

Name NESKOWIN REGIONAL WATER DISTRICT
By ATTN: GUY HOLZWORTH
Addr: PO BOX 823
NESKOWIN OR 97149

Application No. 85745
Permit No. 554673
Certificate No. _____

Stream Index, Page No. _____

Date filed _____

Priority _____

Action suspended until 015

Return to applicant _____

Date of approval _____

CONSTRUCTION

Date for beginning _____

Date for completion _____

Extended to _____

Date for application of water 8-25-2015

Extended to _____

PROSECUTION OF WORK

Form "A" filed _____

Form "B" filed _____

Form "C" filed _____

FINAL PROOF

Blank mailed _____

Proof received _____

Date Certificate issued _____

ASSIGNMENTS

REMARKS

FEES PAID

Date	Amount	Receipt No.
------	--------	-------------

8/20/03	475.00	62214
7-22-10	\$900.00	100644

Cert. Fee

FEES REFUNDED

Date	Amount	Check No.
------	--------	-----------



Oregon

Tina Kotek, Governor

Water Resources Department

North Mall Office Building

725 Summer St NE, Suite A

Salem, OR 97301

Phone 503 986-0900

Fax 503 986-0904

www.oregon.gov/owrd

December 21, 2023

NESKOWIN REGIONAL WATER DISTRICT

TROY TRUTE

PO BOX 823

NESKOWIN, OR 97149

Subject: Water Management and Conservation Plan

Dear Troy:

Enclosed; please find the final order approving your Water Management and Conservation Plan.

The attached final order specifies that the Neskowin Regional Water District's (District) plan shall remain in effect until **December 15, 2033**. Additionally, the District is required to submit a progress report to the Department by **December 15, 2028**, detailing progress made toward the implementation of conservation benchmarks scheduled in the plan. Finally, the District must submit an updated Water Management and Conservation Plan to the Department by **June 15, 2033**.

NOTE: The deadline established in the attached final order for submittal of an updated water management and conservation plan (consistent with OAR Chapter 690, Division 086) shall not relieve the Neskowin Regional Water District from any existing or future requirement(s) for submittal of a water management and conservation plan at an earlier date as established through other final orders of the Department.

We appreciate your cooperation in this effort. Please do not hesitate to contact me by telephone at 458-253-0597 or by e-mail at tamera.l.smith@water.oregon.gov if you have any questions or if I can be of any assistance.

Kindest regards,

Tamera Smith

Water Management and Conservation Analyst

Water Right Services Division

Enclosure

cc: WMCP File

Application #S-42274 (Permit #S-31716)

Application #S-85745 (Permit #S-54673)

District #1, Nikki Hendricks, Watermaster via email

BEFORE THE WATER RESOURCES DEPARTMENT
OF THE
STATE OF OREGON

In the Matter of the Proposed Water	)	FINAL ORDER APPROVING A WATER
Management and Conservation Plan for	)	MANAGEMENT AND CONSERVATION
the Neskowin Regional Water District,	)	PLAN
Tillamook County		

Authority

OAR Chapter 690, Division 086, establishes the process and criteria for approving water management and conservation plans required under the conditions of permits, permit extensions and other orders of the Department.

Findings of Fact

1. The Neskowin Regional Water District (District) submitted a Water Management and Conservation Plan (plan) to the Water Resources Department (Department) on October 5, 2022. The required statutory fee for review of the plan was received by the Department on January 3, 2023. The plan was required by a condition set forth under the District's previously approved plan (Sp. Or. Vol. 89, Pg. 136 issued on March 21, 2013).
2. The Department published notice of receipt of the plan on October 25, 2022, as required under OAR Chapter 690, Division 086. No comments were received.
3. The Department provided written comments on the plan to the District on March 27, 2023. In response, the District submitted a revised plan on September 8, 2023.
4. The Department provided written comments on the revised draft plan to the District on October 5, 2023. In response, the District submitted a final revised plan on October 27, 2023.
5. The Department reviewed the final revised plan and finds that the final revised plan is consistent with the relevant requirements under OAR Chapter 690, Division 086.

This is a final order in other than a 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 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.

Conclusion of Law

The Water Management and Conservation Plan submitted by the Neskowin Regional Water District is consistent with the criteria in OAR Chapter 690, Division 086.

Now, therefore, it is ORDERED:

Duration of Plan Approval:

1. The Neskowin Regional Water District Water Management and Conservation Plan is approved and shall remain in effect until **December 15, 2033**, unless this approval is rescinded pursuant to OAR 690-086-0920.

Plan Update Schedule:

2. The Neskowin Regional Water District shall submit an updated plan meeting the requirements of OAR Chapter 690, Division 086 (effective December 23, 2018) within ten (10) years and no later than **June 15, 2033**.

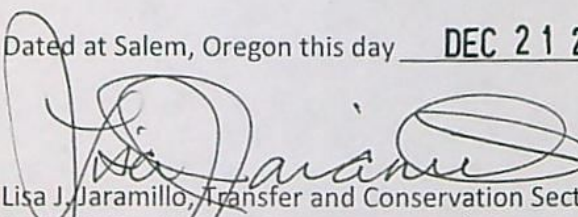
Progress Report Schedule:

3. The Neskowin Regional Water District shall submit a progress report containing the information required under OAR 690-086-0120(4) by **December 15, 2028**.

Other Requirements for Plan Submittal:

4. The deadline established herein for the submittal of an updated Water Management and Conservation Plan (consistent with OAR Chapter 690, Division 086) shall not relieve the Neskowin Regional Water District from any existing or future requirement(s) for submittal of a Water Management and Conservation Plan at an earlier date as established through other final orders of the Department.

Dated at Salem, Oregon this day DEC 21 2023


Lisa J. Jaramillo, Transfer and Conservation Section Manager for
DOUGLAS E. WOODCOCK, ACTING DIRECTOR
Oregon Water Resources

Mailing date: DEC 22 2023

Notice Regarding Servicemembers: Active duty servicemembers have a right to stay proceedings under the federal Servicemembers Civil Relief Act, 50 U.S.C. App. §§501-597b. For more information contact the Oregon State Bar at 800-452-8260, the Oregon Military Department at 971-355-4127, or the nearest United States Armed Forces Legal Assistance Office through <http://legalassistance.law.af.mil>.



Oregon

John A. Kitzhaber, MD, Governor

Water Resources Department
North Mall Office Building
725 Summer St. NE, Suite A
Salem, OR 97301
Phone: 503-986-0900
FAX: 503-986-0904
www.oregon.gov/owrd

March 22, 2013

Neskowin Regional Water District
Attn: Guy Holzworth, Manager
PO Box 823
Neskowin, OR 97149

Subject: Water Management and Conservation Plan

Dear Mr. Holzworth:

Thank you for your response to my review of Neskowin Regional Water District's (District) Water Management and Conservation Plan (plan) and submittal of final revisions to the plan.

The Department has reviewed the final revised plan and determined it to be generally consistent with the relevant requirements under OAR Chapter 690, Division 086. Therefore, please find the enclosed final order approving the District's Water Management and Conservation Plan.

The attached final order specifies that the District's plan shall remain in effect until March 19, 2023. Additionally, the District is required to submit a progress report to the Department by March 19, 2018, detailing progress made toward the implementation of conservation benchmarks scheduled in the plan. Finally, the District must submit an updated Water Management and Conservation Plan to the Department by September 19, 2022.

***NOTE:** The deadline established in the attached final order for submittal of an updated water management and conservation plan (consistent with OAR Chapter 690, Division 086) shall not relieve the Neskowin Regional Water District from any existing or future requirement(s) for submittal of a water management and conservation plan at an earlier date as established through other final orders of the Department.*

We appreciate your cooperation in this effort. Please do not hesitate to contact me at 503-986-0880 or Lisa.J.Jaramillo@wrp.state.or.us if you have any questions.

Sincerely,

Lisa J. Jaramillo
Water Management and Conservation Analyst
Water Right Services Division

Enclosure

cc: WMCP File
Application S-85745 (Permit S-54673)
Greg Beaman, District #01 Watermaster



BEFORE THE WATER RESOURCES DEPARTMENT
OF THE
STATE OF OREGON

In the Matter of the Proposed Water	)	FINAL ORDER APPROVING A
Management and Conservation Plan for the	)	WATER MANAGEMENT AND
Neskowin Regional Water District,	)	CONSERVATION PLAN
Tillamook County	)	

Authority

OAR Chapter 690, Division 086, establishes the process and criteria for approving water management and conservation plans required under the conditions of permits, permit extensions and other orders of the Department.

Findings of Fact

1. The Neskowin Regional Water District (District) submitted a Water Management and Conservation Plan (plan) to the Oregon Water Resources Department (Department) on November 22, 2011. The plan was required by a condition set forth under Permit S-54673.
2. The Department published notice of receipt of the plan on November 29, 2011, as required under OAR Chapter 690, Division 086. No comments were received.
3. The Department provided written comments on the plan to the District on May 21, 2012. In response, the District submitted a final revised plan on March 18, 2013.
4. The Department reviewed the final revised plan and finds that it is consistent with the relevant requirements under OAR Chapter 690, Division 086.

Conclusion of Law

The Water Management and Conservation Plan submitted by the Neskowin Regional Water District is consistent with the criteria in OAR Chapter 690, Division 086.

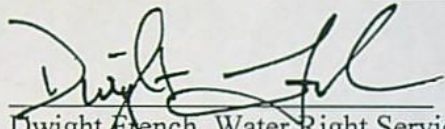
Now, therefore, it is ORDERED:

1. The Neskowin Regional Water District Water Management and Conservation Plan is approved and shall remain in effect until March 19, 2023, unless this approval is rescinded pursuant to OAR 690-086-0920.

This is a final order in other than a 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 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.

2. The Neskowin Regional Water District shall submit an updated plan meeting the requirements of OAR Chapter 690, Division 086 within 10 years and no later than September 19, 2022.
3. The Neskowin Regional Water District shall submit a progress report containing the information required under OAR 690-086-0120(4) by March 19, 2018.
4. The deadline established herein for the submittal of an updated Water Management and Conservation Plan (consistent with OAR Chapter 690, Division 086) shall not relieve the Neskowin Regional Water District from any existing or future requirement(s) for submittal of a Water Management and Conservation Plan at an earlier date as established through other final orders of the Department.

Dated at Salem, Oregon this 21 day of March, 2013.

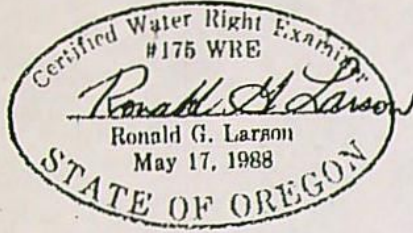


Dwight French, Water Right Services Administrator for
PHILLIP C. WARD, DIRECTOR

Mailing date: MAR 29 2013

APPLICATION MAP FOR
SURFACE WATER PERMIT

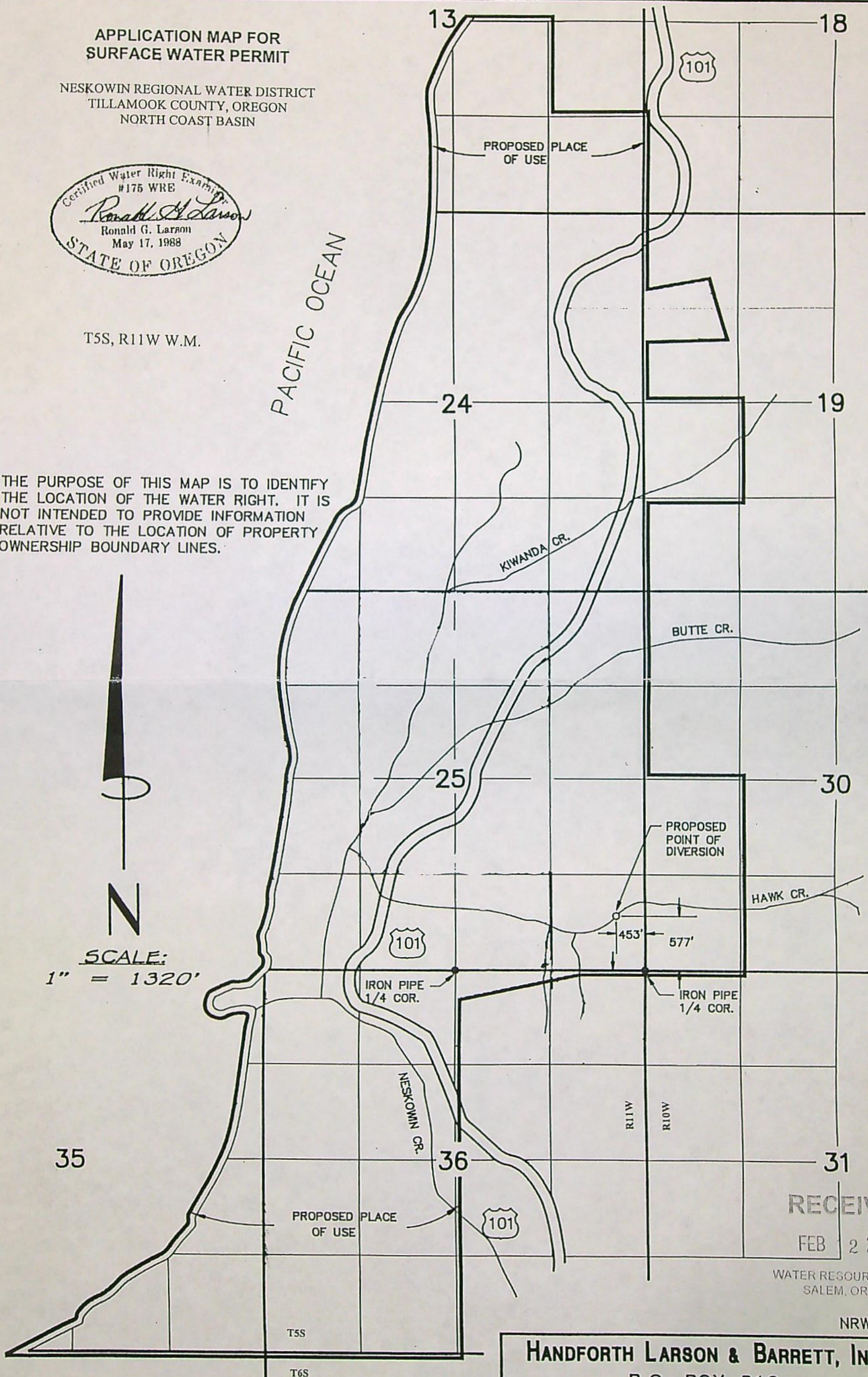
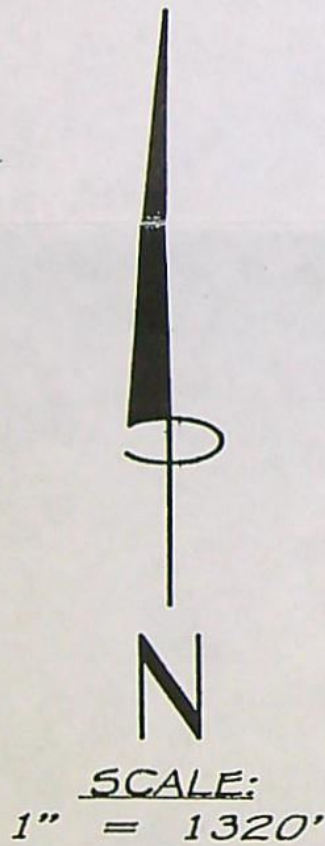
NESKOWIN REGIONAL WATER DISTRICT
TILLAMOOK COUNTY, OREGON
NORTH COAST BASIN



T5S, R11W W.M.

PACIFIC OCEAN

THE PURPOSE OF THIS MAP IS TO IDENTIFY
THE LOCATION OF THE WATER RIGHT. IT IS
NOT INTENDED TO PROVIDE INFORMATION
RELATIVE TO THE LOCATION OF PROPERTY
OWNERSHIP BOUNDARY LINES.



RECEIVED

FEB 2 2004

WATER RESOURCES DEPT
SALEM, OREGON

NRWD.DWG

HANDFORTH LARSON & BARRETT, INC.

P.O. BOX 219
MANZANITA, OR 97130
(503) 368-5394 FAX (503) 368-5847

app S-85745
Permit S 54673

Oregon Water Resources Department
Water Rights/Adjudications Division

Water Rights Application
Number S-85745

Final Order

Appeal Rights

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 August 20, 2003, Neskowin Regional Water District submitted an application to the Department for a water use permit. The Department issued a Proposed Final Order on May 25, 2010. The protest period closed July 9, 2010, and no protest was filed.

The proposed use would not impair or be detrimental to the public interest.

Order

Application S-85745 therefore is approved as proposed by the Proposed Final Order, and Permit S-54673 is issued as limited by the conditions proposed by the Proposed Final Order.

DATED *August 25*, 2010


for Phillip C. Ward, Director
Water Resources Department

This document was prepared by Jeana Eastman. 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 503-986-0859.

If you have previously filed a protest and want to know its status, please contact Patricia McCarty 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 TILLAMOOK

PERMIT TO APPROPRIATE THE PUBLIC WATERS

THIS PERMIT IS HEREBY ISSUED TO

NESKOWIN REGIONAL WATER DISTRICT
PO BOX 823
NESKOWIN, OR 97149

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

APPLICATION FILE NUMBER: S-85745

SOURCE OF WATER: HAWK CREEK, A TRIBUTARY OF BUTTE CREEK

PURPOSE OR USE: MUNICIPAL USE

MAXIMUM RATE: 1.0 CUBIC FOOT PER SECOND

PERIOD OF USE: YEAR ROUND

DATE OF PRIORITY: AUGUST 20, 2003

POINT OF DIVERSION LOCATION: SE $\frac{1}{4}$ SE $\frac{1}{4}$, SECTION 25, T5S, R11W, W.M.; 577 FEET NORTH & 453 FEET WEST FROM SE CORNER, SECTION 25

THE PLACE OF USE IS LOCATED WITHIN THE SERVICE BOUNDARIES OF NESKOWIN REGIONAL WATER DISTRICT

Measurement, recording and reporting conditions:

- A. Before water use may begin under this permit, the permittee shall install a totalizing flow meter or other suitable measuring device as approved by the Director at each point of diversion. The permittee shall maintain the meter or measuring device in good working order.
- B. 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.
- C. The permittee shall allow the watermaster access to the meter or measuring device; provided however, where any meter or

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

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

A minimum-operational level (MOL) flow of 1.0 CFS shall be maintained over the sill notch/weir on the fishway at the permittee's Hawk Creek diversion at all times, and shall be protected to at least the mouth of Hawk Creek.

An approved Water Curtailment Plan shall be in place prior to diversion of water.

A level of flow of 0.25 CFS above this MOL shall trigger implementation of the Water Curtailment Plan.

The flow level must be measured at the top of the fishway with a continuous measuring device and recorded to ensure 1.0 CFS is protected through the fishway and to determine when to implement the Water Curtailment Plan.

Mitigation water under must be legally protected instream for the life of the permit and subsequent certificate(s). Regulation of the use and/or cancellation of the permit, or subsequent certificate(s) will occur if the required mitigation is not maintained.

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.

The permittee shall not construct, operate or maintain any dam or artificial obstruction to fish passage in the channel of the subject stream without providing a fishway to ensure adequate upstream and downstream passage for fish, unless the permittee has requested and been granted a fish passage waiver by the Oregon Fish and Wildlife Commission. The permittee is hereby directed to contact an Oregon Department of Fish and Wildlife Fish Passage Coordinator, before beginning construction of any in-channel obstruction.

Within five years of permit issuance, the permittee shall submit a Water Management and Conservation Plan, addressing use under this permit, consistent with OAR 690-086. The Director may approve an extension of this time line to complete the required Water Management and Conservation Plan. The time line for submittal of a plan under this permit does not alter the time lines for submittal of a plan under any other order of the Department. No water may be diverted if a Water Management and Conservation Plan is not submitted within five years of permit issuance, unless an extension of this time has been approved.

STANDARD CONDITIONS

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

Where two or more water users agree among themselves as to the manner of rotation in the use of water and such agreement is placed in writing and filed by such water users with the watermaster, and such rotation system does not infringe upon such prior rights of any water user not a party to such rotation plan, the watermaster shall distribute the water according to such agreement.

If the riparian area is disturbed in the process of developing a point of diversion, the permittee shall be responsible for restoration and enhancement of such riparian area in accordance with ODFW's Fish and Wildlife Habitat Mitigation Policy OAR 635-415. For purposes of mitigation, the ODFW Fish and Wildlife Habitat Mitigation Goals and Standards, OAR 635-415, shall be followed.

The use may be restricted if the quality of the source stream or downstream waters decreases to the point that those waters no longer meet existing state or federal water quality standards due to reduced flows.

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

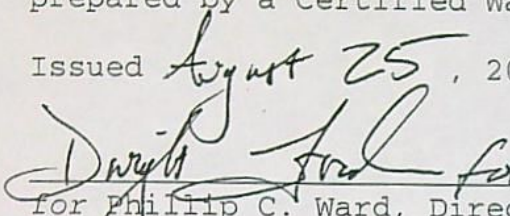
By law, the land use associated with this water use must be in compliance with statewide land-use goals and any local acknowledged land-use plan.

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

Completion of construction and application of the water shall be made within 20 years of the date of permit issuance. If beneficial use of permitted water has not been made before this date, the permittee may submit an application for extension of time, which may be approved based upon the merit of the application.

Within one year after making beneficial use of water, the permittee shall submit a claim of beneficial use, which includes a map and report, prepared by a Certified Water Rights Examiner.

Issued *August 25*, 2010


for Phillip C. Ward, Director
Water Resources Department

Mailing List for FO Copies

Application #S-85745

Original mailed to applicant with claim of beneficial use form:

NESKOWIN REGIONAL WATER DISTRICT
GUY HOLZWORTH
PO BOX 823
NESKOWIN OR 97149

Copies sent to:

1. WRD - File # S-85745
2. WRD - Ken Stahr

Copies Mailed	
By:	<u>CJS</u> (SUPPORT STAFF)
on:	<u>8/25/13</u> (DATE)

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

3. WRD - Watermaster District #: 1

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

1. Larson, Ronald G., CWRE #175
PO Box 219, Manzanita, OR 97130

CASEWORKER : Jeana Eastman

FO CHECKLIST

Application 5-85745

- ☒ Name and/or address has **changed or been assigned** ☐ Yes ☒ No
- ☒ Respond to **significant comments, issues, or disputes** related to the proposed use of water. ☒ N/A
- ☒ **Affected landowner(s)** have been notified ☒ N/A ☐ Yes ☐ No, send a letter to landowners before FO issuance.
- ☒ **Verify names/addresses** of affected landowners, and those who commented and/or paid \$10 fee. ☒ N/A
- ☒ Include fish screen form if ODFW requested **screening condition and rate ≤ 0.5 CFS** ☒ N/A ☐ Yes ☐ No
- ☒ PFO conclusions **require modification** due to typos, errors or omission of conditions ☐ Yes ☒ No
If so: _____
- ☒ Within North Umpqua settlement reach and issuing permit, **spreadsheet has been updated** ☒ N/A ☐ Yes
- ☒ **SWW** If GW and interference, copy form for Stahr. ☒ N/A

☒ Fees	Base Fee	Water Amount (Q)
	\$300 / \$500	1 st CFS/AF _____
	\$700 / \$1000	_____ Addl @ _____
		_____ Addl @ _____
		Add'l ☐ POD/POA ☐ use + _____

	_____ +	_____ = _____
	(base)	(Q) (total exam fee)

EXAM FEE REQUIRED	<u>475</u>	RECORDING FEE REQUIRED	\$250 / \$300 / \$400
EXAM FEE PAID	<u>- 475</u>	☒ RECORDING FEE PAID <i>record 7/22/10</i>	<u>- 900</u> 900
STILL OWED	<u>0</u>	STILL OWED	<u>0</u>

- ☐ FO w/ draft permit; still needed: ☒ FO w/ permit # 5-54673 ☐ FO to deny refund \$ _____
- ☐ fees
- ☐ easement
- ☐ st water contract
- ☐ approved dam plans & specs
- ☐ land use approval
- ☐ well construction approval

Name: Jeana Eastman

Date: 7/21/10

Peer Reviewer: michele [signature]

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.

PFO CHECKLIST

App 5-85745

- ☒ Application was filed *prior to 10/23/99* ☒ No ☐ Yes (If Yes, add A date requirement)
- ☒ IR requested additional information ☐ NA ☐ No ☒ Yes
- ☒ Storage contract ☒ NA ☐ BOR ☐ Doug Co ☐ Corp of Eng ☐ needed ☐ obtained _____
- ☒ Have conflicts been addressed? ☒ NA ☐ No ☐ Yes _____
- ☒ IR Date 1/16/04 Public Notice Date 1/20/04 Comments received? ☒ No ☐ Yes _____

☒ SWW ☒ NA ☐ above ☐ within _____ If GW and interference, copy form for Stahr.

☒ DIV 9 ☒ NA ☐ will likely be available... ☐ will not likely be available... ☐ will, if properly conditioned...

well _____ has PSI with _____

GW conditions _____

☒ Conditions date: 20 yrs from permit issuance; w/ncp w/in 5 yrs (per fujii 1/7/08); odw: Rshd 33 & *special

☐ Small ≤ 0.1 CFS, ≤ 9.2 AF ☐ Medium > 0.1 CFS but < 1.5 CFS, > 9.2 AF but < 100 AF ☒ Large ≥ 1.5 CFS, ≥ 100 AF

☒ SW availability ☐ NA ☒ 80% ☐ 50% none-yr

☒ Allowed Use/Rate/Season mu, 1-Oct-yr Rate _____ Duty _____

☒ DIV 33 ☐ NA ☐ No ☐ above Bonneville, and ☐ not allowed 4/15 - 9/30 ☐ below Bonneville ☒ statewide

☒ Prior to permit, applicant must submit ☐ NA ☒ fees ☐ storage contract ☐ easement ☐ plans/specs ☐ evidence of well repair

☒ Changes from IR determinations app amend to 1.0 cfs 3/7/08

Copy to ☒ NWR ☐ ER ☒ WM # 1 ☒ CWRE # 175 ☐ _____
☐ NCR ☐ SWR ☐ agent ☐ affected landowner(s)

Fees	Base Fee	Water Amount (Q)
	\$150 / \$250	1 st CFS/AF
	\$300 / \$500	
		_____ Addl @ _____ + _____
	_____ + _____	_____ = _____
	(base)	(Q) (total exam fee)

EXAM FEE REQUIRED	<u>475</u>	RECORDING FEE REQUIRED	\$175 / \$250 / \$300 <u>9.0</u>
EXAM FEE PAID	<u>- 475</u>	RECORDING FEE PAID	<u>- 0</u>
STILL OWED	<u>0</u>	STILL OWED	<u>9.0</u>

Name: Jeana Eastman

Date: 3/17/10

Peer Reviewer: brook

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.

Jeana Eastman

From: Dave Stewart [dave.stewart@state.or.us]
Sent: Tuesday, March 02, 2010 10:14 AM
To: Jeana Eastman
Subject: RE: S-85745, Neskowin - flwup questions

Jeana,

I am sorry for the extended time on getting back to you on this one. ODFW does have concerns with the small reach below the new POD. Our main concerns deal specifically with maintaining sufficient flows for this reach and the Hawk Creek Fishway Project. ODFW would find the new POD acceptable if it maintains the required flow through the fishway as detailed in #2 below.

#1 Question: ODFW finds it acceptable that the instream transfer protect 1.0 CFS from Hawk Creek and 1.3 CFS from Butte Creek as originally detailed in ODFW's recommendations for Approval of New Water Right on Hawk Creek.

#2 Question: It is acceptable to ODFW that the POD for S-85745 is upstream from the instream water right reach as long as at least 1.0 CFS is maintained through the Hawk Creek Fishway Project. This is also detailed in ODFW's original recommendation that includes a trigger at 1.25 CFS to implement the curtailment plan.

Dave Stewart
Habitat Conservation Biologist
Oregon Dept. of Fish and Wildlife
4907 Third St.
Tillamook, OR 97141
(503) 842-2741
dave.stewart@state.or.us

From: Jeana Eastman [mailto:eastmajm@wrdd.state.or.us]
Sent: Thursday, January 14, 2010 8:03 AM
To: Ron Rehn
Cc: Dave Stewart
Subject: RE: S-85745, Neskowin - flwup questions

Thanks for letting me know Ron.

Dave - I look forward to working with you.

Jeana Eastman
Water Rights Caseworker
voice 503.986.0859

Oregon Water Resources Dept
725 Summer St NE, Suite A

3/16/2010

Salem, OR 97301-1266
front desk 503.986.0900
fax 503.986.0901
<http://oregon.gov/OWRD>

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

From: Ron Rehn [mailto:ron.f.rehn@state.or.us]
Sent: Thursday, January 14, 2010 8:01 AM
To: Jeana Eastman
Cc: Dave Stewart
Subject: RE: S-85745, Neskowin - flwup questions

Hi Jeana,

I'm in a new position now, but I'll with our new Habitat Conservation Biologist (Dave Stewart) to get back to you on this. Ron

From: Jeana Eastman [mailto:eastmajm@wrdd.state.or.us]
Sent: Monday, January 11, 2010 1:49 PM
To: Ron Rehn
Subject: S-85745, Neskowin - flwup questions

Hi Ron -

You may recall in August '08 you sent recommendations (see attachment) for a pending application for Neskowin Regional Water District. In continuing our work on their application for permit and their instream water right transfer (for mitigation), we've discovered a couple things we wanted to touch base on before proceeding.

First I wanted to let you know Neskowin reduced the amount of water they're requesting; 1.0 CFS down from 2.0 CFS.

Previously ODFW requested the entire 2.3 CFS being transferred instream be protected at least to Neskowin Creek. However, OWRD can only protect the amount of water that we can measure, which is 1.3 CFS to Neskowin Creek. The local watermaster has indicated there is a significant amount of water in the lower reaches of Butte Creek and Hawk Creek, and he is unable to say that with the abundance of water, that the entire 2.3 CFS is measurable. However, 1.3 CFS is measurable and can be protected instream.

#1 Question: is it acceptable/sufficient to ODFW that the instream transfer protect 1.0 CFS from the unnamed streams down into Hawk Creek and to the mouth of Hawk Creek (green highlighted area on map), and protect 1.3 CFS from the unnamed stream into Butte Creek and to the mouth of Butte Creek (orange highlighted area on map)?

OWRD wants to confirm that ODFW is aware the point of diversion for the application for permit (pink dot on map), S-85745, is upstream from the instream water right reach (green highlight) on Hawk Creek. We want to ensure ODFW does not have concerns about this small reach of Hawk Creek.

#2 Question: is it acceptable to ODFW that the POD for S-85745 is upstream from the instream

3/16/2010

water right reach?

If I can be of assistance, please contact me.

I really appreciate your help with this one Ron; generally new permits are not as complicated as this one but I do see light at the end of the tunnel.

