used |
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| lax Lot I.D. | | | | | | ☐ Diverted | ☐ Conveyed | |
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Receipt for Request for Land Use Information

State of Oregon
Water Resources Department
Commerce Bldg.
158 12th St. NE
Salem, OR 97310-0210
(503)378-8455

NOV 1 3 2002
WATER RESOURCES DEPT.
SALEM, OREGON

app#5.85336

| Land uses to be served by proposed water uses (including proposed construction) are allowed outright or are not regulated by your comprehensive plan. Cite applicable ordinance section(s): No. 5.32 6 Go to section B 'Approval' below | - A. Allowed Use - | to copy. | | | |
|--|--|--|---|--|---------|
| Land uses to be served by proposed water uses (including proposed construction) are allowed outright or are not regulated by your comprehensive plan. Cite applicable ordinance section(s): Land uses to be served by proposed water uses (including proposed construction) involve discretionary land use approvals as listed in the table below. Land uses to be served by proposed water uses (including proposed construction) involve discretionary land use approvals as listed in the table below. Land uses Approval Needed Cite Most Significant, Applicable Check the item that applies: Land Use Approval: Land Use Approval: Land Use Approval: Land Use Approval: Section References Obtained Being pursued | | ow and provide requested inform | ation. | | |
| allowed outright or are not regulated by your comprehensive plan. Cite applicable ordinance section(s): \[\text{ | , | | | | |
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| ote: Please attach documentation of applicable local land use approvals which have already been obtained. Record of Action plus accompanying findings is sufficient.) Approval lease provide printed name and written signature. Date: 11-8-02 Therefore the plus accompanying findings is sufficient.) Additional Comments C. Additional Comments Date: 11-8-02 Therefore the phone: 541-736-1603 Indianal Comments are invited to express special land use concerns or make recommendations to be Department regarding this proposed use of water below, or on a separate sheet. Dote: If this form cannot be completed while the applicant waits, sign and detach the receipt stub as intructed below. You will have 30 days from the Water Resources Department's notice date to return the impleted Land Use Information Form or WRD will presume the land use associated with the proposed water ght is compatible with local comprehensive plans. (See attached letter.) Receipt for Request for Land Use Information RECEIVE Receipt must be signed by a local government representative and returned to the applicant at the time they WATER RESOURCES are this form. This receipt must be included in the application for a water right permit if the local govern- | | | 100 | | |
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Date:_

Signature:_



SPRINGFIELD UTILITY BOARD

Water Service Center 202 South 18th Street Springfield, Oregon 97477-5240 (541) 726-2396 Fax (541) 747-7348

NOV 1 3 2002
WATER RESOURCES DEPT.
SALEM, OREGON

November 8, 2002

Mr. Cory C. Engel Water Right Processing Technician Water Resources Department Commerce Building 158 12th Street, NE Salem, OR 97301-4172

RE: Land Use Information Form; New Surface Water Right Application, McKenize River by Springfield Utility Board

Dear Cory:

Enclosed is some additional information for the new surface water right recently submitted to you in our letter of November 6th, 2002.

Please contact me at 541-746-8451, #3731 if you have any questions about this information.

Sincerely,

Ken Cerotsky

Director - Water Division

KC:mkm

S:\kenc\water rights conflict\ land use inform new surface appl 110802.doc

| NEW APPLICATION | ON ROUTE SI | IP | ANITA HUFFMAN EXT. 229 | |
|-----------------|------------------|--------|------------------------|---|
| RECEIPTING | POST CAR | D SENT | CORY ENGEL EXT. 324 | × |
| DATA CENTER | M.R. 11.22-02 | | JERRY GAINEY EXT. 458 | |
| GROUND WATER | YES□ | NO | KERRY LEFEVER EXT. 276 | |
| BILL FUJII | YES | NO 🗆 | RUSS KLASSEN EXT. 266 | |

A "Standard Reservoir" storing 9.2 acre-feet or more of water and has a dam height of 10.0 feet or greater needs to have a copy of the application & supplemental forms routed to "JOHN FALK."



ATT: WATER RIGHTS SUPPORT...>>>

Mark contents of Application File; Update Powerbuilder with caseworker, etc.; Route to filing cabinet. FILE#: S 85336

BART MCKEE; SPRINGFIELD UTILITY BOARD 202 S 18TH ST SPRINGFIELD, OR 97477

FILE#: S 85336

BART MCKEE; SPRINGFIELD UTILITY BOARD 202 S 18TH ST SPRINGFIELD, OR 97477

FILE#: S 85336

BART MCKEE; SPRINGFIELD UTILITY BOARD 202 S 18TH ST SPRINGFIELD, OR 97477 FILE#: S 85336

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BART MCKEE; SPRINGFIELD UTILITY BOARD 202 S 18TH ST SPRINGFIELD, OR 97477

FILE#: S 85336

BART MCKEE; SPRINGFIELD UTILITY BOARD 202 S 18TH ST SPRINGFIELD, OR 97477

| VENDOR NO. | | VENDOR NAME | CHECK | Carried Street | | | | |
|-------------------------------|--------------|--------------------------------------|-----------------------|----------------|-------------------|------------------|-----------------|-----------------------|
| 65789 | OREGON WATER | | | 1296 | Springfiel | ld Utility Bo | ard | |
| M.No. REFERENCE 036 110502 | 11/05/02 W7 | DESCRIPTION FR RIGHT APPLICAT'N | 3,325.00 | 0.00 | RETAINAGE 0.00 | PREVIOUS 0.00 | BALANCE 0.00 | NET AMOUNT 3,325.0 |
| | | | | ap | n#s | ?-8~3. | 34 | |
| | | ECEIVED NOV 0 8 2002 ER RESOURCES DE | T. | | | | | |
| VENDOR NO. 65789 | WALL | ER RESOURCES DE SALEM, OREGON | GROSS AMOUNT 3,325.00 | DISCOUNT | RETAINAGE | PREVIOUS. | BALANCE | NET AMOUN |