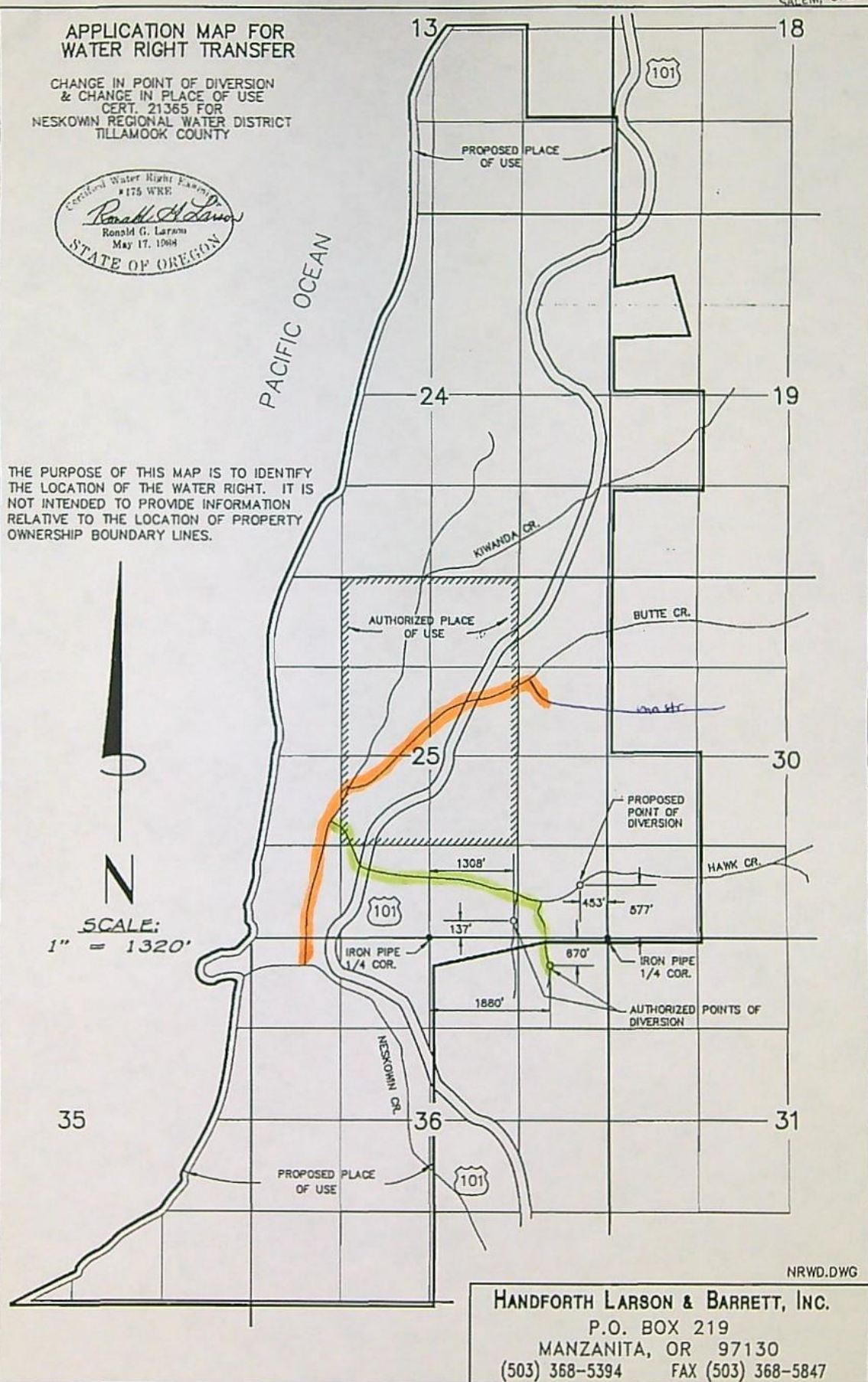
Jeana Eastman
Water Rights Caseworker
voice 503.986.0859

Oregon Water Resources Dept
725 Summer St NE, Suite A
Salem, OR 97301-1266
front desk 503.986.0900
fax 503.986.0901
<http://oregon.gov/OWRD>

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3/16/2010

WATER RESOURCES DEPT.
SALEM, OREGON



(503) 368-5394 FAX (503) 368-5847

BEFORE THE WATER RESOURCES DEPARTMENT
OF THE
STATE OF OREGON

In the Matter of Instream Transfer
Application T-7054, Tillamook County

) **D R A F T**
)
) PRELIMINARY DETERMINATION
) PROPOSING APPROVAL OF A
) CHANGE IN PLACE OF USE AND
) CHARACTER OF USE

Authority

ORS 540.505 to 540.580 establishes the process in which a water right holder may submit a request to transfer the point of diversion, place of use, or character of use authorized under an existing water right. OAR Chapter 690, Division 380 implements the statutes and provides the Department's procedures and criteria for evaluating transfer applications. OAR Chapter 690, Division 077 provides additional criteria for evaluating transfers to instream water rights.

Applicant

NESKOWIN REGIONAL WATER DISTRICT
PO BOX 823
NESKOWIN, OR 97149

Findings of Fact

Background

1. On November 1, 1993, Neskowin Regional Water District filed an application to change the place of use (to expand the service district boundary for Neskowin) and point of diversion under Certificate 21365. The Department assigned the application number T-7054.
2. On March 7, 2008, the applicant requested to amend the application and submitted revised application materials. The amended application proposes to change the place of use and character of use under Certificates 21365 and 21373 to instream use.
3. The first right to be transferred is as follows:

Certificate: 21365 in the name of JAMES J. WALTON (perfected under Permit S-6132)

Use: MUNICIPAL USE

Priority Date: AUGUST 26, 1920

Rate: 1.0 CUBIC FOOT PER SECOND (CFS)

Source: TWO UNNAMED STREAMS, tributary to HAWK CREEK

Authorized Points of Diversion:

Twsp	Rng	Mer	Sec	Q-Q	Measured Distances
5 S	11 W	WM	25	SW SE	Unspecified in Certificate

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
5 S	11 W	WM	36	NE NE	Unspecified in Certificate

Authorized Place of Use:

Twp	Rng	Mer	Sec	Q-Q
5 S	11 W	WM	25	NW NE
5 S	11 W	WM	25	SW NE
5 S	11 W	WM	25	NE NW
5 S	11 W	WM	25	SE NW
5 S	11 W	WM	25	NE SW
5 S	11 W	WM	25	NW SE

4. The second right to be transferred is as follows:

Certificate: 21373 in the name of JAMES J. WALTON (perfected under Permit S-16092)

Use: MUNICIPAL USE

Priority Date: DECEMBER 7, 1944

Rate: 1.3 CFS

Source: UNNAMED STREAM, tributary to BUTTE CREEK

Authorized Point of Diversion:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
5 S	11 W	WM	25	SE NE	Unspecified in Certificate

Authorized Place of Use:

Twp	Rng	Mer	Sec	Q-Q
5 S	11 W	WM	25	NW NE
5 S	11 W	WM	25	SW NE
5 S	11 W	WM	25	NE NW
5 S	11 W	WM	25	SE NW
5 S	11 W	WM	25	NE SW
5 S	11 W	WM	25	NW SE

5. The measured distances for the point of diversion are not specified in the certificate. However, there is additional information in the application file that identifies the location of the points of diversion as follows:

Points of Diversion for Certificate 21365:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
5 S	11 W	WM	36	NE NE	UNNAMED STREAM #1: 1880 FEET EAST AND 670 FEET SOUTH FROM N ¼ CORNER OF SECTION 36
5 S	11 W	WM	25	SW SE	UNNAMED STREAM #2: 1308 FEET EAST AND 137 FEET NORTH FROM THE S ¼ CORNER OF SECTION 25

Point of Diversion for Certificate 21373:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
5 S	11 W	WM	25	SE NE	450 FEET WEST AND 1650 FEET SOUTH FROM THE NE CORNER OF SECTION 25

6. Application T-7054 proposes to change the character of use to instream use for conservation, maintenance and enhancement of aquatic and fish life, wildlife, fish and wildlife habitat and other ecological values.
7. The applicant proposes to change the place of use to create an instream use as follows:

Certificate 21365

Instream Reach: From the authorized POD's to confluence with Hawk Creek and into Hawk Creek to confluence with Butte Creek and to the mouth of Butte Creek

Instream Period	Rate (cfs)	Volume (acre-feet)
January 1 – December 31	1.0 CFS	723.79

Certificate 21373

Instream Reach: From the authorized POD to confluence with Butte Creek and into Butte Creek to the mouth of Butte Creek

Instream Period	Rate (cfs)	Volume (acre-feet)
January 1 – December 31	1.3 CFS	941.16

8. The applicant proposes that any instream water right established as a result of this instream transfer be additive to any existing instream water rights for the same reach established pursuant to ORS 537.348 (instream transfer process) and ORS 537.470 (allocation of conserved water process). The applicant also proposes that any instream water right established as a result of this instream transfer replace a portion of any existing instream rights established pursuant to ORS 537.346 (minimum streamflow conversion) and ORS 537.341 (state agency instream application process), with an earlier priority date.
9. Notice of the application for transfer was originally published on November 10, 1993. No comments were filed in response to the notice.
10. Notice of the application for transfer as an instream transfer was published on November 3, 2009, pursuant to OAR 690-380-4000. No comments were filed in response to the notice.
11. Consistent with land use requirements, the Department provided notice of the instream transfer application to Tillamook County on October 30, 2009.
12. On _____, 2009, the Department mailed a copy of the draft Preliminary Determination proposing to approve Transfer Application T-7054 to the applicant. The cover letter to the draft Preliminary Determination set forth a deadline of _____, 2009, for the applicant to respond. The applicants concurred with the findings of the draft Preliminary Determination on _____, 2009, and requested that the Department proceed with issuance of a Preliminary Determination.

Instream Transfer Review Criteria (OAR 690-77-0075 and 690-380-4010)

13. The applicant has submitted an affidavit asserting that the water rights are not subject to forfeiture under ORS 540.610.
14. It appears that a diversion structure and pipeline sufficient to use the full amount of water allowed under the existing rights may not have been present within the five-year period prior to submittal of Application T-7054. However, the information in the record is not sufficient to initiate cancellation proceedings under ORS 540.631.
15. The applicant has proposed to protect water instream beyond the source streams and into downstream tributaries. Generally, an instream use may be protected from the POD to the mouth of the source stream. However, the instream use may be protected further downstream and into a tributary (receiving stream) if the amount (rate) of the instream use is measurable into the receiving stream.
16. The instream reach proposed by the applicant for Certificate 21365 requires modification. The amount (1.0 CFS) of the proposed instream use beginning in the two Unnamed Streams is measurable into Hawk Creek but is not measurable into Butte Creek. The reach for the instream use may extend to the mouth of Hawk Creek but not into Butte Creek.
17. The instream reach proposed by the application for Certificate 21373 may be protected to the mouth of Butte Creek. The amount (1.3 CFS) of the proposed instream use beginning in the Unnamed Stream is measurable into Butte Creek.
18. Certificate 21365 allows the use of 1.0 CFS from two unnamed streams but does not specify how much comes from each stream. The Department has identified that for the purpose of creating an instream use in each unnamed stream, the 1.0 CFS may be divided evenly between each stream.
19. Based on Findings of Fact #16 and #18, on _____, 2009, the applicants agreed to modify the proposed instream use as follows:

Certificate 21365

Instream Reach #1: From the POD on Unnamed Stream #1 (described in Finding of Fact #5) to confluence with Hawk Creek and into Hawk Creek to the confluence with Unnamed Stream #2

Instream Period	Rate (cfs)	Volume (acre-feet)
January 1 – December 31	0.5 CFS	361.98

Instream Reach #2: From the POD on Unnamed Stream #2 (described in Finding of Fact #5) to confluence with Hawk Creek

Instream Period	Rate (cfs)	Volume (acre-feet)
January 1 – December 31	0.5 CFS	361.98

Instream Reach #3: From the confluence of Hawk Creek and Unnamed Stream #2 to the mouth of Hawk Creek

Instream Period	Rate (cfs)	Volume (acre-feet)
January 1 – December 31	1.0 CFS	723.79

361.98 for each
0.5 cfs =

723.96 af

Certificate 21373

Instream Reach: From the POD (described in Finding of Fact #5) to c
Butte Creek and into Butte Creek to the mouth of Butte Creek

Instream Period	Rate (cfs)	Volume (acre-feet)
January 1 – December 31	1.3 CFS	941.16

20. The proposed change, as modified, would not result in enlargement of the rights.
21. The proposed change, as modified, would not result in injury to other water rights.
22. The amount and timing of the proposed instream flow is allowable within the limits and use of the original water right.
23. The protection of flows within the proposed reach, as modified in Finding of Fact #19, is appropriate, considering:
 - a) The instream water right begins at the recorded points of diversion;
 - b) The location of confluences with other streams downstream of the point of diversion;
 - c) There are no known areas of natural loss of streamflow to the river bed downstream from the point of diversion; and
 - d) Any return flows resulting from the exercise of the existing water right would re-enter the river downstream of the reach of the instream water rights.
24. Both Butte Creek and Hawk Creek are tidally influenced. Measurement of the instream use would not likely be possible at the mouth of each stream. However, for purposes of managing the instream use, measurement at a location above the area of tidal influence would be appropriate.
25. There are no existing instream water rights within the reach of the proposed instream water rights.
26. There are existing instream water rights on Neskowin Creek, which are not always met, for the purpose of supporting aquatic life and various fish life stages. Hawk and Butte Creeks are part of the Neskowin Creek watershed. In addition, Neskowin Creek is a high priority watershed for flow restoration for fish habitat.

Instream Reach #3: From the confluence of Hawk Creek and Unnamed Stream #2 to the mouth of Hawk Creek

Instream Period	Rate (cfs)	Volume (acre-feet)
January 1 – December 31	1.0 CFS	723.79

Certificate 21373

Instream Reach: From the POD (described in Finding of Fact #5) to confluence with Butte Creek and into Butte Creek to the mouth of Butte Creek

Instream Period	Rate (cfs)	Volume (acre-feet)
January 1 – December 31	1.3 CFS	941.16

20. The proposed change, as modified, would not result in enlargement of the rights.
21. The proposed change, as modified, would not result in injury to other water rights.
22. The amount and timing of the proposed instream flow is allowable within the limits and use of the original water right.
23. The protection of flows within the proposed reach, as modified in Finding of Fact #19, is appropriate, considering:
 - a) The instream water right begins at the recorded points of diversion;
 - b) The location of confluences with other streams downstream of the point of diversion;
 - c) There are no known areas of natural loss of streamflow to the river bed downstream from the point of diversion; and
 - d) Any return flows resulting from the exercise of the existing water right would re-enter the river downstream of the reach of the instream water rights.
24. Both Butte Creek and Hawk Creek are tidally influenced. Measurement of the instream use would not likely be possible at the mouth of each stream. However, for purposes of managing the instream use, measurement at a location above the area of tidal influence would be appropriate.
25. There are no existing instream water rights within the reach of the proposed instream water rights.
26. There are existing instream water rights on Neskowin Creek, which are not always met, for the purpose of supporting aquatic life and various fish life stages. Hawk and Butte Creeks are part of the Neskowin Creek watershed. In addition, Neskowin Creek is a high priority watershed for flow restoration for fish habitat.

27. Therefore, by adding to other water instream rights that may be created in the future through an instream transfer or through the conserved water statutes, the proposed instream rights will provide protection for additional streamflows necessary for conservation, maintenance and enhancement of aquatic and fish life, fish and wildlife habitat and other ecological values.
28. In addition, by replacing a portion of any instream rights created in the future at the request of state agencies, which would have a priority date consistent with the date an application is filed, the proposed instream rights will provide protection for streamflows necessary for conservation, maintenance and enhancement of aquatic and fish life, fish and wildlife habitat and other ecological values under earlier priority dates.
29. The total monthly quantities of water to be protected under the existing and proposed instream rights in the reach/at the point will provide for a beneficial purpose and do not exceed the estimated average natural flow.

Determination and Proposed Action

The changes in character of use and place of use to instream use proposed in application T-7054 appear to be consistent with the requirements of ORS 540.505 to 540.580, ORS 537.348, OAR 690-380-5000, and OAR 690-077-0075. If protests are not filed pursuant to OAR 690-380-4030, the application will be approved.

If application T-7054 is approved, the final order will include the following:

1. *The changes in character of use and place of use to instream use proposed in application T-7054 are approved.*
2. *Water right certificates 21365 and 21373 are cancelled. New certificates confirming the instream water right shall be issued.*
3. *The instream water right shall provide for the protection of streamflows as follows:*

Certificate 21365

Instream Reach #1: From the POD on Unnamed Stream #1 (described in Finding of Fact #5) to confluence with Hawk Creek and into Hawk Creek to the confluence with Unnamed Stream #2

<i>Instream Period</i>	<i>Rate (cfs)</i>	<i>Volume (acre-feet)</i>
<i>January 1 – December 31</i>	<i>0.5 CFS</i>	<i>361.98</i>

Instream Reach #2: From the POD on Unnamed Stream #2 (described in Finding of Fact #5) to confluence with Hawk Creek

<i>Instream Period</i>	<i>Rate (cfs)</i>	<i>Volume (acre-feet)</i>
<i>January 1 – December 31</i>	<i>0.5 CFS</i>	<i>361.98</i>

Instream Reach #3: From the confluence of Hawk Creek and Unnamed Stream #2 to the mouth of Hawk Creek

<i>Instream Period</i>	<i>Rate (cfs)</i>	<i>Volume (acre-feet)</i>
<i>January 1 – December 31</i>	<i>1.0 CFS</i>	<i>723.79</i>

Certificate 21373

Instream Reach: From the POD (described in Finding of Fact #5) to confluence with Butte Creek and into Butte Creek to the mouth of Butte Creek

<i>Instream Period</i>	<i>Rate (cfs)</i>	<i>Volume (acre-feet)</i>
<i>January 1 – December 31</i>	<i>1.3 CFS</i>	<i>941.16</i>

4. *Protection of the instream use on Butte Creek and Hawk Creek shall be based on measurements above the area of tidal influence on each creek.*
5. *Water rights upstream of the original points of diversion shall not be subject to regulation for flows in excess of the quantities to which this instream water right is entitled at the original point of diversion.*
6. *The instream right established by this transfer shall replace a portion of instream water rights established pursuant to ORS 537.341 or 537.346 and be in addition to instream water rights established pursuant to ORS 537.348 or 537.470, unless otherwise identified in a subsequent order establishing a new instream water right under these statutes.*
7. *The right to the use of the water is restricted to beneficial use at the place of use described, and is subject to all other conditions and limitations contained in Certificates 21365 and 21373 and any related decree.*
8. *The former place of use of the transferred water shall no longer receive water as part of this right.*

Dated at Salem, Oregon this _____ day of _____ 2009.

D R A F T

Phillip C. Ward, Director

This draft Preliminary Determination was prepared by Laura Wilke. If you have questions about the information in this document, you may reach me at 503-986-0884 or Laura.K.Wilke@wrdd.state.or.us.

Jeana Eastman

From: Ron Rehn [Ron.F.Rehn@state.or.us]
Sent: Tuesday, August 05, 2008 9:52 AM
To: Jeana Eastman
Cc: Jill Zarnowitz; Greg Beaman; Chris Knutsen
Subject: RE: S-85745, Neskowin Regional Water District - what are the MOL flows ODFW recommends?
Attachments: ODFW Recs-Hawk Cr WR Revised 8-4-08.doc

Hi Jeana,

There were sections which caused some confusion and needed clarification particularly in the Conditions for Protection of the Fish Passage Facility in addition to Conditions for Mitigation for Impacts to the ISWRs, and some edits to the section on Discussion on Conditions for Protection of Flows at the Fish Passage Facility. After we had some feedback from the NRWD regarding some confusion with the document Jill and I went back through it to clarify. Shouldn't change what has been agreed upon just clarified. All other comments and Division 33 comments remain the same. Let me know if you have any questions and sorry for the inconvenience.

Thanks, Ron

From: Ron Rehn
Sent: Monday, July 21, 2008 3:54 PM
To: 'Jeana Eastman'
Cc: Jill Zarnowitz; Greg Beaman; Chris Knutsen
Subject: RE: S-85745, Neskowin Regional Water District - what are the MOL flows ODFW recommends?
Importance: High

Hi Jeana,

Attached is our revision to the August '07 recommendations, and the Division 33 comments. Division 33 comments were on hold while various scenarios and options were under consideration including the August 2007 recommendations from ODFW. Let me know if you have any questions.

Thanks, Ron

From: Jeana Eastman [mailto:eastmajm@wrđ.state.or.us]
Sent: Tuesday, May 13, 2008 11:50 AM
To: Ron Rehn
Subject: S-85745, Neskowin Regional Water District - what are the MOL flows ODFW recommends?

Hi Ron -

In August 2007 you emailed me ODFW's recommendations for approval of a new water right permit on Hawk Creek (Application S-85745, Neskowin Regional Water District). The District has chosen to pursue a slightly modified version of Option 2; they're planning to transfer the entirety of two certificates, for a total of 2.3 cubic feet per second (CFS) versus 1.1 CFS, to instream use to mitigate for and provide a net benefit for a new permit under S-85745.

In your recommendation, you included certain conditions to protect the fish passage facility, which were

5/4/2009

separate from conditions to protect the existing ISWR's on Neskowin Creek. These conditions referenced a minimum-operational level (MOL) which was "to be determined". Now that the applicant is proceeding with this option, I'm requesting the MOL figures from you so I can include this language as a condition in any permit that may be issued.

The conditions you recommended were:

- a) A minimum-operational level (MOL) or flow of ____ (to be determined) shall be maintained over the (sill notch/weir) on the Hawk Creek diversion/fishway at all times. This amount shall be protected in Hawk Creek from the NRWD POD to at least the mouth of Hawk Creek and must take precedence over the new NRWD water right. This can be accomplished in several ways described below.
- b) An approved Water Curtailment Plan shall be in place.
- c) A level or flow of ____ (to be determined) shall be set above this MOL to trigger implementation of the NRWD Water Curtailment Plan (this is a benchmark to use as a warning that the flow getting low and NRWD need to start conserving prior to reaching the MOL).

Please let me know if you have any questions.

I appreciate your help,

Jeana Eastman
Water Rights Caseworker
voice 503.986.0859

Oregon Water Resources Dept
725 Summer St NE, Suite A
Salem, OR 97301-1266
front desk 503.986.0900
fax 503.986.0901
<http://oregon.gov/OWRD>

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5/4/2009

8/5/08
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**ODFW Recommendations
For
Approval of New Water Right on Hawk Creek**

Background/Issues:

The Neskowin Regional Water District (NRWD) applied for a 2 cfs water right on Hawk Creek, and has existing water rights on the creek and Butte Creek. Hawk Creek is tributary to Butte Creek which is tributary to Neskowin Creek on which there is an instream water right (ISWR). WRD determined that no water was available year-round at the 80% exceedance level due to instream water rights on Neskowin Creek. WRD has been discussing possible options for the District. The option WRD posed to ODFW was if NRWD agreed to reduce the new right to 1 cfs, would this amount have a biological impact. There is water available for storage at the 50% exceedance level (see table below).

ODFW is collaborating with NRWD and the Tillamook Estuaries Partnership (TEP) on the design and construction of a fish passage facility at NRWD's existing water treatment plant on Hawk Creek. ODFW is concerned that the facility could be dewatered a portion of the year given the new water right or possibly even under existing conditions.

ODFW has two ISWR on Neskowin Creek. IS 71241 (2-13-1991) was certificated at the estimated average natural flow (EANF). Certificate 59652 is a minimum perennial stream flow (MPS) that was converted to an instream water right. Flows in the some spring months and summer months are higher than EANF (see table below).

WRD's question related to a biological impact on the ISWR has been answered by the flow levels of the ISWRs. ODFW can only apply for and WRD can only certificate an ISWR in the amount that fish need. IS 71241 was limited to the EANF, which were not the flows that ODFW applied for. When ODFW applied for IS 71241, it was to increase protection for instream flows in Neskowin Creek that WRD had reduced during the MPS process. IS 71241 is higher in the winter months than 59652, but the reverse is the case during the summer and fall.

Options to Mitigate for Impacts to the ISWRs if the NRWD water right application is reduced to 1 cfs:

1. As a condition of approval, instream water rights 59652 and IS 71241 on Neskowin Creek must be met plus 1 cfs above the ISWR flow levels before water may be diverted under this water right. The mitigation would be to avoid impact to the ISWR.

OR

2. As a condition of approval, NRWD may transfer 1.3cfs of its water right on Butte Creek (Water Right 21373) and 1.0 cfs of its water right on two unnamed tributaries to Hawk Creek (Water Right 21365) to the ISWR as mitigation for a new water right on Hawk Creek. This water must be protected and establish an ISWR on Butte Creek to the confluence with Neskowin Creek. NRWD must agree not to protest this transfer and to support the transfer publicly. The mitigation would be replacing the impact to ISWR flows and providing a net benefit.

superseded by 3/2/10 email - maths of butte & hawk is acceptable

These options provide mitigation for injury to ISWR on Neskowin Creek as WRD has determined the injury would occur as a result of this new right. The additional 1.3 cfs would provide the net benefit.

odfw's conditions

Discussion on Mitigation for Impacts to the ISWRs:

The habitat in Neskowin Creek is considered category 2 since it provides habitat for coho, steelhead and cutthroat trout for passage, rearing and spawning. Category 2 habitat requires no net loss of quantity and quality plus a net benefit to the resource. To ensure that the ISWR is protected, the only mitigation that protects flows for fish is quantity for quantity and quality for quality.

Option 1 prevents the impact to the ISWR from occurring from this junior water right application. To ensure the impact is prevented, the **NRWD would need to establish a means to measure the ISWR on Neskowin Creek to determine when they could take water using the new water right (this would not be required under option #2).** The ISWR would need to be 1 cfs over the certified flow levels for them to take the whole 1 cfs. If the ISWR is less than 1 cfs over the certified flow levels, no new water right water could be taken.

Option 2 provides in-kind mitigation plus a net benefit for the impact of removing 1 cfs from the ISWR. This replaces quantity for quantity. This option transfers 1.0 cfs of NRWD's water rights to the ISWR as mitigation for taking 1 cfs from the ISWR in Neskowin Cr. with the new water right on Hawk Creek. In this particular situation, the additional 1.3 cfs on Butte Creek would provide a net benefit.

Conditions for Mitigation for Impacts to the ISWRs:

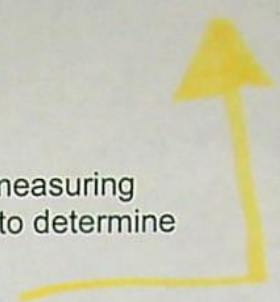
NRWD proposes the following condition to protect flows for the ISWR in Neskowin Creek:

- Prior to diversion of water under this right, NRWD will permanently transfer to the state of Oregon for instream use, 2.3 cfs of its water rights, which consist of two water rights totaling 1.0 cfs on two unnamed tributaries to Hawk Creek and 1.3 cfs on an unnamed tributary to Butte Creek in the Neskowin Creek drainage. NRWD will not protest this transfer and will support the transfer publicly. The flows from these water right transfers should be protected at least to Neskowin Creek, if not to the mouth of Neskowin Creek. The new instream water rights created by this transfer will take precedence over the new NRWD water right.

suggested by 3/2/10 email - mouths of butte & hawk is acceptable

Conditions for Protection of the Fish Passage Facility (separate from conditions needed to protect the existing ISWRs on Neskowin Creek):

- A minimum-operational level (MOL) or flow of 1 cfs shall be maintained over the (sill notch/weir) on the fishway at NRWD's Hawk Creek diversion at all times. This amount shall be protected in Hawk Creek from the NRWD POD to at least the mouth of Hawk Creek and must take precedence over the new NRWD water right. This can be accomplished in several ways described in the Discussion section that follows.
- An approved Water Curtailment Plan shall be in place.
- A level or flow of 0.25 cfs above this MOL shall be set to trigger implementation of the NRWD Water Curtailment Plan (this benchmark of 1.25 cfs is to use as a warning that the flow is getting low and NRWD needs to start conserving prior to reaching the MOL).

- Flow level must be measured at the top of the fishway with a continuous measuring device and recorded to ensure 1 cfs is protected through the fishway and to determine when to implement the Water Curtailment Plan.
- 

Discussion on Conditions for Protection of Flows at the Fish Passage Facility:

For the fish passage facility to be operational a MOL flow or water level must be maintained. Protecting this flow in the fish passage facility could be accomplished in several ways described below. As additional protection, this also could be part of ODFW's agreement on the fishway. This fish passage flow could provide part or all of the ISWR flow mitigation (depending on quantity) if it is protected downstream to Neskowin Creek from the NRWD POD and is senior to the new NRWD water right.

ODFW proposes one of the following for protection of flows for the fish passage facility:

1. Providing the MOL flow level or quantity to the fish passage facility would be a condition of the permit and carried to the certificate and would take precedence over the municipal use within this right (S-85745). This would also require a revision to the water right to allow for 2 cfs, one of which would be dedicated to instream for the fish passage facility. The fish passage portion part of the new NRWD water right application would be assigned to fish flows through the passage facility and would be released first before any water would be diverted under the new water right.
2. Jointly apply for a fish passage flow water right by ODFW and NRWD as we discussed. This would take precedence over the new NRWD water right.
3. ODFW apply for an instream water right that would take precedence over any new NRWD water right on Hawk Cr. and is fully supported (e.g. not protested) by NRWD through an agreement with ODFW (possibly part of a fish passage agreement).
4. NRWD could transfer one of its existing water rights in Hawk Creek to ODFW for the fish passage facility. Flow needed for the fish passage facility would be passed through the facility first before NRWD water is withdrawn. NRWD may want to do a feasibility study to determine if/when it can provide municipal supply while providing flow for the fishway.

Other Comments:

NRWD should also be made aware that there is water available for (off-stream) storage. ODFW supports off-stream storage because of the high value habitat in these creeks for coastal anadromous fish.

The only water rights on Neskowin Creek (surface or other) listed in the WRIS database are held by the Neskowin Regional Water District, are municipal or both. They are:

Water Right	5584	21365	21373	82654	Application 85745	Total Potential
Amount cfs	1.0	1.0	1.3	0.35	2.0	5.65
Priority date	1920/7/7	1920/8/26	1944/12/7	1955/12/1	2003/8/20	
Waterway	Unnamed Cr>Neskowin	Two Unnamed Crs > Hawk Cr	Unnamed Cr > Butte Cr	Hawk Cr	Hawk Cr	
Holder	S. Neskowin Water Co.	James Walton transf. To NRWD	James Walton transf. To NRWD	NRWD	NRWD	
Use	Municipal	Municipal	Municipal	Municipal	Municipal	

Month	IS 71241 (2/12/1991)	Cert. 59652 (MP43, 5/9/1973)	EANF	WARS 50%Exceed
Jan	113.00	90	126.00	12.50
Feb	113.00	90	119.00	5.47
Mar	111.00	90	113.00	1.47
Apr	55.00	60	56.30	-4.24
May	32.50	40	32.80	-7.79
Jun	22.50	20	21.90	-1.52
Jul	10.80	10	10.10	-1.96
Aug	5.83	10	5.28	-5.86
Sep	5.55	10	4.90	-5.86
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Nov	80.60	90	77.00	-13.50
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Stor-50% (AF)			42800	1560

1 cfs equals 1.98 AF/day equals 722.7 AF/year. According to WRD's water availability analysis, 1560 AF is available for storage from Neskowin Creek. This is more than a 2 cfs year round diversion. It is only available for storage during the winter months.

Jeana Eastman

From: Ron Rehn [Ron.F.Rehn@state.or.us]
Sent: Monday, July 21, 2008 3:54 PM
To: Jeana Eastman
Cc: Jill Zarnowitz; Greg Beaman; Chris Knutsen
Subject: RE: S-85745, Neskowin Regional Water District - what are the MOL flows ODFW recommends?
Importance: High
Attachments: ODFW Recommendations Hawk Cr Water Right Revised 7-21-08.doc; Div 33 comments S-85745.pdf

*Super Seded
see 8/5/08 email*

Hi Jeana,

Attached is our revision to the August '07 recommendations, and the Division 33 comments. Division 33 comments were on hold while various scenarios and options were under consideration including the August 2007 recommendations from ODFW. Let me know if you have any questions.

Thanks, Ron

From: Jeana Eastman [mailto:eastmajm@wrdd.state.or.us]
Sent: Tuesday, May 13, 2008 11:50 AM
To: Ron Rehn
Subject: S-85745, Neskowin Regional Water District - what are the MOL flows ODFW recommends?

Hi Ron -

In August 2007 you emailed me ODFW's recommendations for approval of a new water right permit on Hawk Creek (Application S-85745, Neskowin Regional Water District). The District has chosen to pursue a slightly modified version of Option 2; they're planning to transfer the entirety of two certificates, for a total of 2.3 cubic feet per second (CFS) versus 1.1 CFS, to instream use to mitigate for and provide a net benefit for a new permit under S-85745.

In your recommendation, you included certain conditions to protect the fish passage facility, which were separate from conditions to protect the existing ISWR's on Neskowin Creek. These conditions referenced a minimum-operational level (MOL) which was "to be determined". Now that the applicant is proceeding with this option, I'm requesting the MOL figures from you so I can include this language as a condition in any permit that may be issued.

The conditions you recommended were:

- a) A minimum-operational level (MOL) or flow of ____ (to be determined) shall be maintained over the (sill notch/weir) on the Hawk Creek diversion/fishway at all times. This amount shall be protected in Hawk Creek from the NRWD POD to at least the mouth of Hawk Creek and must take precedence over the new NRWD water right. This can be accomplished in several ways described below.
- b) An approved Water Curtailment Plan shall be in place.

5/4/2009

- c) A level or flow of ____ (to be determined) shall be set above this MOL to trigger implementation of the NRWD Water Curtailment Plan (this is a benchmark to use as a warning that the flow getting low and NRWD need to start conserving prior to reaching the MOL).

Please let me know if you have any questions.

I appreciate your help,

Jeana Eastman
Water Rights Caseworker
voice 503.986.0859

Oregon Water Resources Dept
725 Summer St NE, Suite A
Salem, OR 97301-1266
front desk 503.986.0900
fax 503.986.0901
<http://oregon.gov/OWRD>

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

5/4/2009

7/21/08
email

**ODFW Recommendations
For
Approval of New Water Right on Hawk Creek**

*superseded
see 8/5/08 email*

Background/Issues:

The Neskowin Regional Water District (NRWD) wants a 2 cfs water right on Hawk Creek, in addition to existing water rights on the creek and Butte Creek. Hawk Creek is tributary to Butte Creek which is tributary to Neskowin Creek on which there is an instream water right (ISWR). ODFW is collaborating with NRW and the Tillamook Estuaries Partnership (TEP) on the design and construction of a fish passage facility at NRW's existing water treatment plant on Hawk Creek. There is concern that the facility could be dewatered a portion of the year given the new water right or possibly even under existing conditions. WRD determined that no water was available year-round at the 80% exceedance level due to instream water rights on Neskowin Creek. WRD has been discussing possible options for the District. The option WRD posed to ODFW was if NRW agreed to reduce the new right to 1 cfs, would this amount have a biological impact. There is water available for storage at the 50% exceedance level (see table below).

ODFW has two ISWR on Neskowin Cr. IS 71241 (2-13-1991) was certificated at the estimated average natural flow (EANF). Certificate 59652 is a minimum perennial stream flow (MPS) that was converted to an instream water right. Flows in the some spring months and summer months are higher than EANF (see table below).

WRD's question related to a biological impact on the ISWR has been answered by the flow levels of the ISWRs. ODFW can only apply for and WRD can only certificate an ISWR in the amount that fish need. IS 71241 was limited to the EANF, which were not the flows that ODFW applied for. When ODFW applied for IS 71241, it was to increase protection for instream flows in Neskowin Creek that WRD had reduced during the MPS process. IS 71241 is higher in the winter months than 59652, but the reverse is the case during the summer and fall.

Options to Mitigate for Impacts to the ISWRs if the NRW water right application is reduced to 1 cfs:

1. As a condition of approval, instream water rights 59652 and IS 71241 on Neskowin Creek must be met plus 1 cfs above the ISWR flow levels before water may be diverted under this water right. The mitigation would be to avoid impact to the ISWR.

OR

2. As a condition of approval, NRW may transfer 1.3cfs of its water right on Butte Creek (Water Right 21373) and 1.0 cfs of its water right on two unnamed tributaries to Hawk Creek (Water Right 21365) to the ISWR as mitigation for a new water right on Hawk Creek. This water must be protected and establish an ISWR on Butte Creek to the confluence with Neskowin Creek. NRW must agree not to protest this transfer and to support the transfer publicly. The mitigation would be replacing the impact to ISWR flows and providing a net benefit.

These options provide mitigation for injury to ISWR on Neskowin Creek as WRD has determined the injury would occur as a result of this new right. The additional 0.1 cfs would provide the net benefit.

Discussion on Mitigation for Impacts to the ISWRs:

The habitat in Neskowin Creek is considered category 2 since it provides habitat for coho, steelhead and cutthroat trout for passage, rearing and spawning. Category 2 habitat requires no net loss of quantity and quality plus a net benefit to the resource. To ensure that the ISWR is protected, the only mitigation that protects flows for fish is quantity for quantity and quality for quality.

Option 1 prevents the impact to the ISWR from occurring from this junior water right application. To ensure the impact is prevented, the **NRWD would need to establish a means to measure the ISWR on Neskowin Creek to determine when they could take water using the new water right (this would not be required under option #2).** The ISWR would need to be 1 cfs over the certified flow levels for them to take the whole 1 cfs. If the ISWR is less than 1 cfs over the certified flow levels, no new water right water could be taken.

Option 2 provides in-kind mitigation plus a net benefit for the impact of removing 1 cfs from the ISWR. This replaces quantity for quantity. This option transfers 1.1 cfs of NRWD's water rights (for instance on Butte Cr.) to the ISWR as mitigation for taking 1 cfs from the ISWR in Neskowin Cr. with the new water right on Hawk Cr. In this particular situation, the additional 0.1 cfs would provide a net benefit.

Conditions for Protection of the Fish Passage Facility (separate from conditions needed to protect the existing ISWRs on Neskowin Creek):

- A minimum-operational level (MOL) or flow of 1 cfs shall be maintained over the (sill notch/weir) on the Hawk Creek diversion/fishway at all times. This amount shall be protected in Hawk Creek from the NRWD POD to at least the mouth of Hawk Creek and must take precedence over the new NRWD water right. This can be accomplished in several ways described below.
- An approved Water Curtailment Plan shall be in place.
- A level or flow of 1.25 cfs shall be set above this MOL to trigger implementation of the NRWD Water Curtailment Plan (this is a benchmark to use as a warning that the flow getting low and NRWD needs to start conserving prior to reaching the MOL).

Discussion on Conditions for Protection of the Fish Passage Facility:

For the fish passage facility to be operational a MOL flow or water level must be maintained. Protecting this flow in the fish passage facility could be accomplished in several ways described below. As additional protection, this also could be part of ODFW's agreement on the fishway. This fish passage flow could provide part or all of the ISWR flow mitigation (depending on quantity) if it is protected downstream to Neskowin Creek from the NRWD POD and is senior to the new NRWD water right.

ODFW proposes one of the following for protection of flows for the fish passage facility:

1. Providing the MOL flow level or quantity to the fish passage facility would be a condition of the permit and carried to the certificate and be senior to the remaining flow within this right (S-85745).

2. Part of the new NRWD water right application would be assigned to fish flows through the passage facility and would be released first before any water would be diverted under the new water right. (This would be a defined use within the water right, not a condition.)
3. Jointly apply for a fish passage flow water right by ODFW and NRWD as we discussed. This would take precedence over the new NRWD water right.
4. ODFW apply for an instream water right that would take precedence over any new NRWD water right on Hawk Cr. and is fully supported (e.g. not protested) by NRWD through an agreement with ODFW (possibly part of a fish passage agreement).
5. NRWD could transfer one of its existing water rights in Hawk Creek to ODFW for the fish passage facility. Flow needed for the fish passage facility would be passed through the facility first before NRWD water is withdrawn. NRWD may want to do a feasibility study to determine if/when it can provide municipal supply while providing flow for the fishway.

If the flow for the fish passage facility can be protected (by an instream or other water right) to Neskowin Creek, the amount can be applied to mitigation for the ISWR. Any ISWR flow mitigation not met would need to be provided by other water rights transferred to the ISWR.

Other Comments:

NRWD should also be made aware that there is water available for (off-stream) storage. ODFW supports off-stream storage because of the high value habitat in these creeks for coastal anadromous fish.

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.

Date: 1/16/2004 Please return to WRD before February 19, 2004. Application #: S-85745

Applicant's Name: NESKOWIN REGIONAL WATER DISTRICT GUY HOLZWORTH

Source: HAWK CREEK, A TRIBUTARY OF BUTTE CREEK

1) Will the proposed use occur in an area that may affect the essential habitat of sensitive, threatened, or endangered fish species? [690-33-330(1)] Coho - Federally listed as threatened
Chum, Steelhead, cutthroat - State sensitive list

NO / YES Species: _____ Status: Sensitive, Threatened, Endangered

If so, continue to question (2) below. If not, you may comment by completing the public interest review sheet on the back of this page.

2) What stage or value is at risk (circle all that apply): Spawning, Incubation, Rearing, Passage, Habitat Value

3) 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)(b)]

B) Standard of LOSS applies to T or E species outside the Columbia Basin. [690-33-330(2)(a)]

4) Can conditions be applied to mitigate the impact to the essential habitat of a S, T or E species?

NO / YES If so, skip to question 7.

Which conditions are recommended? fish div 33. In addition to
attached conditions

(Try to select conditions from the Menu of Conditions)

5) 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: _____

6) If WRD determines that it is in the public's interest to approve a permit even if the impact cannot be mitigated what fish screening, bypass or other conditions should be included in the permit?

Same as #4

7) Your recommendation under OAR 690-033-0330 (2): Approval with conditions

Approval without conditions _____

Denial _____

ODFW Representative signature: [Signature] Date: 7-16-08

WRD Contact: Caseworker: Jeana Eastman, Water Rights Division

503-986-0859/ Fax: 503-986-0901 / e-mail: Jeana.M.EASTMAN@wrdd.state.or.us

Current as of November 2, 2006

requests
add to div 33 - "fish div 33"

ODFW PUBLIC INTEREST REVIEW SHEET

Page 2

Application #: S-85745 Applicant's Name: NESKOWIN REGIONAL WATER DISTRICT GUY HOLZWORTH

1) Will the proposed use occur in an area that may affect the habitat of fish or wildlife species?

NO (Sign form and return) / ☒ YES Species: Coho, chum, steelhead & cutthroat
Other: _____

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 of habitat? NO / ☒ YES

3) Can conditions be applied to mitigate the impact to the loss of habitat? NO / ☒ YES

Which conditions are recommended? fish div 33. In addition to
attached conditions

(Try to select conditions from the Menu of Conditions)

4) If conditions cannot be identified to offset impacts to the habitat, would the proposed use harm the species?

NO / ☒ YES

If YES, please explain:

Failure to implement recommended conditions could adversely
impact fishery resources due to lack of adequate instream
flows resulting in loss of rearing, migration, and spawning
habitat.

5) If WRD determines that it is in the public's interest to approve a permit even if the impact cannot be mitigated what fish screening, bypass or other conditions should be included in the permit?

same as #3

6) Your recommendation: ☒ Approval with conditions

☐ Approval without conditions

☐ Denial

ODFW Representative signature: RJR

Date: 7-16-08

WRD Contact: Caseworker: Jeana Eastman, Water Rights Division

503-986-0859/ Fax: 503-986-0901 / e-mail: Jeana.M.EASTMAN@wrdd.state.or.us

Current as of November 2, 2006

Jeana Eastman

From: Jeana Eastman
Sent: Monday, April 23, 2007 1:00 PM
To: 'timothy.WALLIN@ wrd.state.or.us'
Subject: FW: evaluation of Neskowin Regional Water District application, S-85745

From: Jeana Eastman [mailto:Jeana.M.Eastman@state.or.us]
Sent: Friday, March 30, 2007 9:44 AM
To: KNUTSEN Chris J
Subject: evaluation of Neskowin Regional Water District application, S-85745

Hi Chris,

I'm working on an application for Neskowin Regional Water District and am requesting your help in its evaluation.

The application proposes 2.0 cubic feet per second of water from Hawk Creek, a tributary of Butte Creek, in the SESE, Section 25, 5 South, 11 West, for year-round municipal use.

The Department determined surface water is not available at any time of year due to instream water rights on Neskowin Creek.

We have been discussing possible options for the District.

From the attached pictures of the mouths of Hawk Creek and Neskowin Creek, it appears Hawk Creek enters Neskowin Creek pretty close to the ocean.

QUESTION: We are wondering how important the freshwater connectivity is at low-tide. Would restricting the flows in Neskowin Creek at low-tide have a biological impact? What if the applicant reduced their proposed rate to 1.0 CFS?; would that amount have a biological impact?

It seems this would also be a good time to solicit any Division 33-related comments you may have. I attached the Initial Review, application map, Division 33 form, and North Coast Basin Map.

If you have questions, please let me know.
I appreciate your feedback.

Have a nice weekend,
-jeana

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Jeana Eastman										Oregon Water Resources Dept.
Water Rights Caseworker										725 Summer St NE, Suite A
Water Rights Section										Salem, OR 97301-1266
Direct 503-986-0859										Front Desk 503-986-0900
Fax 503-986-0901										http://oregon.gov/OWRD/

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8/30/2007

S-85745

Jeana Eastman

From: Ron Rehn [Ron.F.Rehn@state.or.us]
Sent: Monday, August 20, 2007 2:20 PM
To: Jeana Eastman; Jill Zarnowitz; Greg Beaman
Subject: Clarification to Hawk Creek water right app.
Attachments: ODFW Recommendations Hawk Cr Water Right Request 2.doc

*S. persuaded
by
8/5/08
email*

To All,

Note changes for clarification to option #2. Let me know if you have any questions. Ron

Ron Rehn
Habitat Conservation Biologist
Oregon Dept. Fish & Wildlife
4907 East Third St.
Tillamook, OR. 97141
(503) 842-2741 ext. 252 (phone)
(503) 842-8385 (fax)
ron.f.rehn@state.or.us (e-mail)

8/20/2007

**ODFW Recommendations
For
Approval of New Water Right on Hawk Creek**

Background/Issues:

The Neskowin Regional Water District (NRWD) wants a 2 cfs water right on Hawk Creek, in addition to existing water rights on the creek and Butte Creek. Hawk Creek is tributary to Butte Creek which is tributary to Neskowin Creek on which there is an instream water right (ISWR). ODFW is collaborating with NRW and the Tillamook Estuaries Partnership (TEP) on the design and construction of a fish passage facility at NRWD's existing water treatment plant on Hawk Creek. There is concern that the facility could be dewatered a portion of the year given the new water right or possibly even under existing conditions. WRD determined that no water was available year-round at the 80% exceedance level due to instream water rights on Neskowin Creek. WRD has been discussing possible options for the District. The option WRD posed to ODFW was if NRW agreed to reduce the new right to 1 cfs, would this amount have a biological impact. There is water available for storage at the 50% exceedance level (see table below).

ODFW has two ISWR on Neskowin Cr. IS 71241 (2-13-1991) was certificated at the estimated average natural flow (EANF). Certificate 59652 is a minimum perennial stream flow (MPS) that was converted to an instream water right. Flows in the some spring months and summer months are higher than EANF (see table below).

WRD's question related to a biological impact on the ISWR has been answered by the flow levels of the ISWRs. ODFW can only apply for and WRD can only certificate an ISWR in the amount that fish need. IS 71241 was limited to the EANF, which were not the flows that ODFW applied for. When ODFW applied for IS 71241, it was to increase protection for instream flows in Neskowin Creek that WRD had reduced during the MPS process. IS 71241 is higher in the winter months than 59652, but the reverse is the case during the summer and fall.

Options to Mitigate for Impacts to the ISWRs if the NRW water right application is reduced to 1 cfs:

1. As a condition of approval, instream water rights 59652 and IS 71241 on Neskowin Creek must be met plus 1 cfs above the ISWR flow levels before water may be diverted under this water right. The mitigation would be to avoid impact to the ISWR.

OR

2. As a condition of approval, NRW may transfer 1.1 cfs of its water right on Butte Creek (or another tributary to Neskowin Creek on which NRW has existing water rights) to the ISWR as mitigation for a new water right on Hawk Creek. This water must be protected and establish an ISWR on Butte Creek to the confluence with, of Neskowin Creek. NRW must agree not to protest this transfer and to support the transfer publicly. The mitigation would be replacing the impact to ISWR flows and providing a net benefit.

Deleted: mouth

These options provide mitigation for injury to ISWR on Neskowin Creek as WRD has determined the injury would occur as a result of this new right. The additional 0.1 cfs would provide the net benefit.

Discussion on Mitigation for Impacts to the ISWRs:

The habitat in Neskowin Creek is considered category 2 since it provides habitat for coho, steelhead and cutthroat trout for passage, rearing and spawning. Category 2 habitat requires no net loss of quantity and quality plus a net benefit to the resource. To ensure that the ISWR is protected, the only mitigation that protects flows for fish is quantity for quantity and quality for quality.

Option 1 prevents the impact to the ISWR from occurring from this junior water right application. To ensure the impact is prevented, the NRWD would need to establish a means to measure the ISWR on Neskowin Creek to determine when they could take water using the new water right (this would not be required under option #2). The ISWR would need to be 1 cfs over the certified flow levels for them to take the whole 1 cfs. If the ISWR is less than 1 cfs over the certified flow levels, no new water right water could be taken.

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Conditions for Protection of the Fish Passage Facility (separate from conditions needed to protect the existing ISWRs on Neskowin Creek):

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1. Providing the MOL flow level or quantity to the fish passage facility would be a condition of the permit and carried to the certificate and be senior to the remaining flow within this right (S-85745).

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3. Jointly apply for a fish passage flow water right by ODFW and NRWD as we discussed. This would take precedence over the new NRWD water right.
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If the flow for the fish passage facility can be protected (by an instream or other water right) to Neskowin Creek, the amount can be applied to mitigation for the ISWR. Any ISWR flow mitigation not met would need to be provided by other water rights transferred to the ISWR.

Other Comments:

NRWD should also be made aware that there is water available for (off-stream) storage. ODFW supports off-stream storage because of the high value habitat in these creeks for coastal anadromous fish.

The only water rights on Neskowin Creek (surface or other) listed in the WRIS database are held by the Neskowin Regional Water District, are municipal or both. They are:

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Priority date	1920/7/7	1920/8/26	1944/12/7	1955/12/1	2003/8/20	
Waterway	Unnamed Cr>Neskowin	Two Unnamed Crs > Hawk Cr	Unnamed Cr > Butte Cr	Hawk Cr	Hawk Cr	
Holder	S. Neskowin Water Co.	James Walton transf. To NRWD	James Walton transf. To NRWD	NRWD	NRWD	
Use	Municipal	Municipal	Municipal	Municipal	Municipal	

Month	IS 71241 (2/12/1991)	Cert. 59652 (MP43, 5/9/1973)	EANF	WARS 50%Exceed
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Mar	111.00	90	113.00	1.47
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Jul	10.80	10	10.10	-1.96
Aug	5.83	10	5.28	-5.86
Sep	5.55	10	4.90	-5.86
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Stor-50% (AF)			42800	1560

1 cfs equals 1.98 AF/day equals 722.7 AF/year. According to WRD's water availability analysis, 1560 AF is available for storage from Neskowin Creek. This is more than a 2 cfs year round diversion. It is only available for storage during the winter months.

Jeana Eastman

From: Ron Rehn [Ron.F.Rehn@state.or.us]
Sent: Tuesday, May 22, 2007 8:46 AM
To: Jeana Eastman; Guy Holzworth
Cc: Jill Zarnowitz; Keith Braun
Subject: FW: evaluation of Neskowin Regional Water District application, S-85745
Attachments: ODFW Recommendations Hawk Cr Water Right Request.doc

Superseded
8/5/08
em

Jeana & Guy,

Sorry this took a while, but we had to work through several issues on this. The attached document is ODFW's response to your question, and our recommendations for the protection of fishery resources related to application S-85745. Also included are conditions related to a fish passage structure currently under design which will be installed at the water plant. Let me know if you have any questions.

Thanks, Ron

From: Chris Knutsen
Sent: Tuesday, April 03, 2007 9:05 AM
To: Ron Rehn
Subject: FW: evaluation of Neskowin Regional Water District application, S-85745

Did I send this to you????

From: Jeana Eastman [mailto:Jeana.M.Eastman@state.or.us]
Sent: Friday, March 30, 2007 9:44 AM
To: KNUTSEN Chris J
Subject: evaluation of Neskowin Regional Water District application, S-85745

Hi Chris,

I'm working on an application for Neskowin Regional Water District and am requesting your help in its evaluation.

The application proposes 2.0 cubic feet per second of water from Hawk Creek, a tributary of Butte Creek, in the SESE, Section 25, 5 South, 11 West, for year-round municipal use.

The Department determined surface water is not available at any time of year due to instream water rights on Neskowin Creek.

We have been discussing possible options for the District.

From the attached pictures of the mouths of Hawk Creek and Neskowin Creek, it appears Hawk Creek enters Neskowin Creek pretty close to the ocean.

QUESTION: We are wondering how important the freshwater connectivity is at low-tide. Would restricting the flows in Neskowin Creek at low-tide have a biological impact? What if the applicant reduced their proposed rate to 1.0 CFS?; would that amount have a biological impact?

It seems this would also be a good time to solicit any Division 33-related comments you may have. I attached the Initial Review, application map, Division 33 form, and North Coast Basin Map.

If you have questions, please let me know.

5/22/2007

I appreciate your feedback.

Have a nice weekend,
-jeana

<> <> <> <> <> <> <> <> <> <> <>
Jeana Eastman Oregon Water Resources Dept.
Water Rights Caseworker 725 Summer St NE, Suite A
Water Rights Section Salem, OR 97301-1266
Direct 503-986-0859 Front Desk 503-986-0900
Fax 503-986-0901 <http://oregon.gov/OWRD/>

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

5/22/2007

*superceded
see email
attachment
dated
8/5/08*

**ODFW Recommendations
For
Approval of New Water Right on Hawk Creek**

Background/Issues:

The Neskowin Regional Water District (NRWD) wants a 2 cfs water right on Hawk Creek, in addition to existing water rights on the creek and Butte Creek. Hawk Creek is tributary to Butte Creek which is tributary to Neskowin Creek on which there is an instream water right (ISWR). ODFW is collaborating with NRW and the Tillamook Estuaries Partnership (TEP) on the design and construction of a fish passage facility at NRW's existing water treatment plant on Hawk Creek. There is concern that the facility could be dewatered a portion of the year given the new water right or possibly even under existing conditions. WRD determined that no water was available year-round at the 80% exceedance level due to instream water rights on Neskowin Creek. WRD has been discussing possible options for the District. The option WRD posed to ODFW was if NRW agreed to reduce the new right to 1 cfs, would this amount have a biological impact. There is water available for storage at the 50% exceedance level (see table below).

ODFW has two ISWR on Neskowin Cr. IS 71241 (2-13-1991) was certificated at the estimated average natural flow (EANF). Certificate 59652 is a minimum perennial stream flow (MPS) that was converted to an instream water right. Flows in the some spring months and summer months are higher than EANF (see table below).

WRD's question related to a biological impact on the ISWR has been answered by the flow levels of the ISWRs. ODFW can only apply for and WRD can only certificate an ISWR in the amount that fish need. IS 71241 was limited to the EANF, which were not the flows that ODFW applied for. When ODFW applied for IS 71241, it was to increase protection for instream flows in Neskowin Creek that WRD had reduced during the MPS process. IS 71241 is higher in the winter months than 59652, but the reverse is the case during the summer and fall.

Options to Mitigate for Impacts to the ISWRs if the NRW water right application is reduced to 1 cfs:

1. As a condition of approval, instream water rights 59652 and IS 71241 on Neskowin Creek must be met plus 1 cfs above the ISWR flow levels before water may be diverted under this water right. The mitigation would be to avoid impact to the ISWR.

OR

2. As a condition of approval, NRW may transfer 1.1 cfs of its water right on Butte Creek (or another tributary to Neskowin Creek on which NRW has existing water rights) to the ISWR as mitigation for a new water right on Hawk Creek. This water must be protected and establish an ISWR on Butte Creek to the mouth of Neskowin Creek. NRW must agree not to protest this transfer and to support the transfer publicly. The mitigation would be replacing the impact to ISWR flows and providing a net benefit.

These options provide mitigation for injury to ISWR on Neskowin Creek as WRD has determined the injury would occur as a result of this new right. The additional 0.1 cfs would provide the net benefit.

Discussion on Mitigation for Impacts to the ISWRs:

The habitat in Neskowin Creek is considered category 2 since it provides habitat for coho, steelhead and cutthroat trout for passage, rearing and spawning. Category 2 habitat requires no net loss of quantity and quality plus a net benefit to the resource. To ensure that the ISWR is protected, the only mitigation that protects flows for fish is quantity for quantity and quality for quality.

Option 1 prevents the impact to the ISWR from occurring from this junior water right application. To ensure the impact is prevented, the **NRWD would need to establish a means to measure the ISWR on Neskowin Creek to determine when they could take water using the new water right (this would not be required under option #2).** The ISWR would need to be 1 cfs over the certified flow levels for them to take the whole 1 cfs. If the ISWR is less than 1 cfs over the certified flow levels, no new water right water could be taken.

Option 2 provides in-kind mitigation plus a net benefit for the impact of removing 1 cfs from the ISWR. This replaces quantity for quantity. This option transfers 1.1 cfs of NRWD's water rights (for instance on Butte Cr.) to the ISWR as mitigation for taking 1 cfs from the ISWR in Neskowin Cr. with the new water right on Hawk Cr. In this particular situation, the additional 0.1 cfs would provide a net benefit.

Conditions for Protection of the Fish Passage Facility (separate from conditions needed to protect the existing ISWRs on Neskowin Creek):

- A minimum-operational level (MOL) or flow of ____ (to be determined) shall be maintained over the (sill notch/weir) on the Hawk Creek diversion/fishway at all times. This amount shall be protected in Hawk Creek from the NRWD POD to at least the mouth of Hawk Creek and must take precedence over the new NRWD water right. This can be accomplished in several ways described below.
- An approved Water Curtailment Plan shall be in place.
- A level or flow of ____ (to be determined) shall be set above this MOL to trigger implementation of the NRWD Water Curtailment Plan (this is a benchmark to use as a warning that the flow getting low and NRWD needs to start conserving prior to reaching the MOL).

Discussion on Conditions for Protection of the Fish Passage Facility:

For the fish passage facility to be operational a MOL flow or water level must be maintained. Protecting this flow in the fish passage facility could be accomplished in several ways described below. As additional protection, this also could be part of ODFW's agreement on the fishway. This fish passage flow could provide part or all of the ISWR flow mitigation (depending on quantity) if it is protected downstream to Neskowin Creek from the NRWD POD and is senior to the new NRWD water right.

ODFW proposes one of the following for protection of flows for the fish passage facility:

1. Providing the MOL flow level or quantity to the fish passage facility would be a condition of the permit and carried to the certificate and be senior to the remaining flow within this right (S-85745).

2. Part of the new NRWD water right application would be assigned to fish flows through the passage facility and would be released first before any water would be diverted under the new water right. (This would be a defined use within the water right, not a condition.)
3. Jointly apply for a fish passage flow water right by ODFW and NRWD as we discussed. This would take precedence over the new NRWD water right.
4. ODFW apply for an instream water right that would take precedence over any new NRWD water right on Hawk Cr. and is fully supported (e.g. not protested) by NRWD through an agreement with ODFW (possibly part of a fish passage agreement).
5. NRWD could transfer one of its existing water rights in Hawk Creek to ODFW for the fish passage facility. Flow needed for the fish passage facility would be passed through the facility first before NRWD water is withdrawn. NRWD may want to do a feasibility study to determine if/when it can provide municipal supply while providing flow for the fishway.

If the flow for the fish passage facility can be protected (by an instream or other water right) to Neskowin Creek, the amount can be applied to mitigation for the ISWR. Any ISWR flow mitigation not met would need to be provided by other water rights transferred to the ISWR.

Other Comments:

NRWD should also be made aware that there is water available for (off-stream) storage. ODFW supports off-stream storage because of the high value habitat in these creeks for coastal anadromous fish.

The only water rights on Neskowin Creek (surface or other) listed in the WRIS database are held by the Neskowin Regional Water District, are municipal or both. They are:

Water Right	5584	21365	21373	82654	Application 85745	Total Potential
Amount cfs	1.0	1.0	1.3	0.35	2.0	5.65
Priority date	1920/7/7	1920/8/26	1944/12/7	1955/12/1	2003/8/20	
Waterway	Unnamed Cr>Neskowin	Two Unnamed Crs > Hawk Cr	Unnamed Cr > Butte Cr	Hawk Cr	Hawk Cr	
Holder	S. Neskowin Water Co.	James Walton transf. To NRWD	James Walton transf. To NRWD	NRWD	NRWD	
Use	Municipal	Municipal	Municipal	Municipal	Municipal	

Month	IS 71241 (2/12/1991)	Cert. 59652 (MP43, 5/9/1973)	EANF	WARS 50%Exceed
Jan	113.00	90	126.00	12.50
Feb	113.00	90	119.00	5.47
Mar	111.00	90	113.00	1.47
Apr	55.00	60	56.30	-4.24
May	32.50	40	32.80	-7.79
Jun	22.50	20	21.90	-1.52
Jul	10.80	10	10.10	-1.96
Aug	5.83	10	5.28	-5.86
Sep	5.55	10	4.90	-5.86
Oct	13.50	40/90	11.90	-78.60
Nov	80.60	90	77.00	-13.50
Dec	126.00	90	133.00	6.47
Stor-50% (AF)			42800	1560

1 cfs equals 1.98 AF/day equals 722.7 AF/year. According to WRD's water availability analysis, 1560 AF is available for storage from Neskowin Creek. This is more than a 2 cfs year round diversion. It is only available for storage during the winter months.

Jeana Eastman

From: Ron Rehn [Ron.F.Rehn@state.or.us]
Sent: Monday, April 09, 2007 2:42 PM
To: EASTMAN Jeana M
Subject: RE: evaluation of Neskowin Regional Water District application, S-85745

Hi Jeana,

As I discussed with you today we currently do not have enough information to adequately answer the questions in this e-mail. I will work on these though addition information may be requested. The Division 33 form was not included, if you can send it to me I can provide comment appropriately based on available information. Also, can WRD remove Chris as the District contact and replace with me?

Thanks, Ron

From: Chris Knutsen
Sent: Tuesday, April 03, 2007 9:05 AM
To: Ron Rehn
Subject: FW: evaluation of Neskowin Regional Water District application, S-85745

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If you have questions, please let me know.
I appreciate your feedback.

Have a nice weekend,

4/11/2007

-jeana

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Jeana Eastman Oregon Water Resources Dept.
Water Rights Caseworker 725 Summer St NE, Suite A
Water Rights Section Salem, OR 97301-1266
Direct 503-986-0859 Front Desk 503-986-0900
Fax 503-986-0901 <http://oregon.gov/OWRD/>

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

4/11/2007

Date: January 7, 2008

To: Jeana Eastman

From: Bill Fujii, Field Services Division

Subject: Division 86/rate Review - Municipal and Quasi-Municipal applications
File S 85745

Field Services Division has reviewed the above referenced application for the following:

The purpose of this revised memo is to provide you with an assessment of my understanding of the situation regarding this application. The proposed use of water will enable the district to consolidate water diversions at a single treatment plant. The district is offering to mitigate by transferring existing unused water rights totaling 2.3 cfs if the permit is issued. We should accept the offer and condition any permit issued under this application to require instream transfer of certificates 21365 and 21375.

1) Shall a Water Management and Conservation Plan be required under Division 86?

X WMCP should be required within five years.

Remarks/basis of determination. The population during the peak season will be over 1000. Hawk Creek is within both a Division 33 and a 4D area.

2) A reduced quantity of 1 cfs, will be reasonable based on information supplied to me by the applicant's engineer. While this quantity of water will not carry the District through 2090, it will carry the District through the foreseeable future. One cfs = 646,000 gallons per day, assuming an average consumption of 70 gpcd this is equivalent of a supply for around 9,000 persons of interior residential demand. Neskowin is an unincorporated community. The historic peak months have been July and August assuming, a population of 1,480 the peak day 147 gpcd appears to be the largest monthly average. Assuming this one cfs should serve 4,394 people at that rate.

Remarks/basis of determination. Currently there are just over 600 residential water service connections with approximately 30% being for full-time residents. The full-time residential population is estimated at 343 persons. The average summer population is estimated at 955 persons with a maximum summer population of 1,480 persons. By the year 2025, the full-time residential population is projected to increase to 505 persons. Over the same time period, the average summer population and maximum summer population is projected to increase to 1,330 and 2,045 persons respectively. The total number of projected EDUs is 1,130 (906 residential EDU and 224 commercial EDU).

P. Fujii
WMCP
memo

IR CHECKLIST

Application #: S 85745

County Ill Basin: 1 WAB: 1-71241
Township 55 Range 10W, 11W Section see map 1/4 1/4 see map

10. Ground Water Availability:
A. ☐ over appropriated ☐ not over appropriated ☐ cannot be determined
B. ☐ will not be available ☐ will be available ...without injury to prior water rights
C. ☐ will not ☐ will likely be available within capacity of ground water resource
D. ☐ will if properly conditioned, avoid injury to existing ground water rights or to the ground water resource
E. Is the well located in a GWLA or CGWA or TIN R3E? (If applicable, include map with POD) Y / N
25. Use mu Priority Date(s) 8/20/03 (If muni or quasi-muni use send to Doug Parrow)
30. Allowed under Basin Program ☒ / N Limitations? Y / ☒
40. Withdrawn? ☒ / ☒ season allowed
45. Basin Maps have been checked. ☒ / N River Mile
50. SWW Y / ☒ (if Y notify state parks)
60. Surface water Availability (80% live flow / 50% storage) NA not available
70. Divis 33: ☒ / N / NA Above Bonn Y / N Not allowed April 15 - September 30 Y / N
Below Bonn Y / N If Y add PISPC
Statewide ☒ / N
80. Rate Rate: Max Req 2.0
Duty Season: Normal yr Req yr
90. B.O.R. or Doug Co. project Y / ☒ contract #
100. Small (≤ 0.1 cfs, ≤ 9.2 AF), Medium (> 0.1 or < 1.5 cfs, > 9.2 or < 100 AF, Contract Stored Water) Or Large (≥ 1.5 cfs, ≥ 100 AF)
condition 71 and municipal require the Large conditions
110. Land use approval OK'd needs approval county notified NA
120. Watermaster Dist: 1 2 16 18 20 - NWR (3 4 5 21 - NCR) (6 8 9 10 - ER) (11 12 17 - SCR) (13 14 15 19 - SWR)
125. Conflict? Yes ☒ No
130. per interactive mapping DOA Y / ☒ (NO COPY TO PAUL MEASLES) 303D Y / ☒ / NA CTUIR Y / ☒
(Check DOA map to determine if Y / N)
140. within Oregon Streamflow Restoration Area? ☒ / N / NA
150. Letter format ==Good==Limited==Bad==Bad w/ IRshort==Bad w/ HC Opportunity
155. Attach basin map indicating point of diversion?
160. CWRE, representative, etc. to notify? Y / N
ronald g. larson cwre # 175
need map w/ tr, s

Name: JERRY GAINEY Date: 1/8/04

c:\myfiles\forms\checkirnew 5/9/03

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.

PFO CHECKLIST

APPLICATION # 5- 85745

SAVE IN PFO WORK WEEK: 450

1. IR Date 1/16/04 Public Notice Date 1/20/04 Comment Rec'd no

2. Was additional information requested in the IR? (Y) N If so, do we now have enough info to do the PFO? (Y) N

3. Was the application filed after 10/23/99? (Y) N (if N A date should be included)

4. Changes from IR determinations: _____

5. Copy to: ronald q. larsen crwr #175

6. Shortcomings preventing PFO, FO, or permit? Y (N) Should process continue Y / N

7. Is second groundwater review complete? Y / N necessary? Y (N)

8. IR identifies as on DEQ 303d List? Y (N) / NA Comments received? Y / N

9. FEES: Base Fee: Water Amount
 *\$100/\$150 or 1" CFS/AF: 150)
 **\$250/\$300 1 Addl @ 75; + _____
250 + 225 = 475

EXAM FEE REQUIRED:	<u>475</u>	RECORDING FEE REQUIRED:	\$175 or \$250
EXAM FEE PAID:	<u>- 475</u>	RECORDING FEE PAID:	<u>- 0</u>
STILL OWED:	<u>0</u>	STILL OWED:	<u>250</u>

*(\$10/\$15 @ AF 1ST 10 AF, \$1 THEREAFTER)
 **\$150/\$200 1CFS - \$10/\$20 THEREAFTER)

Name: JERRY GAINEY Date: 2/24/04

c:\myfiles\forms\checkirnew 9/10/03

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Analysis for Application: S85745**Location: 5S-10W-19-NWNW**

Uses: MU P

Basins

BASIN_NUM	BASIN_NAME
1	North Coast

Records Found: 1

WaterMaster Districts

WATERDIST	REGION	ACRES	SQ_MILES	WMASTER	ADDRESS	CITY	ZIP	P
1	NW	2223211	3473	Greg Beaman	c/o Port of Tillamook Bay, 4000 Blimp Blvd	Tillamook	97141	5

Records Found: 1

WAB

BASIN	WID	LINK1	LINK2
1	30120330	Water Availability: 50% 80%	Flood Frequency Analysis

Records Found: 1

County

COUNTY	FIPS
Tillamook	41057

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

303D Streams Records Found: 0**303D Lakes Records Found: 0****Location: 5S-10W-19-SWNW**

Uses: MU P

Basins

BASIN_NUM	BASIN_NAME
1	North Coast

Records Found: 1

WaterMaster Districts

WATERDIST	REGION	ACRES	SQ_MILES	WMASTER	ADDRESS	CITY	ZIP	P
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WATERDIST	REGION	ACRES	SQ_MILES	WMASTER	ADDRESS	CITY	ZIP	P
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Records Found: 1

WAB Records Found: 0

County

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303D Streams Records Found: 0303D Lakes Records Found: 0**Location: 5S-10W-30-NWSW**

Uses: MU P

Basins

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1	North Coast

Records Found: 1

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WATERDIST	REGION	ACRES	SQ_MILES	WMASTER	ADDRESS	CITY	ZIP	P
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Records Found: 1

WAB

BASIN	WID	LINK1	LINK2
1	71241	Water Availability: 50% 80%	Flood Frequency Analysis

Records Found: 1

County

COUNTY	FIPS
Tillamook	41057

Records Found: 1

Groundwater Restricted Records Found: 0**Divison 33 Area**

DIV33
In a Div33 area

Records Found: 1

Rule 4D

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Records Found: 1

303D Streams Records Found: 0**303D Lakes Records Found: 0****Location: 5S-10W-30-SWSW**

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Basins

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303D Lakes Records Found: 0

Location: 5S-11W-13-NWSE

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Groundwater Restricted Records Found: 0

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WATERDIST	REGION	ACRES	SQ_MILES	WMASTER	ADDRESS	CITY	ZIP	P
1	NW	2223211	3473	Greg Beaman	c/o Port of Tillamook Bay, 4000 Blimp Blvd	Tillamook	97141	5

Records Found: 1

WAB

BASIN	WID	LINK1	LINK2
1	30120330	Water Availability: 50% 80%	Flood Frequency Analysis

Records Found: 1

County

COUNTY	FIPS
Tillamook	41057

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

303D Streams Records Found: 0**303D Lakes Records Found: 0****Location: 5S-11W-24-NENE**

Uses: MU P

Basins

BASIN_NUM	BASIN_NAME
1	North Coast

Records Found: 1

WaterMaster Districts

WATERDIST	REGION	ACRES	SQ_MILES	WMASTER	ADDRESS	CITY	ZIP	P
1	NW	2223211	3473	Greg Beaman	c/o Port of Tillamook Bay, 4000 Blimp Blvd	Tillamook	97141	5

Records Found: 1

WAB

BASIN	WID	LINK1	LINK2
1	30120330	Water Availability: 50% 80%	Flood Frequency Analysis

Records Found: 1

County

COUNTY	FIPS
Tillamook	41057

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

303D Streams Records Found: 0

303D Lakes Records Found: 0

Location: 5S-11W-24-NWNE

Uses: MU P

Basins

BASIN_NUM	BASIN_NAME
1	North Coast

Records Found: 1

WaterMaster Districts

WATERDIST	REGION	ACRES	SQ_MILES	WMASTER	ADDRESS	CITY	ZIP	P
1	NW	2223211	3473	Greg Beaman	c/o Port of Tillamook Bay, 4000 Blimp Blvd	Tillamook	97141	5

Records Found: 1

WAB

BASIN	WID	LINK1	LINK2
1	30120330	Water Availability: 50% 80%	Flood Frequency Analysis

Records Found: 1

County

COUNTY	FIPS
Tillamook	41057

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

303D Streams Records Found: 0

303D Lakes Records Found: 0

Location: 5S-11W-24-SENE

Uses: MU P

Basins

--	--

BASIN_NUM	BASIN_NAME
1	North Coast

Records Found: 1

WaterMaster Districts

WATERDIST	REGION	ACRES	SQ_MILES	WMASTER	ADDRESS	CITY	ZIP	P
1	NW	2223211	3473	Greg Beaman	c/o Port of Tillamook Bay, 4000 Blimp Blvd	Tillamook	97141	5

Records Found: 1

WAB Records Found: 0County

COUNTY	FIPS
Tillamook	41057

Records Found: 1

Groundwater Restricted Records Found: 0Divison 33 Area

DIV33
In a Div33 area

Records Found: 1

Rule 4D

RULE4D
In a Rule4D Area

Records Found: 1

303D Streams Records Found: 0303D Lakes Records Found: 0**Location: 5S-11W-24-SWNE**

Uses: MU P

Basins

BASIN_NUM	BASIN_NAME
1	North Coast

Records Found: 1

WaterMaster Districts

WATERDIST	REGION	ACRES	SQ_MILES	WMASTER	ADDRESS	CITY	ZIP	P
1	NW	2223211	3473	Greg Beaman	c/o Port of Tillamook Bay, 4000 Blimp Blvd	Tillamook	97141	5

Records Found: 1

WAB Records Found: 0County

COUNTY	FIPS
Tillamook	41057

Records Found: 1

Groundwater Restricted Records Found: 0Divison 33 Area

DIV33
In a Div33 area

Records Found: 1

Rule 4D

RULE4D

In a Rule4D Area

Records Found: 1

303D Streams Records Found: 0303D Lakes Records Found: 0**Location: 5S-11W-24-NENW**

Uses: MU P

Basins

BASIN_NUM	BASIN_NAME
1	North Coast

Records Found: 1

WaterMaster Districts

WATERDIST	REGION	ACRES	SQ_MILES	WMASTER	ADDRESS	CITY	ZIP	P
1	NW	2223211	3473	Greg Beaman	c/o Port of Tillamook Bay, 4000 Blimp Blvd	Tillamook	97141	5

Records Found: 1

WAB Records Found: 0**County**

COUNTY	FIPS
Tillamook	41057

Records Found: 1

Groundwater Restricted Records Found: 0**Divison 33 Area**

Active Server Pages error 'ASP 0113'

Script timed out

/apps/wr/wr_mapping/wr_app_analyze.asp

The maximum amount of time for a script to execute was exceeded. You can change this limit by specifying a new value for t or by changing the value in the IIS administration tools.

690-501-0005

Classifications

(1) The maximum economic development of this state, the attainment of the highest and best use of the waters of the North Coast Basin, and the attainment of an integrated and coordinated program for the benefit of the state as a whole will be furthered through utilization of the aforementioned waters only for domestic, livestock, municipal, irrigation, power development, industrial, mining, recreation, wildlife, and fish life uses; and the waters of the North Coast Basin are hereby so classified with the following exceptions:

WATER AVAILABILITY TABLE

Water Availability as of 1/ 8/2004 for
 NESKOWIN CR > PACIFIC OCEAN - AT MOUTH
 Watershed ID #: 71241 Basin: NORTH COAST Exceedance Level: 80
 Time: 11:40 Date: 01/08/2004

Select an Item Number for More Details

Item #	Watershed ID #	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	Sto
1	71241	NO	NO	NO	NO	NO	NO	NO	NO	NO	NO	NO	NO	YES

STREAM NAMES

Water Availability as of 1/ 8/2004 for
 NESKOWIN CR > PACIFIC OCEAN - AT MOUTH
 Watershed ID #: 71241 Basin: NORTH COAST Exceedance Level: 80
 Time: 11:40 Date: 01/08/2004

Item Watershed ID Stream Name

1	71241	NESKOWIN CR > PACIFIC OCEAN - AT MOUTH
---	-------	--

LIMITING WATERSHEDS

Water Availability as of 1/ 8/2004 for
 NESKOWIN CR > PACIFIC OCEAN - AT MOUTH
 Watershed ID #: 71241 Basin: NORTH COAST Exceedance Level: 80
 Time: 11:40 Date: 01/08/2004

Mnth	Limiting Watershed	Stream Name	Water Avail?	Net Water Available
1	71241	NESKOWIN CR > PACIFIC OCEAN - AT MOUTH	NO	-68.7
2	71241	NESKOWIN CR > PACIFIC OCEAN - AT MOUTH	NO	-48.7
3	71241	NESKOWIN CR > PACIFIC OCEAN - AT MOUTH	NO	-53.5
4	71241	NESKOWIN CR > PACIFIC OCEAN - AT MOUTH	NO	-25.5
5	71241	NESKOWIN CR > PACIFIC OCEAN - AT MOUTH	NO	-20.0
6	71241	NESKOWIN CR > PACIFIC OCEAN - AT MOUTH	NO	-12.1
7	71241	NESKOWIN CR > PACIFIC OCEAN - AT MOUTH	NO	-6.7
8	71241	NESKOWIN CR > PACIFIC OCEAN - AT MOUTH	NO	-7.8
9	71241	NESKOWIN CR > PACIFIC OCEAN - AT MOUTH	NO	-8.7
10	71241	NESKOWIN CR > PACIFIC OCEAN - AT MOUTH	NO	-86.9
11	71241	NESKOWIN CR > PACIFIC OCEAN - AT MOUTH	NO	-68.7
12	71241	NESKOWIN CR > PACIFIC OCEAN - AT MOUTH	NO	-65.4
Stor	71241	NESKOWIN CR > PACIFIC OCEAN - AT MOUTH	YES	1330.0

DETAILED REPORT ON THE WATER AVAILABILITY CALCULATION

Water Availability as of 1/ 8/2004 for

NESKOWIN CR > PACIFIC OCEAN - AT MOUTH

Watershed ID #: 71241 Basin: NORTH COAST Exceedance Level: 80
Time: 11:40 Date: 01/08/2004

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	45.80	1.51	0.00	44.30	0.00	113.00	-68.70
2	65.80	1.51	0.00	64.30	0.00	113.00	-48.70
3	59.00	1.51	0.00	57.50	0.00	111.00	-53.50
4	36.00	1.53	0.00	34.50	0.00	60.00	-25.50
5	21.60	1.57	0.00	20.00	0.00	40.00	-20.00
6	12.10	1.72	0.00	10.40	0.00	22.50	-12.10
7	6.12	2.06	0.00	4.06	0.00	10.80	-6.74
8	4.19	1.94	0.00	2.25	0.00	10.00	-7.75
9	2.89	1.57	0.00	1.32	0.00	10.00	-8.68
10	4.59	1.53	0.00	3.06	0.00	90.00	-86.90
11	22.80	1.51	0.00	21.30	0.00	90.00	-68.70
12	62.10	1.51	0.00	60.60	0.00	126.00	-65.40
Stor	42800	1180	0	41600	0	48000	1330

DETAILED REPORT OF CONSUMPTIVE USES AND STORAGES

Water Availability as of 1/ 8/2004 for

NESKOWIN CR > PACIFIC OCEAN - AT MOUTH

Watershed ID #: 71241 Basin: NORTH COAST Exceedance Level: 80
Time: 11:40 Date: 01/08/2004

Mo	Storage	Irrig	Munic	Ind/Man	Commer	Domest	Agricul	Other	Total
1	0.00	0.00	1.35	0.00	0.01	0.15	0.00	0.00	1.51
2	0.00	0.00	1.35	0.00	0.01	0.15	0.00	0.00	1.51
3	0.00	0.00	1.35	0.00	0.01	0.15	0.00	0.00	1.51
4	0.00	0.01	1.35	0.00	0.01	0.15	0.00	0.00	1.53
5	0.00	0.06	1.35	0.00	0.01	0.15	0.00	0.00	1.57
6	0.00	0.21	1.35	0.00	0.01	0.15	0.00	0.00	1.72
7	0.00	0.55	1.35	0.00	0.01	0.15	0.00	0.00	2.06
8	0.00	0.43	1.35	0.00	0.01	0.15	0.00	0.00	1.94
9	0.00	0.05	1.35	0.00	0.01	0.15	0.00	0.00	1.57
10	0.00	0.01	1.35	0.00	0.01	0.15	0.00	0.00	1.53
11	0.00	0.00	1.35	0.00	0.01	0.15	0.00	0.00	1.51
12	0.00	0.00	1.35	0.00	0.01	0.15	0.00	0.00	1.51

DETAILED REPORT OF RESERVATIONS FOR CONSUMPTIVE USE

Water Availability as of 1/ 8/2004 for
 NESKOWIN CR > PACIFIC OCEAN - AT MOUTH

Watershed ID #: 71241 Basin: NORTH COAST Exceedance Level: 80
 Time: 11:40 Date: 01/08/2004

Reservations								
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 1/ 8/2004 for
 NESKOWIN CR > PACIFIC OCEAN - AT MOUTH

Watershed ID #: 71241 Basin: NORTH COAST Exceedance Level: 80
 Time: 11:40 Date: 01/08/2004

ISWRs								
APP #	43A	71241A	0	0	0	0	0	MAXIMUM
Status	Cert.	Cert.						
1	90.00	113.00	0.00	0.00	0.00	0.00	0.00	113.00
2	90.00	113.00	0.00	0.00	0.00	0.00	0.00	113.00
3	90.00	111.00	0.00	0.00	0.00	0.00	0.00	111.00
4	60.00	55.00	0.00	0.00	0.00	0.00	0.00	60.00
5	40.00	32.50	0.00	0.00	0.00	0.00	0.00	40.00
6	20.00	22.50	0.00	0.00	0.00	0.00	0.00	22.50
7	10.00	10.80	0.00	0.00	0.00	0.00	0.00	10.80
8	10.00	5.83	0.00	0.00	0.00	0.00	0.00	10.00
9	10.00	5.55	0.00	0.00	0.00	0.00	0.00	10.00
10	90.00	13.50	0.00	0.00	0.00	0.00	0.00	90.00
11	90.00	80.60	0.00	0.00	0.00	0.00	0.00	90.00
12	90.00	126.00	0.00	0.00	0.00	0.00	0.00	126.00

Date: April 3, 2007
To: Jeana Eastman
From: Bill Fujii, Field Services Division
Subject: Division 86/rate Review - Municipal and Quasi-Municipal applications
File S 85745

*Supervised
see Fujii review
dated 1/17/08*

Field Services Division has reviewed the above referenced application for the following:

- 1) Shall a Water Management and Conservation Plan be required under Division 86?
- ☐ No
 - ☒ WMCP should be required within five years.
 - ☐ WMCP will be required if incremental mitigation is proposed under OAR 690 505 0625 1 (c).
The time frame should be for entities under 1,000 in population within five years or for entities over 1,000 within five years or before use of the second increment of water development which ever is sooner.

Remarks/basis of determination. The population during the peak season will be over 1000. Hawk Creek is within both a Division 33 and a 4D area.

- 2) Is the proposed quantity of water reasonable based on information provided in Form M?
- ☒ Yes
 - ☐ No. However, a reduced quantity of _____ cfs, will be reasonable based on information presented in Form M.

Remarks/basis of determination. The requested amount is to expand the current diversion 2 cfs in order to serve 25 more homes.

Signature: _____

Bill

Date: _____

4/3/07

INTEROFFICE MEMORANDUM

Water Rights Section

TO: Bill Fujii
FROM: Jeana Eastman
DATE: March 30, 2007
RE: S-85745, Neskowin Regional Water District

This application received a Division 86 review by Doug Parrow back in 2004. Per Tim Wallin, I'm requesting an additional review of the file.

Please provide your written review and route to me when finished.

Thanks.

APPLICATION MAP FOR
SURFACE WATER PERMIT

NESKOWIN REGIONAL WATER DISTRICT
TILLAMOOK COUNTY, OREGON
NORTH COAST BASIN



T5S, R11W W.M.

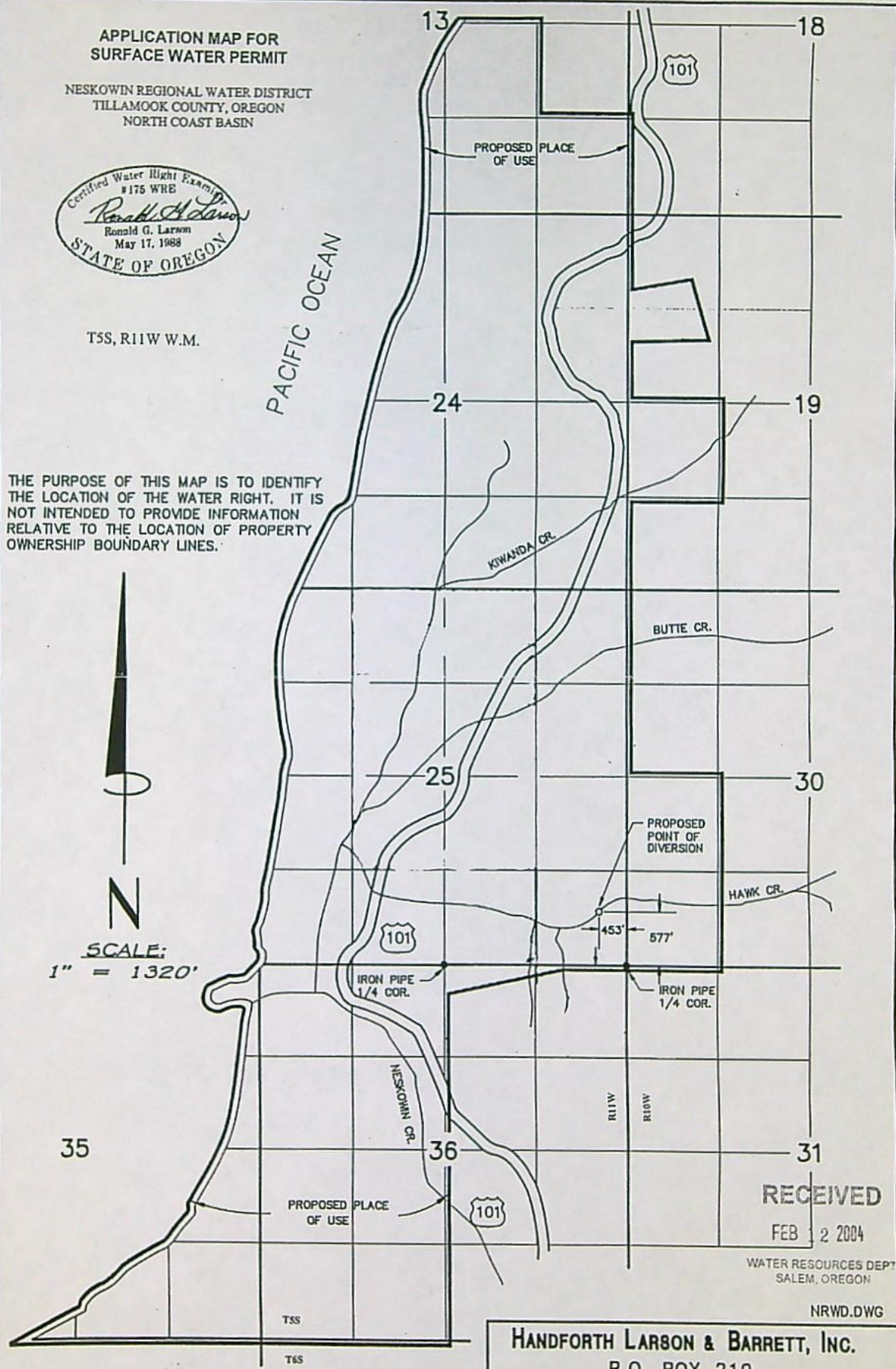
PACIFIC OCEAN

THE PURPOSE OF THIS MAP IS TO IDENTIFY
THE LOCATION OF THE WATER RIGHT. IT IS
NOT INTENDED TO PROVIDE INFORMATION
RELATIVE TO THE LOCATION OF PROPERTY
OWNERSHIP BOUNDARY LINES.



N

SCALE:
1" = 1320'



RECEIVED

FEB 2 2004

WATER RESOURCES DEPT
SALEM, OREGON

NRWD.DWG

HANDFORTH LARSON & BARRETT, INC.

P.O. BOX 219

MANZANITA, OR 97130

(503) 368-5394

FAX (503) 368-5847

app S-85745



INTRA-AGENCY MEMO
Field Services Division

TO: File S-85745 DATE: September 25, 2003
FROM: Doug Parrov *DP*
SUBJECT: Neskowin Regional Water District Application S-85745

The proposed use of water will enable the district to consolidate water diversions at a single treatment plant. The district is offering to cancel existing unused water rights totaling 2.3 cfs if the permit is issued. We should accept the offer and condition any permit issued under this application to require cancellation of certificates 21365 and 21373.

The permit is projected to provide a sufficient source of supply until 2090—a longer period of time than we normally would allow. However, the 2.0 cfs requested represents a reasonable quantity of water and is less than the quantity that the district is willing to cancel.

The district does not currently have a water management and conservation plan on file with the Department. However, given the population served, we do not recommend inclusion of a water management and conservation plan condition in a permit issued pursuant to this application.



INTRA-AGENCY MEMO
Field Services Division

Superseded
see Fujii
review
dated
1/7/08

TO: File S-85745

DATE: September 25, 2003

FROM: Doug Parrow *DP*

SUBJECT: Neskowin Regional Water District Application S-85745

The proposed use of water will enable the district to consolidate water diversions at a single treatment plant. The district is offering to cancel existing unused water rights totaling 2.3 cfs if the permit is issued. We should accept the offer and condition any permit issued under this application to require cancellation of certificates 21365 and 21373.

The permit is projected to provide a sufficient source of supply until 2090—a longer period of time than we normally would allow. However, the 2.0 cfs requested represents a reasonable quantity of water and is less than the quantity that the district is willing to cancel.

The district does not currently have a water management and conservation plan on file with the Department. However, given the population served, we do not recommend inclusion of a water management and conservation plan condition in a permit issued pursuant to this application.

NEW APPLICATION ROUTE SLIP

RECEIPTING ☒
POST CARD SENT ☒
DATA CENTER ☒ 1603

GROUND WATER YES ☐ NO ☐

ANITA HUFFMAN EXT. 229



CORY ENGEL EXT. 324



JERRY GAINES EXT. 458



KERRY LEFEVER EXT. 276



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.



Standard Application "Completeness" Checklist

Application: S-85745

Priority Date: 8/20/03

Use(s): MUNICIPAL

Rate: 2 CFS

County: TILLAMOOK

Township: SEE MAP

Range: SEE MAP

Section: SEE MAP

POD 1/4: SEE MAP

POU 1/4: SEE MAP

Minimum Requirements (OAR 60-310-040)

OK Applicant/Organization Name, Mailing Address', and Telephone Numbers. 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 landowners name and mailing address listed? (Including: Lands, not owned by applicant, upon which the source is located ...or... 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?

N/A Form I (Irrigation)

OK Form M (Municipal or Quasi-Municipal)

N/A Form R (Mining)

N/A Form Q (Commercial or Industrial)

N/A 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, the water 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, the system already is completed, the 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.

OK Is a copy of the deed, land sales contract or title insurance policy included? We cannot accept a copy of the tax bill.

OK A completed Land-Use Form or receipt signed by the appropriate planning department officials enclosed? *Does the use on land-use form match the proposed use on the application?*

OK Does the map meet map requirements of OAR 60-310-050?

OK Town, Range, Sec, 1/4 1/4's 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 Com./Indus.	OK Location of Stock Tanks, if Livestock
OK Muni / Quasi-Muni Service Boundaries	OK Other
OK fees enclosed?	Base Fee <u>\$250.00</u>
Total Paid <u>\$475.00</u>	plus <u>\$150.00</u>
	plus <u>\$75.00</u>
Total Amount of Water Requested: 2 CFS	

Total Exam Fee \$475.00

Total Exam Fee \$475.00

Recording Fee \$175.00 TO BE RECEIVED

Completeness Check by: ROGER WRIGHT

Date: 9/15/03

SOregon Water Resources Department
Water Rights Division

Water Rights Application
Number S-85745

Prior to the issuance of a permit, the Department must receive permit recording fees in the amount of \$900.00. Please include your application number on your check made out to the Oregon Water Resources Department.

Proposed Final Order

Summary of Recommendation: The Department recommends that the attached draft permit be issued with conditions.

Application History

On August 20, 2003, Neskowin Regional Water District submitted an application to the Department for the following water use permit:

- Amount of Water: 2.0 cubic feet per second (CFS)
- Use of Water: municipal use
- Source of Water: Hawk Creek, a tributary of Butte Creek
- Area of Proposed Use: Tillamook County within the service boundaries of Neskowin Regional Water District

On January 16, 2004, the Department mailed the applicant notice of its Initial Review, determining that "*the use of 2.0 cubic feet per second of water from Hawk Creek, a tributary of Butte Creek, for municipal use is not allowable, and it appears unlikely that you will be issued a permit.*" The applicant did not notify the Department to stop processing the application within 14 days of that date.

On January 20, 2004, the Department gave public notice of the application in its weekly notice. The public notice included a request for comments, and information for interested persons about obtaining future notices and a copy of the Proposed Final Order. No written comments were received within 30 days.

The application was put on multiple administrative holds since the issuance of the Initial Review.

On March 7, 2008, Neskowin Regional Water District amended the use of the pending transfer application, T-7054, to instream use as mitigation for the insufficient water availability determination for S-85745. In addition, they reduced the proposed rate on S-85745 from 2.0 CFS to 1.0 CFS.

In reviewing applications, the Department may consider any relevant sources of information, including the following:

- recommendations by other state agencies
- 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 North Coast Basin Program allows municipal use.

Senior water rights exist on Hawk Creek, a tributary of Butte Creek, or on downstream waters.

Hawk Creek, a tributary of Butte Creek, 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 consumptive portion of all relevant rights of record. A copy of this calculation is in the file. This calculation determined that water is not available for further appropriation (at an 80 percent exceedance probability) at any time of the year. However, because the Department determined that the mitigation under T-7054 will offset the proposed use, water is available year-round.

The Department finds that the amount of water requested, 1.0 CFS, is an acceptable amount.

In accordance with OAR 690-033-0330, 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 (DEQ), Fish and Wildlife (ODFW), and Agriculture. WRD and ODFW 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:

A minimum-operational level (MOL) flow of 1.0 CFS shall be maintained over the sill notch/weir on the fishway at the permittee's Hawk Creek diversion at all times, and shall be protected to the mouth of Hawk Creek.

An approved Water Curtailment Plan shall be in place.

A level of flow of 0.25 CFS above this MOL shall trigger implementation of the Water Curtailment Plan.

The flow level must be measured at the top of the fishway with a continuous measuring device and recorded to ensure 1.0 CFS is protected through the fishway and to determine when to implement the Water Curtailment Plan.

If the riparian area is disturbed in the process of developing a point of diversion, the permittee shall be responsible for restoration and enhancement of such riparian area in accordance with ODFW's Fish and Wildlife Habitat Mitigation Policy OAR 635-415. For purposes of mitigation, the ODFW Fish and Wildlife Habitat Mitigation Goals and Standards, OAR 635-415, shall be followed.

The use may be restricted if the quality of the source stream or downstream waters decreases to the point that those waters no longer meet existing state or federal water quality standards due to reduced flows.

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.

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 North Coast Basin Program, or a preference for this use is granted under the provisions of ORS 536.310(12).

Based on proposed mitigation, 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 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 May 25, 2010

E. Timothy Wall

for Phillip C. Ward, Director
Water Resources Department

*If you have any questions,
please check the information
box on the last page for the
appropriate names and
phone numbers.*

Protests

Under the provisions of ORS 537.153(7) (for surface water) or ORS 537.621(8) (for ground water), you can protest this Proposed Final Order. Protests must be received in the Water Resources Department no later than **July 9, 2010**. Protests must be in writing, and must include the following:

- Your name, address, and telephone number;
- A description of your interest in the Proposed Final Order, and, if you claim to represent the public interest, a precise statement of the public interest represented;
- A detailed description of how the action proposed in 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;
- If you are the applicant, the protest fee of \$300 required by ORS 536.050; and
- If you are not the applicant, the protest fee of \$600 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 ORS 537.153(7) (for surface water) or ORS 537.621(8) (for ground water), persons other than the applicant who support a Proposed Final Order can request standing for purposes of participating in any contested case proceeding on the Proposed Final Order or for judicial review of a Final Order.

Requests for standing must be received in the Water Resources Department no later than **July 9, 2010**. Requests for standing must be in writing, and must include the following:

- The requester's name, mailing address and telephone number;
- If the requester is representing a group, association or other organization, the name, address and telephone number of the represented group;
- A statement that the requester supports the Proposed Final Order as issued;
- A detailed statement of how the requester would be harmed if the Proposed Final Order is modified; and
- A standing fee of \$150. If a hearing is scheduled, an additional fee of \$350 must be submitted along with a request for intervention.

After the protest period has ended, the Director will either issue a Final Order or schedule a contested case hearing. The contested case hearing will be scheduled only if a protest has been submitted and either:

- upon review of the issues, the director finds that there are significant disputes related to the proposed use of water, or
- the applicant requests a contested case hearing within 30 days after the close of the protest period.

If you do not request a hearing within 30 days after the close of the protest period, or if you withdraw a request for a hearing, notify the Department or the administrative law judge that you will not appear or fail to appear at a scheduled hearing, the Director may issue a Final Order by default. If the Director issues a Final Order by default, the Department designates the relevant portions of its files on this matter, including all materials that you have submitted relating to this matter, as the record for purpose of proving a *prima facie* case upon default.

This document was prepared by Jeana Eastman. 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 503-986-0859.

If you have questions about how to file a protest or a request for standing, please refer to the respective sections in this Proposed Final Order entitled "Protests" and "Requests for Standing". If you have previously filed a protest and want to know its status, please contact Patricia McCarty 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.

DRAFT

This is not a permit.

DRAFT

STATE OF OREGON

COUNTY OF TILLAMOOK

DRAFT PERMIT TO APPROPRIATE THE PUBLIC WATERS

THIS DRAFT PERMIT IS HEREBY ISSUED TO

NESKOWIN REGIONAL WATER DISTRICT
PO BOX 823
NESKOWIN, OR 97149

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

APPLICATION FILE NUMBER: S-85745

SOURCE OF WATER: HAWK CREEK, A TRIBUTARY OF BUTTE CREEK

PURPOSE OR USE: MUNICIPAL USE

MAXIMUM RATE: 1.0 CUBIC FOOT PER SECOND

PERIOD OF USE: YEAR ROUND

DATE OF PRIORITY: AUGUST 20, 2003

POINT OF DIVERSION LOCATION: SE ¼ SE ¼, SECTION 25, T5S, R11W, W.M.; 577
FEET NORTH & 453 FEET WEST FROM SE CORNER, SECTION 25

THE PLACE OF USE IS LOCATED WITHIN THE SERVICE BOUNDARIES OF NESKOWIN
REGIONAL WATER DISTRICT

Measurement, recording and reporting conditions:

- A. Before water use may begin under this permit, the permittee shall install a totalizing flow meter or other suitable measuring device as approved by the Director at each point of diversion. The permittee shall maintain the meter or measuring device in good working order.
- B. 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.

- C. The permittee shall allow the watermaster access to the meter or measuring device; provided however, where any meter or measuring device is located within a private structure, the watermaster shall request access upon reasonable notice.
- D. The Director may provide an opportunity for the permittee to submit alternative measuring and reporting procedures for review and approval.

A minimum-operational level (MOL) flow of 1.0 CFS shall be maintained over the sill notch/weir on the fishway at the permittee's Hawk Creek diversion at all times, and shall be protected to at least the mouth of Hawk Creek.

An approved Water Curtailment Plan shall be in place prior to diversion of water.

A level of flow of 0.25 CFS above this MOL shall trigger implementation of the Water Curtailment Plan.

The flow level must be measured at the top of the fishway with a continuous measuring device and recorded to ensure 1.0 CFS is protected through the fishway and to determine when to implement the Water Curtailment Plan.

Mitigation water under must be legally protected instream for the life of the permit and subsequent certificate(s). Regulation of the use and/or cancellation of the permit, or subsequent certificate(s) will occur if the required mitigation is not maintained.

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.

The permittee shall not construct, operate or maintain any dam or artificial obstruction to fish passage in the channel of the subject stream without providing a fishway to ensure adequate upstream and downstream passage for fish, unless the permittee has requested and been granted a fish passage waiver by the Oregon Fish and Wildlife Commission. The permittee is hereby directed to contact an Oregon Department of Fish and Wildlife Fish Passage Coordinator, before beginning construction of any in-channel obstruction.

Within five years of permit issuance, the permittee shall submit a Water Management and Conservation Plan, addressing use under this permit, consistent with OAR 690-086. The Director may approve an extension of this time line to complete the required Water Management and Conservation Plan. The time line for submittal of a plan under this permit does not alter the time lines for submittal of a plan under any other order of the Department. No water may be diverted if a Water Management and Conservation Plan is not submitted within five years of permit issuance, unless an extension of this time has been approved.

STANDARD CONDITIONS

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

Where two or more water users agree among themselves as to the manner of rotation in the use of water and such agreement is placed in writing and filed by such water users with the watermaster, and such rotation system does not infringe upon such prior rights of any water user not a party to such rotation plan, the watermaster shall distribute the water according to such agreement.

If the riparian area is disturbed in the process of developing a point of diversion, the permittee shall be responsible for restoration and enhancement of such riparian area in accordance with ODFW's Fish and Wildlife Habitat Mitigation Policy OAR 635-415. For purposes of mitigation, the ODFW Fish and Wildlife Habitat Mitigation Goals and Standards, OAR 635-415, shall be followed.

The use may be restricted if the quality of the source stream or downstream waters decreases to the point that those waters no longer meet existing state or federal water quality standards due to reduced flows.

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

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

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

Completion of construction and application of the water shall be made within 20 years of the date of permit issuance. If beneficial use of permitted water has not been made before this date, the permittee may submit an application for extension of time, which may be approved based upon the merit of the application.

Within one year after making beneficial use of water, the permittee shall submit a claim of beneficial use, which includes a map and report, prepared by a Certified Water Rights Examiner.

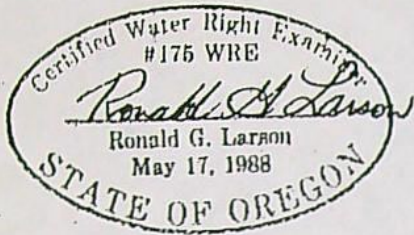
Issued

DRAFT - THIS IS **NOT** A PERMIT

for Phillip C. Ward, Director
Water Resources Department

APPLICATION MAP FOR
SURFACE WATER PERMIT

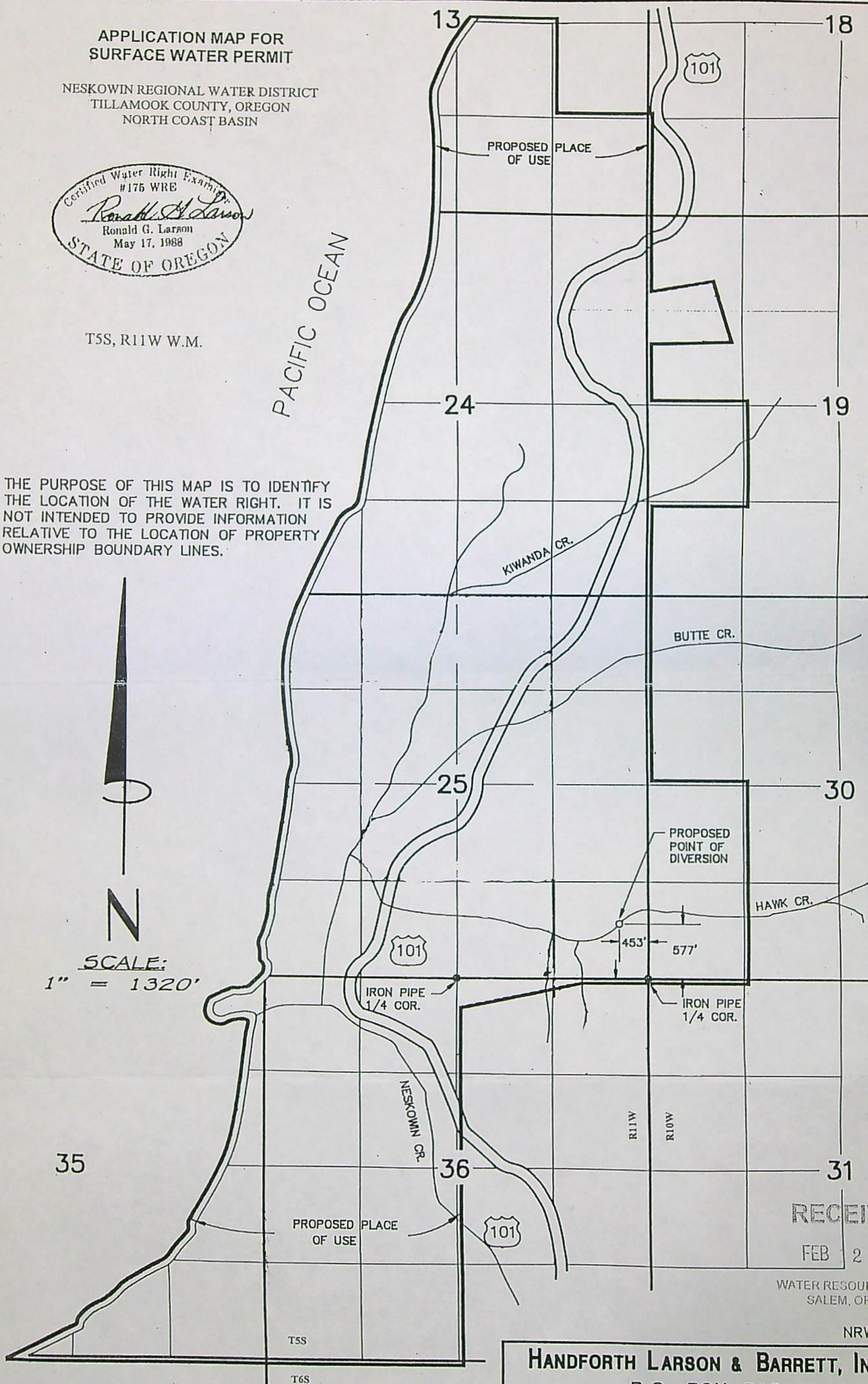
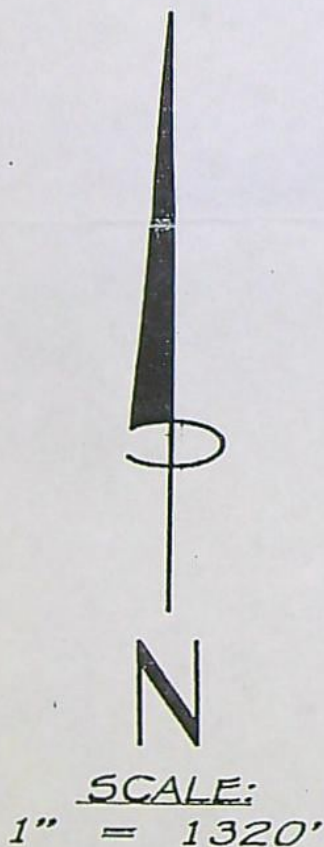
NESKOWIN REGIONAL WATER DISTRICT
TILLAMOOK COUNTY, OREGON
NORTH COAST BASIN



T5S, R11W W.M.

PACIFIC OCEAN

THE PURPOSE OF THIS MAP IS TO IDENTIFY
THE LOCATION OF THE WATER RIGHT. IT IS
NOT INTENDED TO PROVIDE INFORMATION
RELATIVE TO THE LOCATION OF PROPERTY
OWNERSHIP BOUNDARY LINES.



HANDFORTH LARSON & BARRETT, INC.

P.O. BOX 219
MANZANITA, OR 97130
(503) 368-5394 FAX (503) 368-5847

app S-85745

Mailing List for PFO Copies

Application #S-85745

PFO Date May 25, 2010

Original mailed to applicant:

~~1~~ NESKOWIN REGIONAL WATER DISTRICT, PO BOX 823, NESKOWIN, OR 97149

Copies sent to:

- ~~1~~ WRD - File # S-85745
- ~~2~~ Water Availability: Ken Stahr

Copies Mailed By: <u>JCB</u> (SUPPORT STAFF) on: <u>5/24/10</u> (DATE)
--

PFO and Map Sheet Copies sent to:

- ~~3~~ WRD - Watermaster # 1
- ~~4~~ ODFW District Biologist: Dave Stewart, 4907 Third St, Tillamook, OR 97141

Protest/ Standing Dates checked <u>5/11/10 JCB</u>

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

- ~~1~~ Larson, Ronald G., CWRE #175
PO Box 219, Manzanita, OR 97130

CASEWORKER : jme

Jeana Eastman

From: Jeana Eastman
Sent: Wednesday, July 21, 2010 9:10 AM
To: guy_nrwd@embarqmail.com
Cc: Laura Wilke; Jeana Eastman
Subject: S-85745, Neskowin - outstanding fees

Hi Guy -

The Proposed Final Order (PFO) protest deadline has passed and no protests were received. S-85745 is now ripe for Final Order. As indicated in the PFO, \$900 in recording fees are due prior to issuance of a permit.

The Department will issue the Final Order for S-85745 and T-7054 simultaneously, and because the comment period for the transfer has not yet ended, there is still time to submit the recording fees for S-85745. If the fees are paid prior to issuance of the Final Order, the FO will include a permit; if the fees are unpaid, the FO will include a draft permit.

Please contact Laura for any outstanding items for the transfer.

Let me know if you have any questions regarding S-85745,

Jeana Eastman
Water Rights Caseworker
voice 503.986.0859

Oregon Water Resources Dept
725 Summer St NE, Suite A
Salem, OR 97301-1266
front desk 503.986.0900
fax 503.986.0901
<http://oregon.gov/OWRD>

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

7/21/2010

NESKOWIN REGIONAL WATER DISTRICT

PO Box 823, 48880 Hwy 101 South, Suite 202

Neskowin, OR 97149

503-392-3966 / FAX 503-392-4553

nrwd@embarqmail.com

March 5, 2008

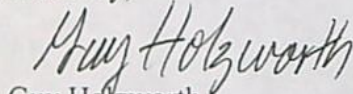
Oregon Water Resources Department
Attn: Jeana Eastman, Water Rights
725 Summer Street NE, Suite A
Salem, OR 97301-1266

Reference: Water Rights Application S-85745

Dear Ms. Eastman:

I hereby request, on behalf of the Neskowin Regional Water District, to reduce the quantity of water requested under Application S-85745 from 2.0 cubic feet per second (cfs) of water down to 1.0 cfs of water.

Sincerely,



Guy Holzworth
General Manager
Neskowin Regional Water District

RECEIVED

MAR 07 2008

WATER RESOURCES DEPT
SALEM, OREGON



Oregon

Theodore R. Kulongoski, Governor

Appl. S-85745

Water Resources Department
North Mall Office Building
725 Summer Street NE, Suite A
Salem, OR 97301-1266
503-986-0900
FAX 503-986-0904

January 18, 2008

Neskowin Regional Water District
Attn: Guy Holzworth, General Manager
PO Box 823
Neskowin, OR 97149

REFERENCE: Transfer Application T-7054, Transfer Application T-9772 (Exchange) and
Water Right Application S-85745

Dear Mr. Holzworth:

Pursuant to our recent telephone conversation, I am sending this letter to provide an overview of the Department's proposal for proceeding with the pending application for new permit (Application S-85745) and pending transfer applications (T-7054 and T-9772) that were filed by Neskowin Regional Water District (District).

As you are aware, your current water use requests under Application S-85745, Transfer T-7054 and Transfer T-9772 cannot be approved by the Department, the reasons for which were detailed in my letter to the District dated February 1, 2007 (copy attached).

Because the initial evaluations of these applications were unfavorable, the Department has been exploring other options for the District. We have determined that the Department may be able to allow the issuance of a new permit under Application S-85745 if the quantity of water requested under the application is reduced from 2.0 cubic feet per second (cfs) of water down to 1.0 cfs of water and if mitigation is provided.

In order to provide mitigation for the diversion of water under Application S-85745, the District will need to transfer the entirety of municipal use Certificates 21365 and 21373 (*being 1.0 cfs from two unnamed tributaries to Hawk Creek and 1.3 cfs from one unnamed tributary of Butte Creek, respectively*) to instream use to offset the impact to instream water right flows in Neskowin Creek. Based upon preliminary information from the Oregon Department of Fish and Wildlife (ODFW), in order for this mitigation to work, the water transferred instream must be protected on Butte Creek down to the confluence with Neskowin Creek.

The Water Resources Department believes this strategy may be a suitable alternative to satisfy the District's water supply needs. Additionally, ODFW has indicated that, with the modifications to the application for new permit and the mitigation described above, they could support approval of the new permit because the instream water right transfer would compensate for the impact of the new permit to instream water right flows in Neskowin Creek and would provide a net benefit.

The main points of the strategy are outlined below:

Step 1 – Revise the District’s Pending Application for Permit:

- ♦ The District must revise pending Application S-85745 to reduce the proposed quantity of water to be diverted from Hawk Creek from 2.0 cfs down to 1.0 cfs of water.

(NOTE: The quantity of water that would be allowed under a new permit would be in addition to any quantities of water already allowed under existing water rights at the Hawk Creek facility.)

Step 2 – Revise Application T-7054 and Convert to an Instream Transfer Application:

- ♦ The District must then revise pending Transfer T-7054 to include both Certificates 21365 and 21373, and convert the transfer application to an instream water right transfer application that proposes to place the entirety of Certificates 21365 and 21373 instream to be used as mitigation for the new permit.

Step 3 – Withdraw Application T-9772 (Exchange):

- ♦ The District will then need to withdraw pending Transfer Application T-9772 because it does not meet the criteria to qualify as an “Exchange” application and is not necessary, provided that Transfer T-7054 is amended as described in “Step 2” above. Soon after Transfer T-9772 is withdrawn, you will receive a partial refund of the fees paid for the application.

If the District decides to pursue this option, please contact me so that I may assist you with the process. Please feel free to get in touch with me by telephone at (503)986-0880 or by e-mail at Lisa.J.JARAMILLO@wrdd.state.or.us.

Sincerely,

Lisa Jaramillo
Transfer Specialist
Field Services Division

cc: Transfer T-7054
Transfer T-9772
Application S-85745
Greg Beaman, Watermaster Dist. 1
Debbie Colbert, Field Services Administrator
Doug Parrow, Transfer Policy Coordinator
Tim Wallin, Water Rights Manager
Jeana Eastman, Water Rights
Bill Ferber, Northwest Regional Manager
Robert Bynum, PE, HBH Consulting Engineers, 486 E Street, Suite 3, Coos Bay, OR 97420
Ronald G. Larson, CWRE #175



Oregon

Theodore R. Kulongoski, Governor

Water Resources Department
North Mall Office Building
725 Summer Street NE, Suite A
Salem, OR 97301-1266
503-986-0900
FAX 503-986-0904

February 1, 2007

Neskowin Regional Water District
Guy Holzworth, General Manager
PO Box 823
Neskowin, OR 97149

REFERENCE: Transfer Application T-7054, Transfer Application T-9772 (Exchange) and
Water Right Application S-85745

Dear Mr. Holzworth:

The following is an attempt to provide a comprehensive view of Neskowin Regional Water District's three applications to help facilitate your decision-making regarding the District's water supply needs.

Application T-7054 proposes to change the points of diversion under Certificate 21365 from two unnamed streams, tributaries of Hawk Creek, to a single point located upstream on Hawk Creek. Such a change would result in the use of a different source of water, which is not allowed pursuant to OAR 690-380-2110(2).

Application T-9772 proposes to change both the point of diversion under Certificate 21373 from an unnamed creek, tributary of Butte Creek, and the points of diversion under Certificate 21365 from two unnamed streams, tributaries of Hawk Creek, to a single common point of diversion located upstream on Hawk Creek. Transfer T-9772 also proposes to place a portion of each certificate (21365 and 21373) instream in exchange for diverting water from the proposed point on Hawk Creek. This proposal does not meet the criteria to qualify for an exchange. Application T-9772 does not identify a water right located at the proposed point of diversion with which water appropriated under the district's rights would be exchanged. ORS 540.533 and OAR 690-380-2260 allow the submittal of an application to use stored, surface or ground water appropriated under a combination of rights by exchanging the sources of water authorized under the rights.

With regard to Application S-85745, which proposes the use of 2.0 cubic feet per second (CFS) from Hawk Creek for year-round municipal use, the Department has completed an Initial Review of the application. In that Initial Review, the Department determined it is unlikely that a permit would be issued because water is not available for the proposed use due to the existence of a senior instream water right located on downstream waters (Neskowin Creek).

In order to offset the proposed use, we understand you're willing to cancel Certificates 21365 (*1.0 CFS from two unnamed streams, tributaries of Hawk Creek*) and 21373 (*1.3 CFS from an unnamed creek, tributary of Butte Creek*) upon issuance of a permit for S-85745. At one time we thought cancellation of the certificates might offset the proposed use, but after further evaluation that does not appear to be the case. The 2.3 CFS of water to be cancelled would not



be measurable in Neskowin Creek at the location of the instream water right that needs protection. Additionally, Hawk Creek would be de-watered from the proposed point of diversion under Application S-85745 to the mouth of Hawk Creek. This is because only 1.0 CFS of water would make it back into Hawk Creek upon cancellation of Certificates 21365 and 21373 (*i.e., the 1.3 CFS under Certificate 21373 will go back into Butte Creek and will not contribute any flows to Hawk Creek*). Considering the 2.0 CFS of water proposed to be diverted under Application S-85745, this results in a deficit of 1.0 CFS of water from the proposed point of diversion under Application S-85745 to the mouth of Hawk Creek.

Although your options appear to be quite limited, there is a possibility that you could purchase an existing water right on Hawk Creek if there is a water right holder who is willing to sell their water right to you. If you consider this option, keep in mind that you may not be able to acquire the full 2.0 CFS of water you are seeking under Application S-85745. The Department can help identify water rights along Hawk Creek should you wish to pursue this option. However, it would be up to you to contact the water right holders, negotiate the terms of the sale, and purchase the water right(s). Once purchased, you would need to submit a transfer application to the Department for a change in point of diversion, place of use, character of use, and possibly other changes. Please be aware that there is an element of risk in this option because purchasing an existing water right would not guarantee the approval of a transfer. If you would like to explore this option further, please feel free to contact me.

At this time, you may request to withdraw the above referenced transfer applications and receive a refund of all fees paid minus \$50 for each of the two transfer applications. If the applications are not withdrawn, the Department will proceed with processing and, based on our current understanding of the proposals, will likely deny the applications.

We would be happy to meet with you to answer any questions or to discuss other alternatives for supplying the district's water needs. If you have any questions or would like to schedule a meeting, please contact me by telephone at (503)986-0880 or by e-mail at Lisa.J.JARAMILLO@wrld.state.or.us.

Sincerely,



Lisa Jaramillo
Transfer Specialist
Field Services Division

cc: Transfer T-7054
Transfer T-9772
Application S-85745
Greg Beaman, Watermaster Dist. 01
Phillip C. Ward, OWRD Director
Debbie Colbert, Senior Policy Coordinator
Dwight French, Water Rights Administrator
Tim Wallin, Water Rights Manager
Jeana Eastman, Water Rights
Bill Ferber, Northwest Regional Manager
Robert Bynum, PE, HGH Consulting Engineers, 490 N. 2nd Street, Ste. B, Coos Bay, OR 97420
Ronald G. Larson, CWRE #175



Oregon

Theodore R. Kulongoski, Governor

Appl S-85745

Water Resources Department
North Mall Office Building
725 Summer Street NE, Suite A
Salem, OR 97301-1266
503-986-0900
FAX 503-986-0904

February 1, 2007

Neskowin Regional Water District
Guy Holzworth, General Manager
PO Box 823
Neskowin, OR 97149

REFERENCE: Transfer Application T-7054, Transfer Application T-9772 (Exchange) and
Water Right Application S-85745

Dear Mr. Holzworth:

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Application T-9772 proposes to change both the point of diversion under Certificate 21373 from an unnamed creek, tributary of Butte Creek, and the points of diversion under Certificate 21365 from two unnamed streams, tributaries of Hawk Creek, to a single common point of diversion located upstream on Hawk Creek. Transfer T-9772 also proposes to place a portion of each certificate (21365 and 21373) instream in exchange for diverting water from the proposed point on Hawk Creek. This proposal does not meet the criteria to qualify for an exchange. Application T-9772 does not identify a water right located at the proposed point of diversion with which water appropriated under the district's rights would be exchanged. ORS 540.533 and OAR 690-380-2260 allow the submittal of an application to use stored, surface or ground water appropriated under a combination of rights by exchanging the sources of water authorized under the rights.

With regard to Application S-85745, which proposes the use of 2.0 cubic feet per second (CFS) from Hawk Creek for year-round municipal use, the Department has completed an Initial Review of the application. In that Initial Review, the Department determined it is unlikely that a permit would be issued because water is not available for the proposed use due to the existence of a senior instream water right located on downstream waters (Neskowin Creek).

In order to offset the proposed use, we understand you're willing to cancel Certificates 21365 (*1.0 CFS from two unnamed streams, tributaries of Hawk Creek*) and 21373 (*1.3 CFS from an unnamed creek, tributary of Butte Creek*) upon issuance of a permit for S-85745. At one time we thought cancellation of the certificates might offset the proposed use, but after further evaluation that does not appear to be the case. The 2.3 CFS of water to be cancelled would not

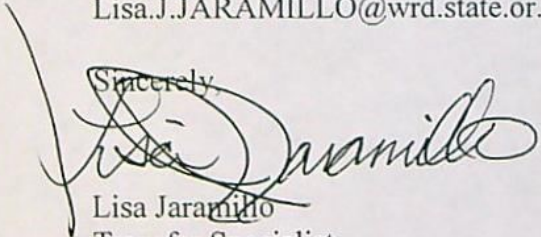
be measurable in Neskowin Creek at the location of the instream water right that needs protection. Additionally, Hawk Creek would be de-watered from the proposed point of diversion under Application S-85745 to the mouth of Hawk Creek. This is because only 1.0 CFS of water would make it back into Hawk Creek upon cancellation of Certificates 21365 and 21373 (*i.e., the 1.3 CFS under Certificate 21373 will go back into Butte Creek and will not contribute any flows to Hawk Creek*). Considering the 2.0 CFS of water proposed to be diverted under Application S-85745, this results in a deficit of 1.0 CFS of water from the proposed point of diversion under Application S-85745 to the mouth of Hawk Creek.

Although your options appear to be quite limited, there is a possibility that you could purchase an existing water right on Hawk Creek if there is a water right holder who is willing to sell their water right to you. If you consider this option, keep in mind that you may not be able to acquire the full 2.0 CFS of water you are seeking under Application S-85745. The Department can help identify water rights along Hawk Creek should you wish to pursue this option. However, it would be up to you to contact the water right holders, negotiate the terms of the sale, and purchase the water right(s). Once purchased, you would need to submit a transfer application to the Department for a change in point of diversion, place of use, character of use, and possibly other changes. Please be aware that there is an element of risk in this option because purchasing an existing water right would not guarantee the approval of a transfer. If you would like to explore this option further, please feel free to contact me.

At this time, you may request to withdraw the above referenced transfer applications and receive a refund of all fees paid minus \$50 for each of the two transfer applications. If the applications are not withdrawn, the Department will proceed with processing and, based on our current understanding of the proposals, will likely deny the applications.

We would be happy to meet with you to answer any questions or to discuss other alternatives for supplying the district's water needs. If you have any questions or would like to schedule a meeting, please contact me by telephone at (503)986-0880 or by e-mail at Lisa.J.JARAMILLO@wrdd.state.or.us.

Sincerely,


Lisa Jaramillo
Transfer Specialist
Field Services Division

cc: Transfer T-7054
Transfer T-9772
Application S-85745
Greg Beaman, Watermaster Dist. 01
Phillip C. Ward, OWRD Director
Debbie Colbert, Senior Policy Coordinator
Dwight French, Water Rights Administrator
Tim Wallin, Water Rights Manager
Jeana Eastman, Water Rights
Bill Ferber, Northwest Regional Manager
Robert Bynum, PE, HGH Consulting Engineers, 490 N. 2nd Street, Ste. B, Coos Bay, OR 97420
Ronald G. Larson, CWRE #175

Jeana Eastman

From: Bill Fujii [William.H.FUJII@wrdd.state.or.us]
Sent: Tuesday, November 21, 2006 3:22 PM
To: 'Guy Holzworth'; 'Kari Salis'; 'vicki goodman'
Cc: 'Doug Parrow'; 'Jeana Eastman'
Subject: RE: NRWD Draft Water Management % Conservation Plan

Guy -

Thank you very much! I've printed your email and the WMCP plan for my file. My impression from our conversation is that WRD has not yet conditioned any of our existing orders to require this plan. After the pending actions by the Department are final there may be a condition to require a plan. At that time you will give the affected local government(s?) the required 30 day notice of your intent to submit the plan and there after officially submit a Draft of the WMCP plan and the fees for review and approval.

Bill Fujii 503 986 0887

From: Guy Holzworth [mailto:guy_nrwd@earthlink.net]
Sent: Tuesday, November 21, 2006 2:03 PM
To: FUJII William H
Cc: Kari Salis; vicki goodman
Subject: NRWD Draft Water Management % Conservation Plan

Bill,

Attached is the Neskowin Regional Water District's draft Water Conservation & Management Plan. The District currently has submitted two applications for water rights to the Water Resources Department, 1) application S-85745 - a new municipal right for 2.0 cfs, and 2) an exchange (transfer) application T-9772. Application S-85745 is currently on administrative hold by WRD pending a decision on Transfer T-9772. We are requesting that the final review and approval of the District's Water Conservation & Management Plan be postponed until a final determination had been made on the two noted applications. Let me know if you need any additional information.

Guy Holzworth
General Manager
Neskowin Regional Water District
PO Box 823
Neskowin, OR 97149
(503) 392-3699
(503) 392-4553 fax
guy_nrwd@earthlink.net

11/22/2006

NESKOWIN REGIONAL WATER DISTRICT

PO Box 823, Room 138F, Proposal Rock Inn

Neskowin, OR 97149

503-392-3966 / FAX 392-4553

nrwd@earthlink.net

RECEIVED

DEC 27 2005

WATER RESOURCES DEPT
SALEM, OREGON

December 22, 2005

Jeana Eastman
Water Resources Department
725 Summer Street NE, Suite A
Salem, OR 97301-1271

Re: Application S-85745

Jeana:

This letter is in reference to your letter of October 31, 2005. In order to comply with House Bill 3038, the District needs to submit to Water Resources Department concerning the number of years the District will need to commence and complete construction on application S-85745.

If and when a permit is issued for application S-85745 the Neskowin Regional Water District will need 20 years from the date of issue to commence and complete construction of proposed works related to the permit.

Sincerely,



Guy Holzworth
General Manager



Oregon

Theodore R. Kulongoski, Governor

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 31, 2005

NESKOWIN REGIONAL WATER DISTRICT
ATTN: GUY HOLZWORTH
PO BOX 823
NESKOWIN OR 97149

Reference: Application S-85745

Dear Mr. Holzworth:

The Department is currently in the process of reviewing your application for a permit 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 the following:

- a statement providing the number of years (not to exceed 20 years) you need to commence and complete construction from the date of permit issuance.

Please submit this information no later than December 30, 2005.

If you request more than 20 years to complete construction, the Department will likely recommend denial of your application.

Should you have any questions regarding your application, please call me at (503) 986-0859.

Sincerely,

Jeana Eastman
Water Right Application Caseworker

cc: File
Watermaster District #1

Jeana Eastman

From: Jeana Eastman [Jeana.M.EASTMAN@wrđ.state.or.us]
Sent: Monday, August 01, 2005 10:00 AM
To: Robert Bynum-HBH
Subject: RE: Neskowin Regional Water District

Mr. Bynum,

Application S-85745 is currently on administrative hold; this means the Department is not processing the application until a certain date passes, or a certain action or decision is made. In this case, the outcome of S-85745 depends on a pending transfer (T-9772). When the Initial Review was completed for S-85745 in January 2004, it was determined that water was not available from Hawk Creek. In order to mitigate and obtain a new permit, the district submitted a letter stating they would cancel Certificates 21373 and 21365 upon issuance of a permit for S-85745. The application was put on hold and T-9772 was submitted.

T-9772 was received by the Department in August 2004. The transfer is requesting a change of point of diversion (POD) for Certificates 21373 and 21365. There is also some additional information in the file. It appears in addition to requesting a POD change, the district would like to transfer a portion of the certificates instream. The transfer has not been approved as of today's date.

I thought I might also address Certificate 27378 and the status of "terminated". In 1987, a transfer (T-5929) was received to change the POD for Certificate 27378. The transfer was approved that same year, the certificate was cancelled and upon satisfactory proof, the Department would issue a certificate confirming the change in POD. The transfer file contains a Final Proof Survey map that was completed in 1993. A confirming certificate has not been issued as of today's date.

Similarly, Certificates 21373 and 21365 show their termination is under review because T-9772 has been received. If T-9772 is approved to change the POD for the certificates, they will be cancelled, and upon satisfactory proof, the Department would issue certificates confirming the POD change.

I hope this information has been helpful. If you have further questions, please feel free to contact me.

Sincerely,
 -jeana eastman

<><> <><> <><> <><> <><> <><> <><> <><>	
Jeana Eastman	Oregon Water Resource Dept.
Water Rights Caseworker	725 Summer St NE, Suite A
Water Rights Section	Salem, OR 97301-1271
Direct 503.986.0859	Front Desk 503.986.0800
Fax 503.986.0902	http://www.wrd.state.or.us

-----Original Message-----

From: Robert Bynum-HBH [mailto:rbynum@hbh-consulting.com]
Sent: Thursday, July 28, 2005 10:42 AM

10/12/2005

To: Jeana.M.EASTMAN@wrld.state.or.us
Subject: Neskowin Regional Water District

-->

I am working on a Water System Master Plan for Neskowin and need to describe the status of water source for them. They have withdrawn water from Hawk Creek for over 20 years, treated it at the water treatment plant, and supplied the community. The plant is no longer able to produce enough water for the community. The original water treatment plant is being upgraded with construction starting in December 2005. Plant capacity will go from the current 200 gpm up to 380 gpm.

Certificate 21373 was too far away from the plant to use economically. Certificate 21365 POD was a couple hundred feet downstream from the plant and WRD told them it could not be transferred. Permit 31716 and Certificate 27378 were being utilized by the District to supply the plant and community.

After meetings with WRD staff and much discussion, their plan was to apply for a new permit on Hawk Creek. If the permit was approved, they would then cancel Certificates 21373 and 21365.

They have application S85745 in for 2.0 cfs from Hawk Creek with a POD matching their intake screen location. It appears that certificate 27378 has already been terminated and certificates 21365 and 21373 have termination under review. I am not sure why 27378 has already been terminated.

Can you update me on the status of application S85745?

Robert Bynum, PE
HBH Consulting Engineers
541-266-0355

10/12/2005



Oregon

Theodore R. Kulongoski, Governor

Water Resources Department

North Mall Office Building
725 Summer Street NE, Suite A
Salem, OR 97301-1271
503-986-0900
FAX 503-986-0904

Neskowin Regional Water District
Attn: Guy Holzworth
PO Box 823
Neskowin, OR 97149

January 6, 2005

RE: Application S-85745

Dear Mr. Holzworth:

On January 4, 2005, the Department received your request for an additional administrative hold on the processing of the above referenced application.

Your additional request for administrative hold with the Department is longer than the 180 days allowed under OAR 690-310-270. However, also under OAR 690-310-270, the Department may grant a longer administrative hold if the Director finds that a longer period is reasonable and necessary.

Based upon the review of the information you have provided, the Department has determined that a longer administrative hold on the processing of the above referenced application is reasonable and necessary. The Department has approved your request for an additional administrative hold. The Department will not take any action on this application until a final decision is made on your Transfer Application 9772.

If you have any questions, please call me at 503-986-0819 or Jeana Eastman at 503-986-0859.

Sincerely,

Dwight French
Water Rights Section Manager

cc: Greg Beaman, Watermaster District #1
File

NESKOWIN REGIONAL WATER DISTRICT

PO Box 823, Room 138F, Proposal Rock Inn

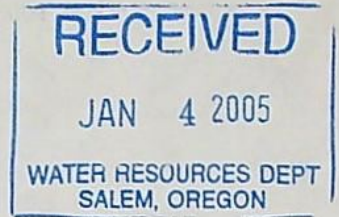
Neskowin, OR 97149

503-392-3966 / FAX 392-4553

nrwd@earthlink.net

January 3, 2005

Jeana Eastman
Water Rights Application Caseworker
Water Resources Department
725 Summer St NE, Suite A
Salem, OR 97301-1271



Re: Application S-85745

Dear Ms. Eastman:

On March 30, 2004 the Neskowin Regional Water District (NRWD) requested and was granted an administrative hold on the application S-85745. Your letter of December 6, 2004 gave the NRWD until January 6, 2005 to provide an update on the status of application S-85745.

After reviewing your letter, the Board of Commissioners of the NRWD decided at their 12/17/04 meeting to request that the administrative hold be continued. We believe this continuation is justified for the following reason:

I have enclosed my letter dated March 29, 2004 to Mr. Jerry Gainey. Point #2 of this letter explains the situation concerning the NRWD decision to apply for an "exchange" of water rights.

The NRWD did file an application for a transfer/exchange of water rights. On August 24, 2004, Water Resources Department received our application, which is #transfer 9772-Exchange.

As of today, a final decision on application transfer 9772-Exchange has not been made by Water Resources. Therefore, the NRWD is requesting that application S-85745 remain on administrative hold until a final determination is made on our transfer 9772-Exchange application.

I hope this letter answers your questions concerning this situation. Please call me if you need additional information.

Sincerely,

A handwritten signature in blue ink that reads "Guy Holzworth".

Guy Holzworth
General Manager

NESKOWIN REGIONAL WATER DISTRICT

PO Box 823, Room 138F, Proposal Rock Inn

Neskowin, OR 97149

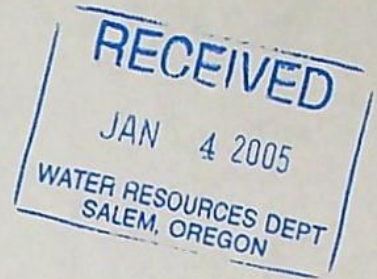
503-392-3966 / FAX 392-4553

NRWD@oregoncoast.com

March 29, 2004

Jerry Gainey
Water Rights Application Caseworker
Water Resources Dept.
725 Summer St. NE, Suite A
Salem, OR 97301-1271

Re: File S-85745



Dear Mr. Gainey:

The District is in receipt of your letter dated March 4, 2004. In your letter you stated:
"The Department understands you are willing to cancel the 1.3 cubic feet per second (CFS) municipal right under Certificate 21373 and the 1.0 CFS municipal right under Certificate 21365 if necessary in order to acquire a permit for Application S-85745. After reviewing the application, it has been determined that it is necessary. In order to make the request official, please send a letter to the department stating upon issuance of a permit in the amount applied for, 2.0 cubic feet per second under Application S-85745, you authorize the cancellation of Certificate 21373 and 21365."

The District is now stating that:

- 1) Yes, upon issuance of a permit in the amount applied for, 2.0 cubic feet per second under Application S-85745, the District will authorize the cancellation of Certificates 21373 and 21365.
- 2) The District is requesting that Application S-85745 be put on administrative hold at this time. The District has decided to apply for an "exchange" of water rights. This Application for Exchange will involve the exchange of water from the diversion points of Certificates 21373 and 21365 to a diversion point at the District's water treatment plant on Hawk Creek. The District decided to take this action after several meetings with Greg Beaman, District 1 Watermaster, and Chris Knutsen, Habitat Protection Biologist for the Oregon Dept. of Fish and Wildlife, Tillamook office. Chris Knutsen has stated that ODFW would support this exchange application.

The District is hopeful that the Application for Exchange will be successful and therefore Application S-85745 will be unnecessary, but we wish to keep Application S-85745 on administrative hold until a decision has been finalized on the Exchange Application.

Please contact me if you have any questions or comments concerning this letter.

Sincerely,

A handwritten signature in dark ink that reads "Guy Holzworth".

Guy Holzworth
General Manager

A handwritten signature in dark ink that reads "Alex Sifford".

Alex Sifford
President, Board of Commissioners

SENDER: COMPLETE THIS SECTION

- Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:

S-85745
NESKOWIN REGIONAL WATER DIST
ATTN: GUY HOLZWORTH
PO BOX 823
NESKOWIN OR 97149

2. Article Number

(Transfer from service label)

7004 1160 0007 0796 9146

COMPLETE THIS SECTION ON DELIVERY

A. Signature

X Guy Holzworth

☐ Agent

☒ Addressee

B. Received by (Printed Name)

GUY HOLZWORTH

C. Date of Delivery

D. Is delivery address different from item 1?

☐ Yes

If YES, enter delivery address below:

☐ No

3. Service Type

☒ Certified Mail

☐ Express Mail

☐ Registered

☐ Return Receipt for Merchandise

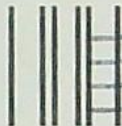
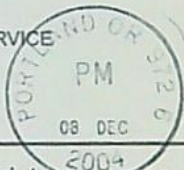
☐ Insured Mail

☐ C.O.D.

4. Restricted Delivery? (Extra Fee)

☐ Yes

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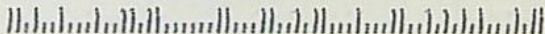
- Sender: Please print your name, address, and ZIP+4 in this box •

WATER RESOURCES DEPARTMENT
725 SUMMER STREET NE SUITE A
SALEM OR 97301-1271

WATER RESOURCES DEPT
SALEM OREGON

DEC 09 2004

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Oregon

Theodore R. Kulongoski, Governor

Water Resources Department
North Mall Office Building
725 Summer Street NE, Suite A
Salem, OR 97301-1271
503-986-0900
FAX 503-986-0904

CERTIFIED MAIL
Return Receipt Requested

Neskowin Regional Water District
Attn: Guy Holzworth
PO Box 823
Neskowin, OR 97149

December 6, 2004

RE: Application S-85745

Dear Mr. Holzworth:

On March 30, 2004, you requested and were granted an administrative hold on the above referenced application until September 30, 2004. As of the date of this letter, the Department has not received any correspondence from you regarding how or if you wish to proceed with this application.

Please provide an update on the status of the above referenced application by **January 6, 2005**. If you need to request additional time, your request will need to show justification for why the additional time is reasonable and necessary, that substantial progress is being made towards being ready to proceed with application processing, and a general time line, which identifies when you anticipate being ready to continue with the application process.

If we do not receive the information requested by this date, we may proceed with your application, possibly resulting in the proposed rejection 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.

Should you have any questions, please call me at 503-986-0859.

Sincerely,

Jeana Eastman
Water Rights Application Caseworker

cc: Greg Beaman, Watermaster District #1
File

PLACE STICKER AT TOP OF ENVELOPE TO THE RIGHT
OF THE RETURN ADDRESS, FOLD AT DOTTED LINE

SENDER: COMPLETE THIS SECTION

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- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:

3185745

NESKOWIN REGIONAL WATER DISTRICT
ATT GUY HOLZWORTH DIST. SUPERDNT.
PO BOX 823
NESKOWIN OR 97149

2. Article Number

(Transfer from service label)

COMPLETE THIS SECTION ON DELIVERY

A. Signature

X

Jana Ackerman

☐ Agent

☐ Addressee

B. Received by (Printed Name)

Jana Ackerman

C. Date of Delivery

10-18-04

D. Is delivery address different from item 1? ☐ Yes

If Yes, enter delivery address below: ☒ No

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OCT 19 2004

**WATER RESOURCES DEPT
SALEM OREGON**

3. Service Type

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☐ Express Mail

☐ Registered

☐ Return Receipt for Merchandise

☐ Insured Mail

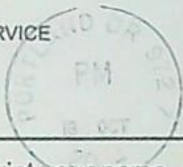
☐ C.O.D.

4. Restricted Delivery? (Extra Fee)

☐ Yes

7004 1160 0007 2344 0537

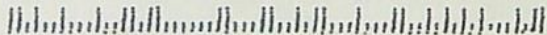
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WATER RESOURCES DEPARTMENT
725 SUMMER STREET NE SUITE A
SALEM OR 97301-1271





Oregon

Theodore R. Kulongoski, Governor

Water Resources Department

North Mall Office Building
725 Summer Street NE, Suite A
Salem, OR 97301-1271
503-986-0900
FAX 503-986-0904

CERTIFIED MAIL Return Receipt Requested

Neskowin Regional Water District
Attn: Guy Holzworth
PO Box 823
Neskowin, OR 97149

October 14, 2004

RE: Application S-85745

Dear Mr. Holzworth:

On March 30, 2004, you requested and were granted an administrative hold on the above referenced application until September 30, 2004. As of the date of this letter, the Department has not received any correspondence from you regarding how or if you wish to proceed with this application.

Please provide an update on the status of the above referenced application by **November 15, 2004**. If you need to request additional time, your request will need to show justification for why the additional time is reasonable and necessary, that substantial progress is being made towards being ready to proceed with application processing, and a general time line, which identifies when you anticipate being ready to continue with the application process.

If we do not receive the information requested by this date, we may proceed with your application, possibly resulting in the proposed rejection 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.

Should you have any questions, please call me at 503-986-0859.

Sincerely,

Jeana Eastman
Water Rights Application Caseworker

cc: Greg Beaman, Watermaster District #1
File



Oregon

Theodore R. Kulongoski, Governor

Water Resources Department

North Mall Office Building
725 Summer Street NE, Suite A
Salem, OR 97301-1271
503-986-0900
FAX 503-986-0904

March 31, 2004

Neskowin Regional Water District
Attn: Guy Holzworth
PO Box 823
Neskowin, OR 97149

Reference: File S-85745

Dear Mr. Holzworth:

On March 30, 2004, the Water Resources Department received a letter from you requesting an 180 day administrative hold on processing the above referenced application. The Department will not take any action on this application until **September 30, 2004**. Please let us know if you are ready to proceed sooner or if you need additional time.

If you have any questions, please feel free to call me at 503-986-0859.

Sincerely,

Jeana Eastman
Water Rights Caseworker

cc: Greg Beaman, Watermaster District #1
File

NESKOWIN REGIONAL WATER DISTRICT

PO Box 823, Room 138F, Proposal Rock Inn

Neskowin, OR 97149

503-392-3966 / FAX 392-4553

NRWD@oregoncoast.com

March 29, 2004

Jerry Gainey
Water Rights Application Caseworker
Water Resources Dept.
725 Summer St. NE, Suite A
Salem, OR 97301-1271

RECEIVED

MAR 30 2004

WATER RESOURCES DEPT
SALEM, OREGON

Re: File S-85745

Dear Mr. Gainey:

The District is in receipt of your letter dated March 4, 2004. In your letter you stated:
"The Department understands you are willing to cancel the 1.3 cubic feet per second (CFS) municipal right under Certificate 21373 and the 1.0 CFS municipal right under Certificate 21365 if necessary in order to acquire a permit for Application S-85745. After reviewing the application, it has been determined that it is necessary. In order to make the request official, please send a letter to the department stating upon issuance of a permit in the amount applied for, 2.0 cubic feet per second under Application S-85745, you authorize the cancellation of Certificate 21373 and 21365."

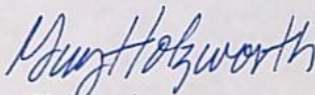
The District is now stating that:

- 1) Yes, upon issuance of a permit in the amount applied for, 2.0 cubic feet per second under Application S-85745, the District will authorize the cancellation of Certificates 21373 and 21365.
- 2) The District is requesting that Application S-85745 be put on administrative hold at this time. The District has decided to apply for an "exchange" of water rights. This Application for Exchange will involve the exchange of water from the diversion points of Certificates 21373 and 21365 to a diversion point at the District's water treatment plant on Hawk Creek. The District decided to take this action after several meetings with Greg Beaman, District 1 Watermaster, and Chris Knutsen, Habitat Protection Biologist for the Oregon Dept. of Fish and Wildlife, Tillamook office. Chris Knutsen has stated that ODFW would support this exchange application.

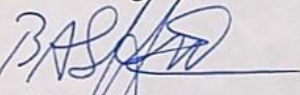
The District is hopeful that the Application for Exchange will be successful and therefore Application S-85745 will be unnecessary, but we wish to keep Application S-85745 on administrative hold until a decision has been finalized on the Exchange Application.

Please contact me if you have any questions or comments concerning this letter.

Sincerely,



Guy Holzworth
General Manager



Alex Sifford
President, Board of Commissioners

SENDER: COMPLETE THIS SECTION

- Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:

S-85745
NESKOWIN REGIONAL WATER DIST
ATTN: GUY HOLZWORTH
PO BOX 823
NESKOWIN, OR 97149

2. Article Number
(Transfer from service label)

7003 2260 0006 9769 9228

PS Form 3811, August 2001

Domestic Return Receipt

WR

COMPLETE THIS SECTION ON DELIVERY

A. Signature

X *Guy Holzworth*

B. Received by (Printed Name)

Guy Holzworth

D. Is delivery address different from item 1?

If YES, enter delivery address below:

C. Date of Delivery

☒ Yes

☐ No

3. Service Type

☒ Certified Mail

☐ Registered

☐ Insured Mail

☐ Express Mail

☐ Return Receipt for Merchandise

☐ C.O.D.

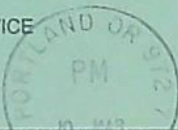
4. Restricted Delivery? (Extra Fee)

☐ Yes



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MAR 11 2004

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WATER RESOURCES DEPT
SALEM, OREGON

WATER RESOURCES DEPARTMENT
725 SUMMER STREET NE SUITE A
SALEM OR 97301-1271

97301+1266





Oregon

Theodore R. Kulongoski, Governor

Water Resources Department
North Mall Office Building
725 Summer Street NE, Suite A
Salem, OR 97301-1271
503-986-0900
FAX 503-986-0904

CERTIFIED MAIL
Return Receipt Requested

March 4, 2004

Neskowin Regional Water District
Attn: Guy Holzworth
PO Box 823
Neskowin, OR 97149

Reference: File S-85745

Dear Mr. Holzworth:

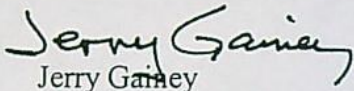
The Department is currently in the process of preparing a Proposed Final Order for the above referenced application. However, based upon continued review, the Department has determined that additional information is necessary in order to complete your application. The following information must be received:

- The Department understands you are willing to cancel the 1.3 cubic feet per second (CFS) municipal right under Certificate 21373 and the 1.0 CFS municipal right under Certificate 21365 if necessary in order to acquire a permit for Application S-85745. After reviewing the application, it has been determined that it is necessary. In order to make the request official, please send a letter to the Department stating upon issuance of a permit in the amount applied for, 2.0 cubic feet per second under Application S-85745, you authorize the cancellation of Certificates 21373 and 21365.

Please submit this information by **April 6, 2004**. If we do not receive the information requested above 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.

Should you have any questions regarding your application or the required materials listed above, or if you need to request an extension of time, please call me at (503) 986-0812.

Sincerely,

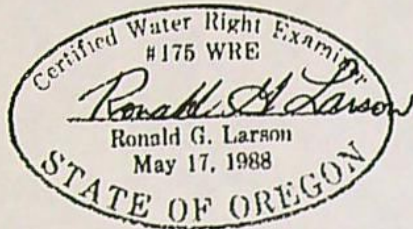
A handwritten signature in black ink that reads "Jerry Gaine". The signature is written in a cursive style with a large, stylized "J" and "G".

Jerry Gaine
Water Rights Application Caseworker

cc: Watermaster #1
File

APPLICATION MAP FOR SURFACE WATER PERMIT

NESKOWIN REGIONAL WATER DISTRICT
TILLAMOOK COUNTY, OREGON
NORTH COAST BASIN



T5S, R11W W.M.

THE PURPOSE OF THIS MAP IS TO IDENTIFY
THE LOCATION OF THE WATER RIGHT. IT IS
NOT INTENDED TO PROVIDE INFORMATION
RELATIVE TO THE LOCATION OF PROPERTY
OWNERSHIP BOUNDARY LINES.



SCALE:
1" = 1320'

PACIFIC OCEAN

13 18

101

PROPOSED PLACE
OF USE

24

19

KIWANDA CR.

BUTTE CR.

25

30

PROPOSED
POINT OF
DIVERSION

HAWK CR.

101

IRON PIPE
1/4 COR.

IRON PIPE
1/4 COR.

453'

577'

R11W

R10W

NESKOWIN CR.

35

36

31

PROPOSED PLACE
OF USE

101

T5S

T6S

RECEIVED

FEB 12 2004

WATER RESOURCES DEPT
SALEM, OREGON

NRWD.DWG

HANDFORTH LARSON & BARRETT, INC.

P.O. BOX 219

MANZANITA, OR 97130

(503) 368-5394

FAX (503) 368-5847

app S-85745

NESKOWIN REGIONAL WATER DISTRICT

P.O. Box 823
NESKOWIN, OREGON 97149

DATE

2/11/04

TO

(503) 392-3966

SUBJECT

OREGON WATER RESOURCES
JERRY W. GAINES

Corrected map

Reference File S-85745

> Jerry,

Enclosed is the corrected map you requested in your letter of January 16, 2004. At this time we are not withdrawing our application.

Thanks,
Gay Holzworth

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FEB 12 2004

WATER RESOURCES DEPT
SALEM, OREGON

SIGNED

☐ PLEASE REPLY ☐ NO REPLY NECESSARY

SENDER: COMPLETE THIS SECTION

- Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:

R 85745

NESKOWIN REGIONAL WATER DISTRICT
ATT GUY HOLZWORTH DIST. SUPERDNT.
PO BOX 823
NESKOWIN OR 97149

2. Article Number

(Transfer from service label)

7002 2030 0006 2911 9413

COMPLETE THIS SECTION ON DELIVERY

A. Signature

X

Guy Holzworth

☐ Agent☐ Addressee

B. Received by (Printed Name)

Guy Holzworth

C. Date of Delivery

D. Is delivery address different from item 1?

☐ Yes

If YES, enter delivery address below:

☐ No

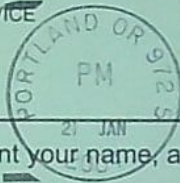
3. Service Type

☒ Certified Mail☐ Express Mail☐ Registered☐ Return Receipt for Merchandise☐ Insured Mail☐ C.O.D.

4. Restricted Delivery? (Extra Fee)

☐ Yes

UNITED STATES POSTAL SERVICE



RECEIVED

First-Class Mail
Postage & Fees Paid
USPS
Permit No. G-10

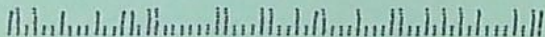
JAN 22 2004

WATER RESOURCES DEPT
SALEM OREGON

- Sender: Please print your name, address, and ZIP+4 in this box •

WATER RESOURCES DEPARTMENT
725 SUMMER STREET NE SUITE A
SALEM OR 97301-1271

97301+1271





Oregon

Theodore R. Kulongoski, Governor

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 16, 2004

**CERTIFIED MAIL
RETURN RECEIPT REQUESTED**

NESKOWIN REGIONAL WATER DISTRICT
ATTN: GUY HOLZWORTH
PO BOX 823
NESKOWIN, OR 97149

(503)392-3966

Reference: File S-85745

Dear Mr. Holzworth :

**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:

1. The proposed use is not prohibited by law or rule except where otherwise noted below.
2. The use of water from Hawk Creek, a tributary of Butte Creek for municipal use is a **classified use** under OAR 690-501, the North Coast Basin Program.
3. Water in the amount of 2.0 cubic feet per second for municipal use is **not available** at any time during the year.
4. The Department has determined there are deficiencies with the application submitted. Please refer to the **ADDITIONAL INFORMATION REQUIRED** section below for specific information.

Summary of Allowable Water Use

Because item #3 above is unfavorable, the use of 2.0 cubic feet per second of water from Hawk Creek, a tributary of Butte Creek for municipal use is not allowable, and it appears unlikely that you will be issued a permit. At this time, you must decide whether to proceed or to withdraw your application as described below.

Additional Information Required:

- Please submit a map indicating the township and range.

Please submit this information no later than February 12, 2004. If you are unable to submit the information listed above, 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 from processing by this date, we may reject your application consistent with ORS 537.153 or ORS 537.621. 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.

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.

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, January 30, 2004**. 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.

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. You may be required to install fish screens at the diversion to meet Oregon Department of Fish and Wildlife specifications for adequate protection of aquatic life.
3. The tentative priority date for this application is August 20, 2003.

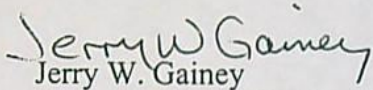
WARNING: This initial review does not attempt to address various public interest issues such as sensitive, threatened, or endangered fish species. These issues will be addressed as the Department reviews public comments and prepares a proposed final order. You should be aware that, if significant public interest issues are found to exist, such a finding could have an impact on the eventual outcome of your application.

The water source identified in your application may be affected by an Agricultural Water Quality Management Area Plan. These plans are developed by the Oregon Department of Agriculture (ODA) with the cooperation of local landowners and other interested stakeholders, and help to ensure that current and new appropriations of water are done in a way that does not adversely harm the environment. You are encouraged to explore ODA's Water Quality Program web site at http://www.oda.state.or.us/nrd/water_quality/index.html to learn more about the plans and how they 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 503-986-0801. Feel free to call me at 503-986-0812 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, 725 Summer St NE Ste A, Salem OR 97301-1271, Fax: 503-986-0901.

Sincerely,


Jerry W. Gainey

Water Right Application Caseworker

enclosures: Flow Chart of Water Right Process
 Stop Processing Form

S-85745
wab 1-71241
pou 1-71241
gw

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-85745

Applicant: NESKOWIN REGIONAL WATER DISTRICT ATTN: GUY HOLZWORTH

County: Tillamook

Watermaster: 1

Priority Date: August 20, 2003

Source: HAWK CREEK, A TRIBUTARY OF BUTTE CREEK

Use: MUNICIPAL USE

Quantity: 2.0 CUBIC FEET PER SECOND

Basin Name & Number: North Coast, #1

Stream Index Reference: Volume 3 NESKOWIN CR & MISC

Point of Diversion Location: SESE, SECTION 25, T5S, R11W, W.M.; 577 FEET NORTH &
453 FEET WEST FROM SE CORNER, SECTION 25

Place of Use: WITHIN THE SERVICE BOUNDARIES OF NESKOWIN REGIONAL WATER
DISTRICT

14 DAY STOP PROCESSING DEADLINE DATE: Friday, January 30, 2004

PUBLIC NOTICE DATE: Tuesday, January 20, 2004

30 DAY COMMENT DEADLINE DATE: Thursday, February 19, 2004

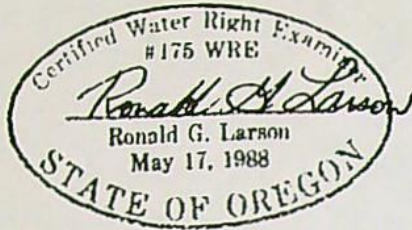
WORK COPY

T5S 11W

T5S 16W

APPLICATION MAP FOR
SURFACE WATER PERMIT

NESKOWIN REGIONAL WATER DISTRICT
TILLAMOOK COUNTY, OREGON
NORTH COAST BASIN



PACIFIC OCEAN

THE PURPOSE OF THIS MAP IS TO IDENTIFY
THE LOCATION OF THE WATER RIGHT. IT IS
NOT INTENDED TO PROVIDE INFORMATION
RELATIVE TO THE LOCATION OF PROPERTY
OWNERSHIP BOUNDARY LINES.



SCALE:
1" = 1320'

35

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WATER RESOURCES DEPT
SALEM, OREGON

PROPOSED PLACE
OF USE

101

HANDFORTH LARSON & BARRETT, INC.

P.O. BOX 219

MANZANITA, OR 97130

(503) 368-5394

FAX (503) 368-5847

NRWD.DWG

app no S-85743

13

18

101

PROPOSED PLACE
OF USE

24

19

KIWANDA CR.

BUTTE CR.

25

30

PROPOSED
POINT OF
DIVERSION

HAWK CR.

101

IRON PIPE
1/4 COR.

IRON PIPE
1/4 COR.

NESKOWIN CR.

36

31

101

Mailing List for IR Copies

Application #S-85745

IR Date: January 16, 2004

Original mailed to:

Applicant: NESKOWIN REGIONAL WATER DISTRICT ATTN: GUY HOLZWORTH, PO BOX 823, NESKOWIN, OR 97149

Copies sent to:

1. WRD - File # S-85745
2. WRD - Water Availability: Ken Stahr

IR, Map, and Fact Sheet Copies sent to:

3. WRD - Regional Manager NWR

Copies Mailed

By: TEB
(SUPPORT STAFF)

on: 1/16/04
(DATE)

Note to Support: staple Division 33 Review Forms to front of copy packet for the following:

1) Watermaster

2) ODFW

3) DEQ (if indicated below)

4. WRD - Watermaster # 1 + **Watermaster Form**
5. ODFW District Biologist: Chris Knutsen + **ODFW Form 2 (L. Col./Statewide)**
6. DEQ: Andy Schaedel + **DEQ Form**
7. DOA: Jim Johnson

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

8. Ronald G. Larson, CWRE # 175

ID# JWG

COPYSHIT IR

REMINDER: Copy all IR's for uses in the geographic Umatilla Basin to Confederated Tribes of the Umatilla Indian Reservation, PO Box 638, 73239 Confederated Way, Pendleton, OR 97801.

REMINDER: Copy all IR's for uses in the Klamath Basin to DEQ and ODFW contacts, regardless of whether they are subject to Division 33. (If they are not subject to Division 33, do not include Division 33 forms.)



State of Oregon
Water Resources Department
 158 12th Street NE, Salem, OR 97301-4172
 503-378-8455
<http://www.wrd.state.or.us>

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. APPLICANT INFORMATION

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WATER RESOURCES DEPT.
 SALEM, OREGON

A. Individuals

Applicant: N/A
First Last

Co-applicant: _____
First Last

Mailing address: _____

City State Zip

Phone: _____
Home Work Other

*Fax: _____ *E-Mail address: _____

B. Organizations

(Corporations, associations, firms, partnerships, joint stock companies, cooperatives, public and municipal corporations)

Name of organization: Neskowin Regional Water District

Name and title of person applying: Guy Holzworth, District Superintendent

Mailing address of organization: P.O. Box 823

Neskowin Oregon 97149
City State Zip

Phone: (503) 392-3966
Day Evening

*Fax: (503) 392-4553 *E-Mail address: NRWD@OREGONCOAST.COM

*Optional information

For Department Use

App. No. 5-85745

Permit No. _____

Date _____

2. SOURCE AND PROPERTY OWNERSHIP

A. The Proposed Source of Water

Provide the commonly used name of the water body from which water will be diverted, and the name of the stream or lake it flows into. If unnamed, say so:

Source 1: Hawk Creek Tributary to: Pacific Ocean

Source 2: _____ Tributary to: _____

Source 3: _____ Tributary to: _____

Source 4: _____ Tributary to: _____

B. Property Ownership

Do you own all the land where you propose to divert, transport, and use water?

☐ Yes (Skip to section 3 "Water Use.")

☒ No Please check the appropriate box below.

☒ I have a recorded easement or written authorization permitting access.

☐ I do not currently have written authorization or an easement permitting access.

List the names and mailing addresses of all affected landowners.*

More than 25 tax lots will be served. Place of use is the existing Neskowin Regional
Water District service boundary. All public pipelines already exist and are located within
dedicated utility easements or public right-of-way. Point of diversion is tax lot owned by the
District (location of water treatment plant). Diversion, transport, and use is all within the
existing service boundary.

*If more than 25 landowners are involved, a list is not required. See instructions.

3. WATER USE

Please read the instruction booklet for more details on "type of use" definitions, how to express the amount of water you need and how to identify the water source you propose to use. You must fill out a supplemental form for some uses as they require specific information for that type of use.

A. Type(s) of Use(s)

See list of beneficial uses in the instructions.

☐ • If your proposed use is **domestic**, indicate the number of households to be supplied with water: _____

☐ • If your proposed use is **irrigation**, please attach Form I

☐ • If your proposed use is **mining**, attach Form R

☒ • If your proposed use is **municipal or quasi-municipal**, attach Form M

☐ • If your proposed use is **commercial/industrial**, attach Form Q

Surface Water/ 2

app no B-85745

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WATER RESOURCES DEPT.
SALEM, OREGON

B. Amount of Water

Provide the amount of water you propose to use from each source, for each use, in cubic feet-per-second (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	
Hawk Creek	Municipal	2.00	cfs
			af
			af
			af

C. Period of Use

Indicate the time of year you propose to use the water: year-round

(For seasonal uses like irrigation give dates when water use would begin and end, e.g. March 1–October 31.)

D. Acreage

If you will be applying water to land, indicate the total number of acres where water will be applied or used: n/a

(This number should be consistent with your application map.)

4. WATER MANAGEMENT**A. Diversion**

What method will you use to divert water from the source?

- ☐ Pump (give horsepower and pump type) _____
- ☐ Head-gate (give dimensions) _____
- ☒ Other means (describe) by gravity through passive intake screen

B. Monitoring

How will you monitor your diversion to be sure you are within the limits of your water right (allowed rate and duty) and you are not wasting water?

- ☐ Weir ☒ Meter ☐ Periodic Sampling
- ☐ Other (describe) _____

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Surface Water/3

app no 5-85745

WATER RESOURCES DEPT.
SALEM, OREGON

C. Transport

How will you transport water to your place of use?

- ☐ Ditch or canal (give average width and depth)

Width _____ Depth _____

Is the ditch or canal to be lined? ☐ Yes

- ☒ Pipe (give diameter and total length)

Diameter 6/8/10-inch Length POD in POU

- ☐ Other (describe) _____

D. Application/Distribution Method

What equipment will you use to apply water to your place of use?

Municipal water system with distribution piping and individual service laterals to homes

Irrigation or land application method (check all that apply):

- | | | |
|--|--|---|
| ☐ Flood | ☐ High-pressure sprinkler | ☐ Low pressure sprinkler |
| ☐ Drip | ☐ Water cannons | ☐ Center pivot system |
| ☐ Hand lines | ☐ Wheel lines | |
| ☐ Siphon tubes or gated pipe with furrows | | |
| ☐ Other, describe _____ | | |

Distribution method

- ☒ Direct pipe from source ☐ In-line storage (tank or pond) ☐ Open canal

E. Conservation

What methods will you use to conserve water? Why did you choose this distribution or application method? Have you considered other methods to transport, apply, distribute or use water? For example, if you are using sprinkler irrigation rather than drip irrigation, explain.

Regular leak detection and repair program. Minimize plant water used for backwashing and other
processes. Regular checks and calibration of flow meters. Encourage customers to minimize water use
during summer periods. Establish flushing schedule to minimize water needed for system flushing.

5. RESOURCE PROTECTION

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.

RECEIVED

AUG 20 2003

Surface Water/ 4

app no 8-85745

WATER RESOURCES DEPT.
SALEM, OREGON

✓ Diversion will be screened to prevent uptake of fish and other aquatic life.

Describe planned actions: Diversion intake screen is already in place. Intake is properly sized and constructed with stainless steel. Screen is approved and was funded by ODFW.

✓ Excavation or clearing of banks will be kept to a minimum to protect riparian or streamside areas. Describe planned actions: No streamside work or clearing is required. Intake already exists and does not require improvements.

✓ Operating equipment in a water body will be managed and timed to prevent damage to aquatic life. Describe: Operating equipment not required.

✓ Water quality will be protected by preventing erosion and run-off of waste or chemical products. Describe: No streamside work is required and no disruption to soil or vegetation will occur.

No chemical storage near stream will be allowed.

□ Other: _____

6. PROJECT SCHEDULE

Indicate the anticipated dates that the following construction tasks should begin. If construction has already begun, or is completed, please indicate that date.

Proposed date construction will begin September 1, 2004

Proposed date construction will be completed May 1, 2005

Proposed date beneficial water use will begin May 1, 2005

7. REMARKS

If you would like to clarify any information you have provided in the application, please do so here and reference the specific application question you are addressing.

The Neskowin Regional Water District is a municipal corporation needing water for domestic and commercial use. Proposed place of use is the current District boundary. Proposed POD is the location of the existing intake screen at the water treatment plant. District has attempted to transfer the POD for Permit S6132 to the location of the existing intake and water treatment plant but this was denied since it was considered a change in source. It would cost an estimated \$75,000 to begin using Permit S6132 on a permanent basis. The requested new permit would allow use of the existing intake feeding by gravity to the treatment plant at no cost.

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

Date

Signature of Co-applicant

Date

Before you submit your application be sure you have:

- Answered each question completely.
- Included a legible map which includes township, range, section, quarter/quarter and tax lot number.
- 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.



Oregon Water Resources Department

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.

Background Information

Name of water supplier: Neskowin Regional Water District

Name and size of area to be served: Neskowin Regional Water District, 2.5 square miles
(in square miles)

Present population of service area: 1358 peak residential, 1781 equivalent service pop. with commercial users
(Contact county planning staff, if needed.)

Projected population in 20 years: 2063 peak residential, 2585 equivalent service pop.; based on water study and historic growth records
(Cite source and year. For example: "20,595 Based upon 1995 Portland State University projections.")

List present water rights and permits held:

Date of Issuance:	Natural Source of Water:	Amount Permitted:	Utilization:
<u>12/01/1955</u>	<u>Hawk Creek</u>	<u>0.35 cfs (\$23990)</u>	<u>100% (0.35 cfs)</u>
<u>05/31/1966</u>	<u>Hawk Creek</u>	<u>0.3 cfs (\$31716)</u>	<u>39% (0.12 cfs)</u>
<u>08/26/1920</u>	<u>unnamed trib. to Hawk Creek</u>	<u>1.0 cfs (\$6132)</u>	<u>0%</u>
<u>12/07/1944</u>	<u>unnamed trib. to Butte Creek</u>	<u>1.3 cfs (\$16092)</u>	<u>0%</u>

Water Use

Average yearly demand: 135 AFY Year: 2001

Per-capita daily consumption (in gallons): 136 gpcd average (sales)
(Divide average annual water sales by population to arrive at consumption, then divide by 365 to get daily values.)

Peak season (by month/day): 6/15 to 9/15 Total peak season demand: 48 Acre-feet

Peak season per-capita daily consumption: 181 gpcd (sales)
(Divide total peak season demand by population and the number of days during the peak.)

Annual amount of water:

produced: 135 AFY (diverted and treated)
(diverted or pumped)

delivered: 73 AFY (sold), plus 9 AFY used at treatment plant

Is your system fully metered? ☒ Yes ☐ No

Describe your rate structure: decreasing block; \$16/EDU flat fee 0-6000 gal. plus \$2 per 1000 gal. over 6000 gal.
(e.g. flat rate, increasing or decreasing block rate or combination of different systems)

RECEIVED

AUG 20 2003

WATER RESOURCES DEPT.
SALEM, OREGON

app no 5-85745

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): Growth in Neskowin has resulted in peak demands now exceeding treatment plant capacity. A new treatment plant is being planned and water rights are needed to meet the projected 20-year demand.

B. How long is the amount of water requested in this application expected to meet future needs?

(e.g. until the year 2040) Until the year 2090

C. Briefly discuss operation of water system and the most constraining component of the system:

System is a full municipal system with intake, treatment plant, storage tanks and distribution piping to serve the community. Plant has reached full capacity and must be upgraded. Plant capacity of 0.85 cfs is needed to meet 20-year demand.

D. Percentage of water use by type:

Residential: 41%

Commercial: 13%

Public Authority: 1%

Agricultural: 0%

Unaccounted for use: 38% (15% summer)

Industrial: 0%

Other (specify use): 7%, plant backwash and in-plant process 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.)

Proper ODFW approved screened diversion already exists at the proposed POD so the cost to implement that portion of the new water right is nothing. It is estimated that a second screened intake, pump station and piping required to use Permit S6132 would cost \$75,000. Treatment plant must be upgraded regardless of capacity due to deterioration of components.

F. How and by how much will your proposed water use efficiency programs increase efficiency? (Express as a percentage of per-capita consumption.)

per-capita consumption in Neskowin is already low. Many homes are newer and contain low-flow fixtures. Water conservation measures will not result in the existing available water rights being adequate to meet the community's needs.

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Last revision: April 9, 1996

app no 5-85745 AUG 20 2003

WATER RESOURCES DEPT.
SALEM, OREGON

Neskowin Regional Water District
Application for a Permit to Use Surface Water

The Neskowin Regional Water District currently operates a water treatment plant on Hawk Creek with a maximum capacity of 210 gpm (0.47 cfs). In recent years, summer peak demands exceed plant capacity forcing the plant to run 24 hours per day. Storage tank levels drop during the day, reducing available fire protection storage, since the plant cannot produce enough water to meet demand. Additionally, components in the plant are deteriorated and the plant will be unable to consistently produce water meeting State drinking water quality standards. A new treatment plant is being planned in the immediate future. The 20-year design flow needed from the plant is 0.85 cfs. The existing intake facility on Hawk Creek already has adequate capacity for 0.85 cfs.

The District holds a water right certificate (27378, 0.35 cfs) and a permit (S31716, 0.3 cfs) which allow for up to 0.65 cfs to be withdrawn from Hawk Creek. As soon as the new plant is constructed, both of these permits will be 100% utilized and an additional 0.25 cfs will be needed immediately. In addition, the District holds another certificate for 1.0 cfs (municipal right) from two unnamed tributaries of Hawk Creek. The diversion points for the 1.0 cfs certificate are downstream from the plant. To utilize the 1.0 cfs certificate, the District would need to construct a second intake, a pump station, and approximately 600 feet of piping to pump the water uphill to the treatment plant at an estimated cost of \$100,000. Another certificated municipal water right (permit S16092) is held on a tributary to Butte Creek. Pumping water from this location near Butte Creek to the treatment plant is not economically feasible. In meetings with WRD in Salem, it was suggested that Neskowin apply for a new permit on Hawk Creek with a POD matching the existing intake and authorized POD for the existing Hawk Creek certificate. This would allow for the existing diversion facilities to be used along with a single POD for all water use. The District would consider canceling an unused water right(s) as a mitigation measure if a new water permit is issued. The District desires to gain a new permit for 2.0 cfs on Hawk Creek to allow the community to be served now and in the future with a single source intake and treatment plant. If the new permit is granted, the District will cancel the 1.3 cfs municipal right on the Butte Creek tributary (Butte Creek flows into Hawk Creek). If required, the District would also cancel the 1.0 cfs municipal water right on the unnamed tributaries to Hawk Creek. This would result in 2.3 cfs being cancelled and 2.0 cfs being issued.

Currently, Neskowin has 578 homes and 16 commercial users. The 16 commercial establishments use water volumes equivalent to 180 single family dwellings or equivalent dwelling units (EDU). According to the 2000 US Census data, Tillamook County has 2.30 persons per owner occupied dwelling and 2.41 per renter occupied dwelling. An average of 2.35 persons per dwelling unit is used in Neskowin. This results in a current equivalent service population of 1,781 persons and a peak residential population of 1,358 persons. Water use in Neskowin is relatively low with a peak day demand of 267 gpcd based on peak residential population only.

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AUG 20 2003

WATER RESOURCES DEPT.
SALEM, OREGON

app NO S-85745

Over the last 10 years, an average of 15 new homes per year have been connecting to the water system. This equates to an average annual growth rate of 3.1% over the last decade. This rate of growth is expected to continue for the next 20 years with a total of 878 homes in the year 2023. Commercial EDU's are expected to climb to 222 within a 20-year planning period. With 1,100 EDUs in 2023, the new treatment plant will be designed to produce 380 gpm (0.85 cfs, 265 gpcd). This volume of water is much lower than other Oregon communities where peak demands of over 400 gpcd are common. Neskowin is also seeing an increase in the number of local homes being used on a year-round basis.

After 20-years, a moderate 2% average annual growth rate is planned for. At this rate of growth, together with the current peak demand of 475 gpd/EDU, the proposed combination of 2.65 cfs water rights will be exhausted in the year 2090. If water use increases over time due to the influx of more year-round residents to the average value of 548 gpcd*, the water right will be exceeded in the year 2044. With respect to water rights, it is prudent for Neskowin to plan on providing for average per capita water demands rather than the current low values.

* Per capita water use in Oregon is documented by the US Department of the Interior in the 1995 US Geological Survey – Circular 1200. According to this study, average per capita water demand in Oregon is 235 gpcd and peak day demand is 588 gpcd. This peak value drops to 548 gpcd when no industrial users are present. With 2.35 persons per household in Neskowin, the resulting maximum day demand that must be met by the water source and treatment plant is 1,288 gpd/EDU.

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WATER RESOURCES DEPT.
SALEM, OREGON

app no S-85745

WATER USES, PROJECTED NEEDS

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AUG 20 2003

WATER RESOURCES DEPT.
SALEM, OREGON

1. POPULATION AND GROWTH:

	Current (year: 2002)	2020	2030	2040	2050	2060	2070
Population:	1323	1958	2390	2910	3550	4320	5270
Growth rate: (average annual)		2.5%	2%	2%	2%	2%	2%

2. EXISTING WATER RIGHTS AND PERMITS:

Groundwater:

Permit/Application number	Description	Amount	Priority Date
N/A			

Surface Water:

Permit/Application number	Description	Amount	Priority Date
523990/530456	Hawk Creek, MU	0.35 cfs	12/01/1955
531716/542274	Hawk Creek, 6-D	0.3 cfs	05/31/1966
56132/57499	Unn. trib to Hawk Creek, MU	1.0 cfs	02/26/1970
516092/520596	Unn. trib to Butte Creek, MU	1.3 cfs	12/07/1944

Pending permits:

Permit/Application number	Description	Amount	Priority Date
N/A			

3. EXISTING AND FUTURE WATER USE:

Current (year: 2002)

Current peak demand: 353,000 gpd

Current water use:

	Current (year: 2002)	2020
Peak day demand (gallons/capita/day):	267 gpcd	267 gpcd
Peak daily demand (MGD):	0.353 MGD	0.523 MGD
Average daily demand (gallons/capita/day):	107 gpcd	107 gpcd
Average summer demand (gallons/capita/day):	250 gpcd	250 gpcd

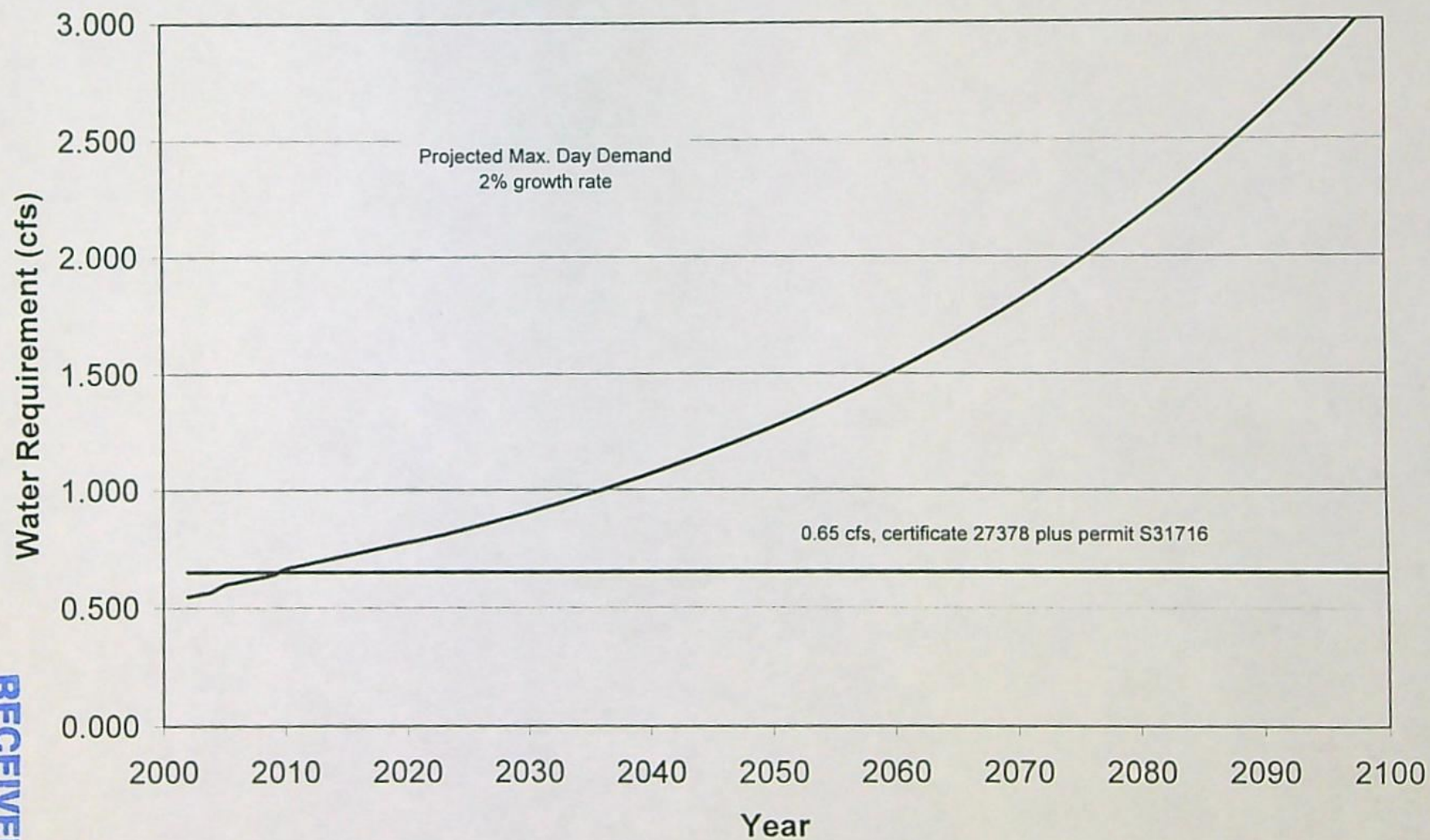
4. EXPLANATION FOR PROJECTED GROWTH RATE:

NESEDWIN HAS AVERAGED 15 NEW HOMES ANNUALLY FOR THE LAST 10 YEARS. THIS GROWTH EQUALS A 3.1% AVERAGE ANNUAL GROWTH RATE. THIS SAME (15 NEW HOMES PER YEAR) RATE IS EXPECTED OVER THE NEXT 20 YEARS. AFTER 20 YEARS, A REDUCED GROWTH RATE OF 2% IS PLANNED FOR.

5. EXPLANATION FOR EXTENSION TIME PERIOD:

appno 5-85745

Neskowin Regional Water District



app no 5-85745

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AUG 20 2003
WATER RESOURCES DEPT.
SALEM, OREGON



Oregon Water Resources Department Land Use Information Form

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AUG 20 2003

WATER RESOURCES DEPT.
SALEM, OREGON

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.

To Be Completed By Applicant

The following section includes information about proposed water use. This section must be completed by the individual or group that is filing an application for a water right with the Water Resources Department.

A. Applicant

Name: Neskowin Regional Water District (NRWD)Address: PO Box 823City: Neskowin State: OR Zip: 97149 Day Phone: 503-392-3966

B. Land and Location

Please provide information as requested below for all tax lots on or through which water will be diverted, conveyed, or used. Check "diverted" if water is diverted (taken) from its source on tax lot, "conveyed" if water is conveyed (transported) on tax lot, and "used" if water will be put to beneficial use on tax lot. More than one box may be checked. (Attach extra sheets as necessary.) Applicants for municipal use, or irrigation uses within irrigation districts, may substitute existing and proposed service area boundaries for the tax lot information requested below.

Tax Lot I.D.	Plan Designation (e.g. Rural Residential/RR-5)	Water to be: (check all that apply)		
	NRWD Service Boundary (existing)	☒ Diverted	☒ Conveyed	☒ Used
		☐ Diverted	☐ Conveyed	☐ Used
		☐ Diverted	☐ Conveyed	☐ Used

List counties and cities where water is proposed to be diverted, conveyed, or used. Neskowin, Tillamook County

C. Description of Water Use

Indicate what the water will be used for. Include the beneficial use (found in the instruction booklet for your water right application) and use the space below to describe the key characteristics of the project.

Beneficial Use(s): Community Water Supply (Municipal)

Briefly describe: Domestic water supply, commercial supply for local motels, stores, and restaurants, residential irrigation of lawns and gardens, fire protection, and normal system maintenance flushing.

D. Source

Indicate the source for the proposed water use:

☐ Reservoir/Pond ☐ Ground Water ☒ Surface Water Hawk Creek
(source)

E. Quantity

Indicate the estimated quantity of water the use will require:

2.0 ☒ CFS ☐ GPM ☐ Acre-Feet

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

For Local Government Use Only

The following section must be completed by a planning official from each county and city listed unless your project will be located entirely within the city limits. In this case, only the city planning agency must complete this form. Please request additional forms as needed or feel free to copy.

A. Allowed Use

Check the appropriate box below and provide requested information.

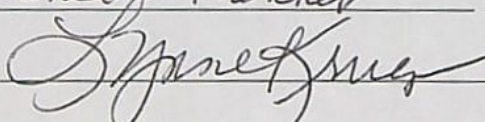
- ☒ Land uses to be served by proposed water uses (including proposed construction) are allowed outright or are not regulated by your comprehensive plan. Cite applicable ordinance section(s); _____. Go to section B "Approval" below
- ☐ Land uses to be served by proposed water uses (including proposed construction) involve discretionary land use approvals as listed in the table below.

Type of Land Use Approval Needed (e.g. plan amendments, rezones, conditional use permits, etc.)	Cite Most Significant, Applicable Plan Policies & Ordinance Section References	Check the item that applies: Land Use Approval:	
		☐ Obtained ☐ Denied	☐ Being pursued ☐ Not being pursued
		☐ Obtained ☐ Denied	☐ Being pursued ☐ Not being pursued
		☐ Obtained ☐ Denied	☐ Being pursued ☐ Not being pursued
		☐ Obtained ☐ Denied	☐ Being pursued ☐ Not being pursued

Note: Please attach documentation of applicable local land use approvals which have already been obtained. (Record of Action plus accompanying findings is sufficient.)

B. Approval

Please provide printed name and written signature.

Name: LYNNE KRUEGER Date: 8/14/03
Title: Senior Planner Phone: (503) 842-3408
Signature: 

C. Additional Comments

Local governments are invited to express special land use concerns or make recommendations to the Department regarding this proposed use of water below, or on a separate sheet.

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AUG 20 2003

WATER RESOURCES DEPT.
SALEM, OREGON

Note: If this form cannot be completed while the applicant waits, sign and detach the receipt stub as instructed below. You will have 30 days from the Water Resources Department's notice date to return the completed Land Use Information Form or WRD will presume the land use associated with the proposed water right is compatible with local comprehensive plans. (See attached letter.)

Receipt for Request for Land Use Information

Name of water right applicant: _____

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: _____

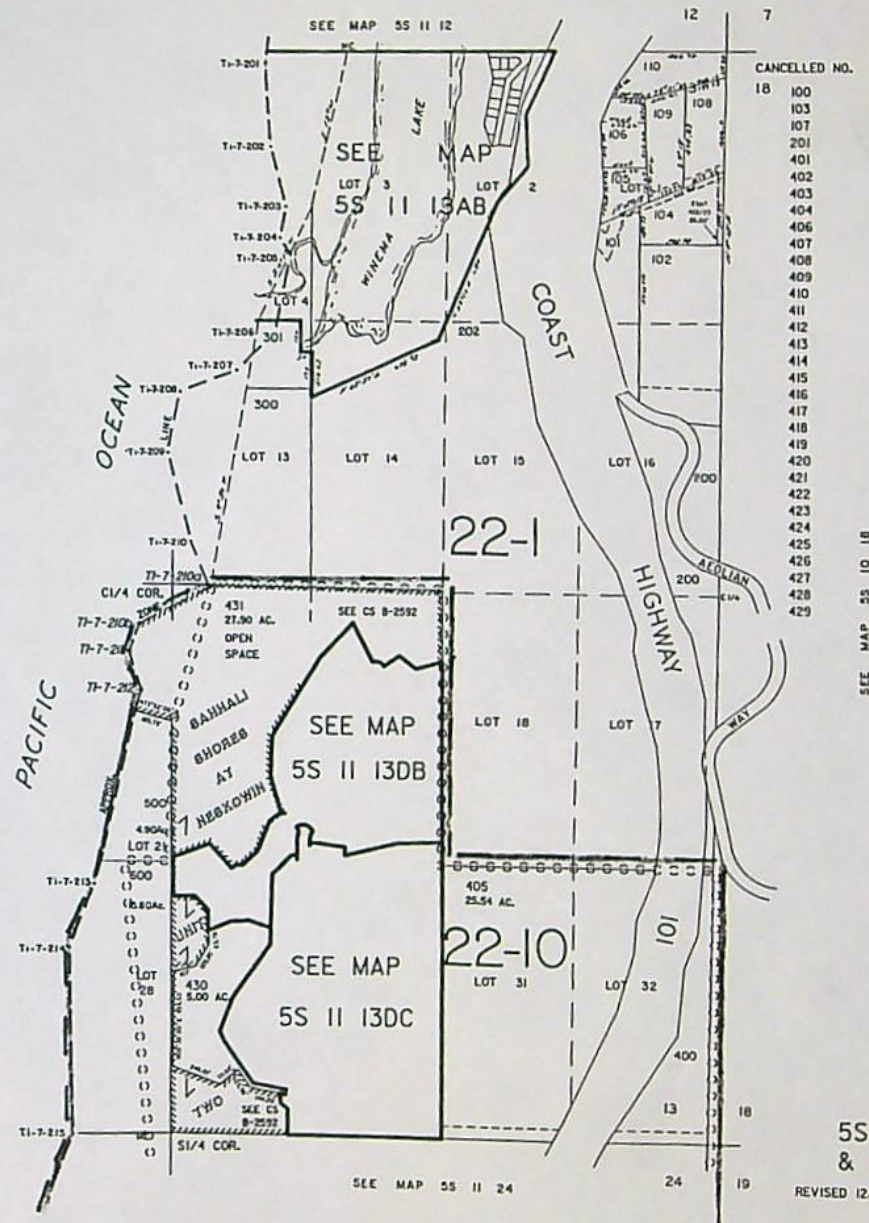
Staff contact: _____ Phone: _____

Signature: _____ Date: _____

THIS MAP WAS PREPARED FOR
ASSESSMENT PURPOSE ONLY

SECTION 13 T.5S. R.11W. W.M.
TILLAMOOK COUNTY
1" = 400'

5S 11 13
& INDEX



app 1105-85745

5S 11 13
& INDEX

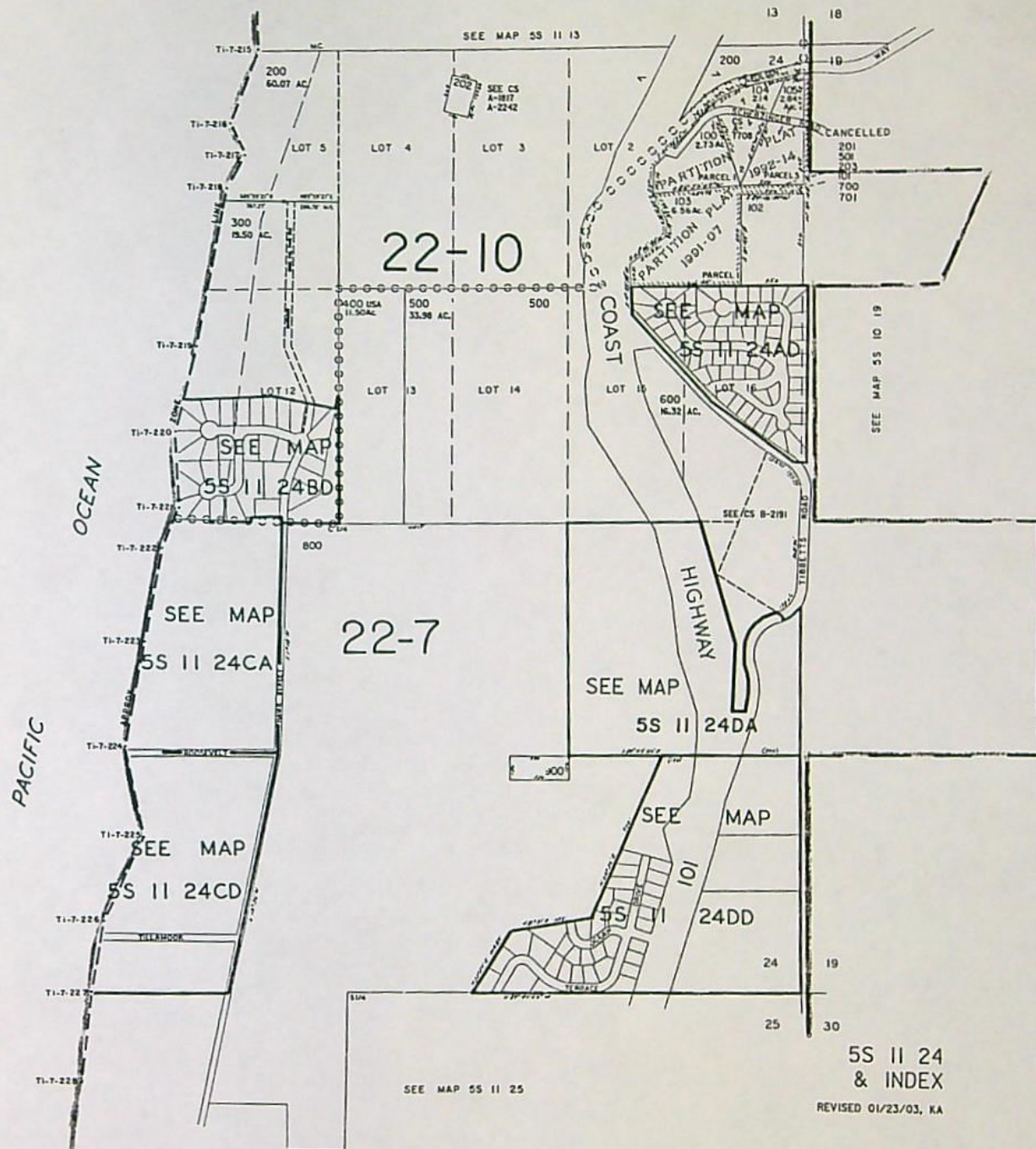
REVISED 12/23/02, KA

RECEIVED
AUG 20 2003
WATER RESOURCES DEPT.
SALEM, OREGON

THIS MAP WAS PREPARED FOR
ASSESSMENT PURPOSE ONLY

SECTION 24 T.5S. R.11W. W.M.
TILLAMOOK COUNTY
1" = 400'

5S 11 24
& INDEX



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WATER RESOURCES DEPT.
SALEM, OREGON

app no S-85745

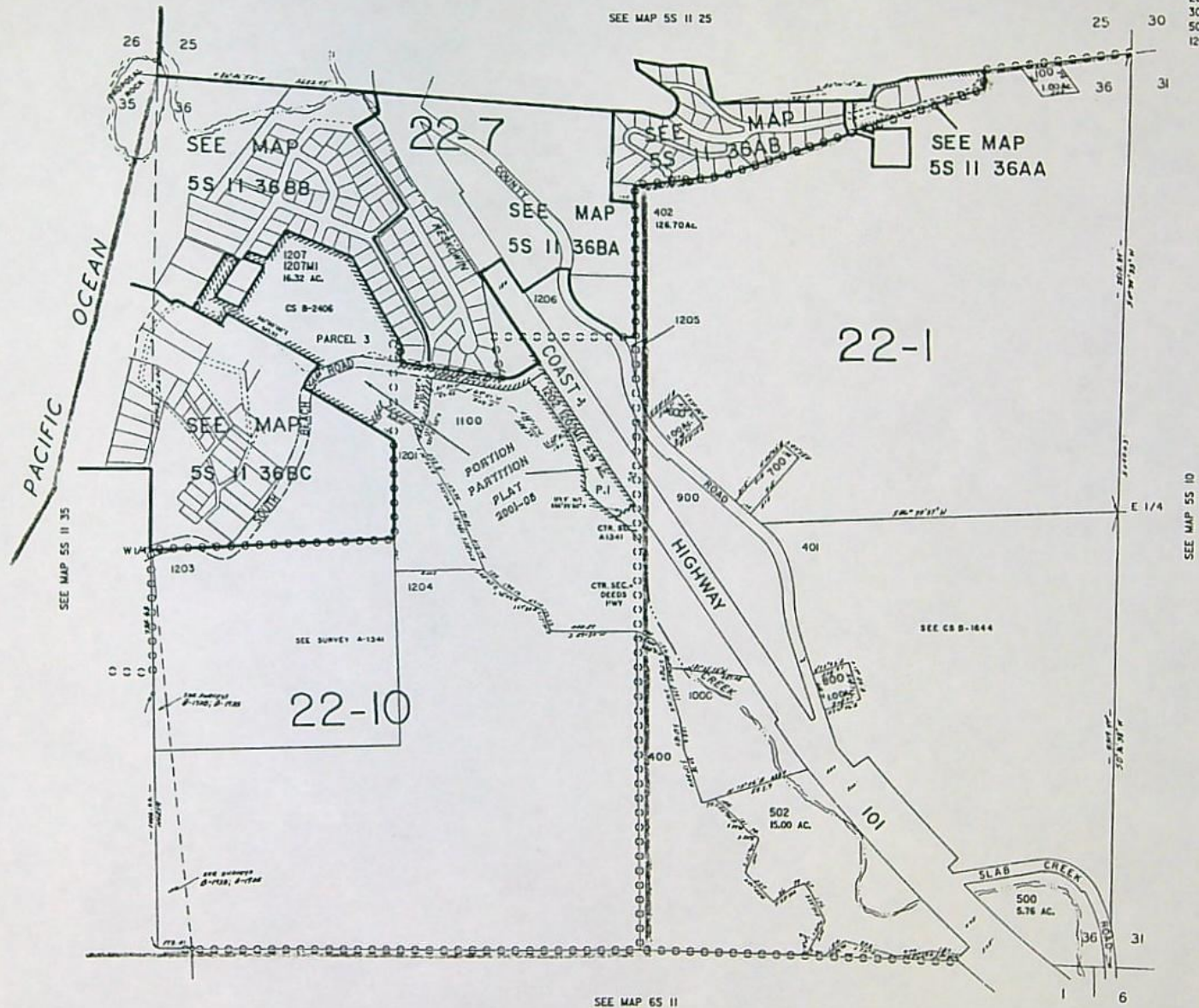
app no 5-85745

THIS MAP WAS PREPARED FOR
ASSESSMENT PURPOSE ONLY

SECTION 36 T.5S. R.11W. W.M.
TILLAMOOK COUNTY
1" = 400'

5S 11 36
& INDEX

CANCELLED NO.
200
300 THRU 302
501
1200



5S 11 36
& INDEX

REVISED 07/06/01, KA

RECEIVED
AUG 20 2003
WATER RESOURCES DEPT.
SALEM, OREGON

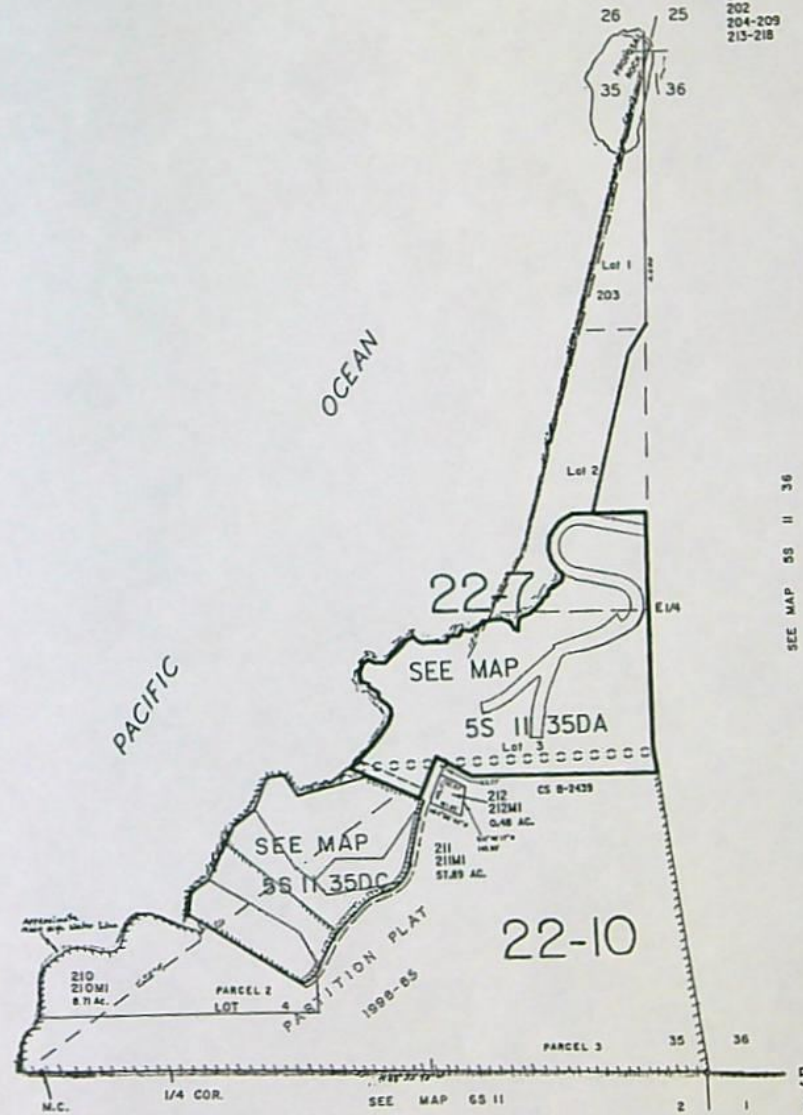
5-85745

THIS MAP WAS PREPARED FOR
ASSESSMENT PURPOSE ONLY

SECTION 35 T.5S. R.11W. W.M.
TILLAMOOK COUNTY
1" = 400'

5S 11 35
& INDEX

CANCELLED NO.
100
200
201
202
204-209
213-218



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AUG 20 2003
WATER RESOURCES DEPT.
SALEM, OREGON

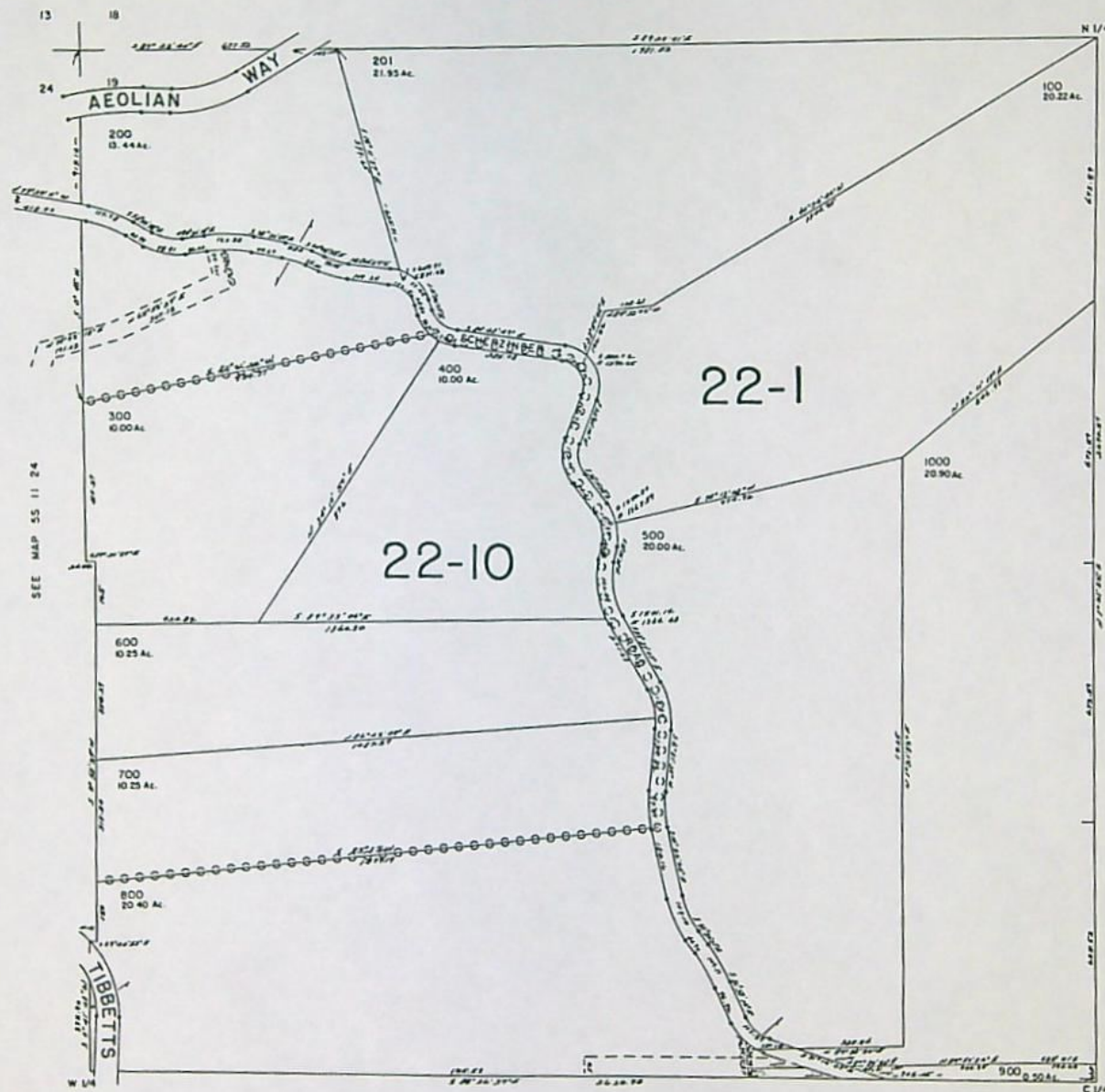
app no 5-85745

THIS MAP WAS PREPARED FOR
ASSESSMENT PURPOSE ONLY

NW1/4 SEC.19 T.5S R.10W. W.M.
TILLAMOOK COUNTY
1" = 200'

5S 10 19B

SEE MAP 55 10 18



SEE MAP 55 10

SEE MAP 55 10

5S 10 19B
REVISED 3-1-99, BPH

appno 5-85745

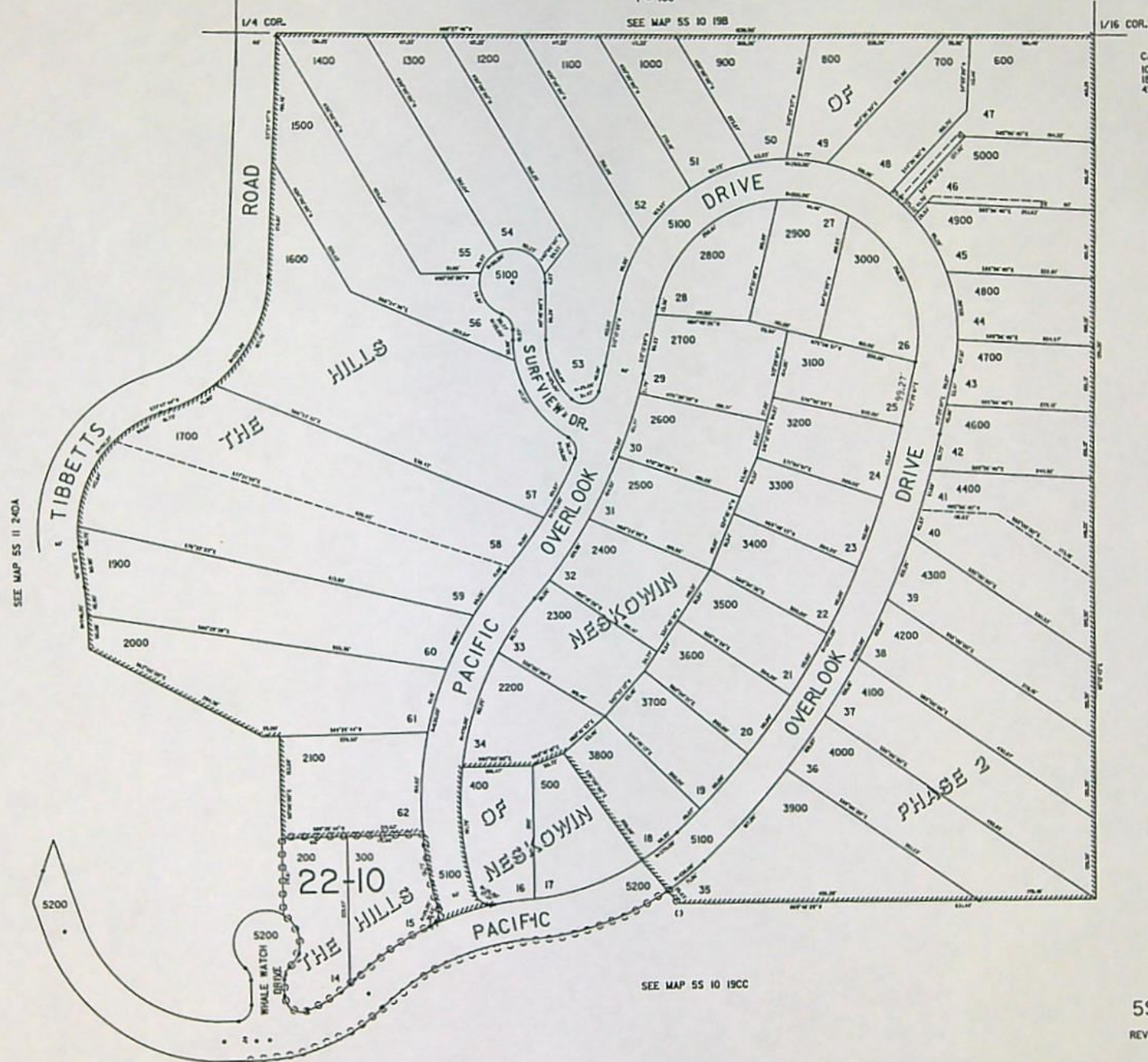
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AUG 20 2003
WATER RESOURCES DEPT.
SALEM, OREGON

THIS MAP WAS PREPARED FOR
ASSESSMENT PURPOSE ONLY

NW1/4 SW1/4 SEC.19 T.5S. R.10W. W.M.
TILLAMOOK COUNTY

1" = 100'

5S 10 19CB



CANCELLED NO.
100
1800
4500

SEE MAP 5S 10

app no 5-85745

SEE MAP 5S 10 19CC

5S 10 19CB
REVISED 01/28/03, KA

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AUG 20 2003

WATER RESOURCES DEPT.
SALEM, OREGON



APPLICATION MAP FOR
SURFACE WATER PERMIT

NESKOWIN REGIONAL WATER DISTRICT
TILLAMOOK COUNTY, OREGON
NORTH COAST BASIN



PACIFIC OCEAN

THE PURPOSE OF THIS MAP IS TO IDENTIFY
THE LOCATION OF THE WATER RIGHT. IT IS
NOT INTENDED TO PROVIDE INFORMATION
RELATIVE TO THE LOCATION OF PROPERTY
OWNERSHIP BOUNDARY LINES.



SCALE:
1" = 1320'

35

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AUG 20 2003

WATER RESOURCES DEPT.
SALEM, OREGON

PROPOSED PLACE
OF USE

NESKOWIN CR.

IRON PIPE
1/4 COR.

36

101

13

PROPOSED PLACE
OF USE

KIWANDA CR.

24

25

101

PROPOSED
POINT OF
DIVERSION

453'

577'

IRON PIPE
1/4 COR.

HAWK CR.

BUTTE CR.

18

19

30

31

NRWD.DWG

HANDFORTH LARSON & BARRETT, INC.

P.O. BOX 219

MANZANITA, OR 97130

(503) 368-5394

FAX (503) 368-5847

app no S-85745

NESKOWIN REGIONAL WATER DISTRICT

5790

Oregon Water Resources Dept
158 12thSt NE
Salem OR 97301-4172

7-30-03

\$475.00

App Fee new water rights

RECEIVED

AUG 2 0 2003

WATER RESOURCES DEPT.
SALEM, OREGON

62214

**STATE OF OREGON
WATER RESOURCES DEPARTMENT**

RECEIPT # **62214**

158 12TH ST. N.E.
SALEM, OR 97301-4172
378-8455 / 378-8130 (FAX)

INVOICE # _____

RECEIVED FROM: Neskowin Regional
BY: Water District

APPLICATION	<u>585773</u>
PERMIT	
TRANSFER	

CASH: ☐ CHECK: # 5290 OTHER: (IDENTIFY) ☐

TOTAL REC'D \$ 475.00

0401 TREASURY 0417 WRD MISC CASH ACCT

0407	COPIES		\$
_____	OTHER: (IDENTIFY)	_____	\$
_____	OTHER: (IDENTIFY)	_____	\$

0427 WRD OPERATING ACCT

MISCELLANEOUS

0407	COPY & TAPE FEES		\$
0410	RESEARCH FEES		\$
0408	MISC REVENUE: (IDENTIFY)	_____	\$
TC162	DEPOSIT LIAB. (IDENTIFY)	_____	\$
0240	EXTENSION OF TIME		\$

WATER RIGHTS:

0201	SURFACE WATER	EXAM FEE \$ <u>475.00</u>	0202	\$
0203	GROUND WATER	\$	0204	\$
0205	TRANSFER	\$		

WELL CONSTRUCTION

0218	WELL DRILL CONSTRUCTOR	EXAM FEE \$	0219	\$
	LANDOWNER'S PERMIT		0220	\$

OTHER (IDENTIFY) _____

0536 TREASURY 0437 WELL CONST. START FEE

0211	WELL CONST START FEE	\$	CARD #	
0210	MONITORING WELLS	\$	CARD #	
_____	OTHER (IDENTIFY)	_____		

0607 TREASURY 0467 HYDRO ACTIVITY LIC NUMBER

0233	POWER LICENSE FEE (FW/WRD)		\$
0231	HYDRO LICENSE FEE (FW/WRD)		\$
_____	HYDRO APPLICATION		\$

TREASURY OTHER / RDX

FUND _____ TITLE _____
OBJ. CODE _____ VENDOR # _____
DESCRIPTION _____ \$ _____

RECEIPT: **62214**

DATED: 08/20/03 BY: Connie Vance

**STATE OF OREGON
WATER RESOURCES DEPARTMENT**

725 Summer St. N.E. Ste. A
SALEM, OR 97301-4172
(503) 986-0900 / (503) 986-0904 (fax)

RECEIPT # **100644**

INVOICE # _____

RECEIVED FROM: Neskeam Regional

APPLICATION S-85745

BY: Water District

PERMIT

TRANSFER

CASH: ☐ CHECK: # 9107 OTHER: (IDENTIFY) ☐

TOTAL REC'D \$ 90000

1083 TREASURY 4170 WRD MISC CASH ACCT

0407 COPIES

\$

OTHER: (IDENTIFY)

\$

0243 I/S Lease 0244 Muni Water Mgmt. Plan 0245 Cons. Water

4270 WRD OPERATING ACCT

MISCELLANEOUS

0407 COPY & TAPE FEES

\$

0410 RESEARCH FEES

\$

0408 MISC REVENUE: (IDENTIFY)

\$

TC162 DEPOSIT LIAB. (IDENTIFY)

\$

0240 EXTENSION OF TIME

\$

WATER RIGHTS:

EXAM FEE

RECORD FEE

0201 SURFACE WATER

\$

0202

\$

0203 GROUND WATER

\$

0204

\$

0205 TRANSFER

\$

WELL CONSTRUCTION

EXAM FEE

LICENSE FEE

0218 WELL DRILL CONSTRUCTOR

\$

0219

\$

LANDOWNER'S PERMIT

0220

\$

OTHER (IDENTIFY)

0536 TREASURY 0437 WELL CONST. START FEE

0211 WELL CONST START FEE

\$

CARD #

0210 MONITORING WELLS

\$

CARD #

OTHER (IDENTIFY)

0607 TREASURY 0467 HYDRO ACTIVITY LIC NUMBER

0233 POWER LICENSE FEE (FWWRD)

\$

0231 HYDRO LICENSE FEE (FWWRD)

\$

HYDRO APPLICATION

\$

TREASURY OTHER / RDX

FUND _____ TITLE _____

OBJ. CODE _____ VENDOR # _____

DESCRIPTION _____

\$

RECEIPT: **100644**

DATED: 7-22-10 BY: QR

Distribution - White Copy - Customer, Yellow Copy - Fiscal, Blue Copy - File, Buff Copy - Fiscal

Oregon Water Resources Dept

Date	Type	Reference	Original Amt.	Balance Due	7/21/2010 Discount	Payment
7/21/2010	Bill		900.00	900.00		900.00
				Check Amount		900.00

RECEIVED

JUL 22 2010

WATER RESOURCES DEPT
SALEM, OREGON

Checking #0435

S-85745

900.00

Neskowin Regional Water District
PO Box 823
Neskowin, OR 97149

PORTLAND OR 972

21 JUL 2010 11:11



RECEIVED

JUL 22 2010

WATER RESOURCES DEPT
SALEM, OREGON

Oregon Water Resources Dept
725 Summer St NE, Suite A
Salem, OR 97301-1266

Attn: Jeana Eastman 97301+1266



FILE S-85745

NESKOWIN REGIONALWATER DISTRICT
ATTN: GUY HOLZWORTH
PO BOX 823
NESKOWIN OR 97149

FILE S-85745

NESKOWIN REGIONALWATER DISTRICT
ATTN: GUY HOLZWORTH
PO BOX 823
NESKOWIN OR 97149

FILE S-85745

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ATTN: GUY HOLZWORTH
PO BOX 823
NESKOWIN OR 97149